

PLANNING COMMITTEE MEETING

Date: Thursday 25 June 2020

Time: 6.00 p.m.

Venue: Remote Meeting - The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website

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.

<u>AGENDA</u>	<u>Page No.</u>
1. Apologies for Absence	
2. Notification of Substitute Members	
3. Notification of Visiting Members	
4. Items withdrawn from the Agenda	
5. Date of Adjourned Meeting - 2 July 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 28 May 2020	1 - 10
11. Presentation of Petitions (if any)	
12. 19/501600/OUT & 19/506182/FULL - Land West Of Church Road, Otham, Kent	11 - 112

Issued on Wednesday 17 June 2020

Continued Over/:



Alison Broom, Chief Executive

13.	19/504734/FULL - 127 Hockers Lane, Thurnham, Maidstone, Kent	113 - 129
14.	19/503584/FULL - Kingsbrooke, Cranbrook Road, Staplehurst, Tonbridge, Kent	130 - 143
15.	20/501604/FULL - Maidstone Cemetery, Sutton Road, Maidstone, Kent	144 - 148
16.	20/500780/FULL - The Mellows, Marley Road, Harrietsham, Maidstone, Kent	149 - 164
17.	20/501035/HEDGE - Land South Of Marden Rd - Staplehurst, Marden Road, Staplehurst, Kent	165 - 173
18.	19/500765/OUT & 19/501988/ADJ - Gibraltar Farm, Ham Lane, Hempstead, Gillingham, Kent	174 - 196
19.	20/501029/FULL & 20/501030/LBC - Len House, Mill Street, Maidstone, Kent	197 - 234
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21.	20/502043/FULL - Maidstone Lawn Tennis Club, Poplar Grove, Maidstone, Kent	292 - 299
22.	Appeal Decisions	300

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
23. Exempt Appendix - 19/501600/OUT and 19/506182/FULL - Land West of Church Road, Otham, Kent (circulated separately)	5 – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
24. Exempt Appendix - 20/500780/FULL - The Mellows, Marley Road, Harrietsham, Maidstone, Kent (circulated separately)	1 – Information relating to any individual

PLEASE NOTE

Due to the number of items on the agenda, only the following applications will be considered on 25 June 2020:

19/501600/OUT Land West of Church Road, Otham, Kent
&
19/506182/FULL
19/504734/FULL 127 Hockers Lane, Thurnham, Maidstone,
Kent
19/503584/FULL Kingsbrooke, Cranbrook Road, Staplehurst,
Tonbridge, Kent
20/501604/FULL Maidstone Cemetery, Sutton Road,
Maidstone, Kent
20/500780/FULL The Mellows, Marley Road, Harrietsham.
Maidstone, Kent
20/501035/
HEDGE Land South of Marden Road, Marden Road,
Staplehurst, Kent

The remaining applications will be rolled over to the adjourned meeting scheduled to be held on 2 July 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; please follow this link:

<https://pa.midkent.gov.uk/online-applications/>

PUBLIC REPRESENTATIONS AND ALTERNATIVE FORMATS

In order to make a submission to the Committee, please call 01622 602899 or email committee@maidstone.gov.uk by 4 p.m. on the working day before the meeting. You will need to tell us which agenda item you wish to make representations on. Please note that slots will be allocated for each application on a first come, first served basis.

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

To find out more about the work of the Committee, please visit www.maidstone.gov.uk.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE REMOTE MEETING HELD ON 28 MAY 2020

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

Also Present: Councillors Harper, McKay, Newton, Purle and Springett

257. APOLOGIES FOR ABSENCE

There were no apologies for absence.

258. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

259. NOTIFICATION OF VISITING MEMBERS

Councillors Harper, McKay, Newton and Springett had given notice of their wish to speak on the reports of the Head of Planning and Development relating to applications 19/501600/OUT and 19/506182/FULL – Land West of Church Road, Otham, Kent and were present at the meeting.

Councillor Newton had also given notice of his wish to speak on the report of the Head of Planning and Development relating to application 19/503342/FULL – Bramley, Otham Street, Otham, Maidstone, Kent.

Councillor Purle had given notice of his wish to speak on the reports of the Head of Planning and Development relating to applications 20/500153/FULL and 20/500154/LBC – 1 Rocky Hill Terrace, Terrace Road, Maidstone, Kent, and was present at the meeting.

Councillor Young had given notice of her wish to speak on the reports of the Head of Planning and Development relating to applications 19/501600/OUT and 19/506182/FULL – Land West of Church Road, Otham, Kent, but was unable to attend the meeting.

260. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

261. 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.

262. DISCLOSURES BY MEMBERS AND OFFICERS

With regard to the report of the Head of Planning and Development relating to application 20/500202/ADV (Advertisement on Land at Coldred Road, 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 regarding the application and intended to speak and vote when it was considered.

With regard to the reports of the Head of Planning and Development relating to applications 19/501600/OUT and 19/506182/FULL (Land West of Church Road, Otham, Kent), Councillor Spooner said that he was a Member of Bearsted Parish Council. However, he had not participated in the Parish Council's discussions regarding the applications and intended to speak and vote when they were considered.

263. DISCLOSURES OF LOBBYING

All Members except Councillor Adkinson said that they had been lobbied on the reports of the Head of Planning and Development relating to applications 19/501600/OUT and 19/506182/FULL (Land West of Church Road, Otham, Kent) and application 19/503342/FULL (Bramley, Otham Street, Otham, Maidstone, Kent).

Councillor Adkinson said that he had been lobbied on the reports of the Head of Planning and Development relating to applications 19/501600/OUT and 19/506182/FULL (Land West of Church Road, Otham, Kent).

264. EXEMPT ITEMS

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

265. MINUTES OF THE MEETING HELD ON 21 MAY 2020

RESOLVED: That the Minutes of the meeting held on 21 May 2020 be approved as a correct record and signed.

266. PRESENTATION OF PETITIONS

There were no petitions.

267. DEFERRED ITEM

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

The Development Manager said that he anticipated that this application would be reported to the next meeting of the Committee scheduled to be held on 25 June 2020.

RESOLVED: That the position be noted.

268. 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

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

In presenting the application, the Principal Planning Officer advised the Committee that:

- The previous day he had been sent details of an on-line petition objecting to development at Church Road, Otham. The petition showed 1,386 supporters and this may have increased since then.
- In terms of the request by the Chapman Avenue Area Residents' Association and Otham Parish Council for the application to be called in by the Secretary of State, he had received a communication from the Government's Planning Case Work Unit advising that they had received the request and would consider their position should the Council agree to grant permission.
- Further representations had been received but they did not raise any new material issues in relation to the application.

The Chairman read out statements which had been submitted by Mr Everett of the Downswood Community Association (an objector), Councillor Gray of Otham Parish Council, Councillor Weeks of Downswood Parish Council and Mr Goodban (agent for the applicant).

Councillors Newton, Harper, McKay and Springett (Visiting Members) addressed the meeting.

Contrary to the recommendation of the Head of Planning and Development, it was proposed and seconded that permission be refused for the following reasons:

- (a) The proposal will result in severe traffic congestion on local road networks (Deringwood Drive, Spot Lane, Mallards Way and

Madginford Road) and the increase in traffic will adversely affect residents to the point that air pollution is beyond what is reasonable for the Council to accept contrary to Policies H1(8) criteria 9, DM1 and DM6 of the Maidstone Borough Local Plan 2017;

- (b) The proposal will result in worsening safety issues on Church Road to the south of the site which has not been addressed and due to the constraints of the road likely will never be able to be addressed contrary to policy DM1 of the Maidstone Borough Local Plan 2017; and
- (c) The proposal will adversely affect the settings of the Grade I listed Church and other listed buildings contrary to Policies SP18 and DM4 of the Maidstone Borough Local Plan 2017 where the development will not be protecting or enhancing the characteristics, distinctiveness, diversity and quality of the heritage assets.

Prior to the vote being taken, the Principal Planning Officer advised the Committee that a refusal on the first ground would be unreasonable. It referred to air pollution and evidence had been submitted that there would be a negligible impact on air quality and this was agreed by Maidstone Borough Council Environmental Health. A refusal on the grounds of the safety issues on Church Road would be unreasonable for the reasons set out in the report and the limited one additional movement per minute from the development over the peak hour. The proposed reason for refusal on heritage grounds would also be unreasonable for the reasons set out in the report and this was an outline application. The site had been assessed at the Local Plan Examination and the site allocation policy had criteria to mitigate the impact. In summary, the proposed reasons for refusal were unreasonable and there was a risk of significant costs being awarded against the Council at appeal.

The representative of the Head of Legal Partnership advised the Committee that she agreed with the advice provided by the Principal Planning Officer in that it was unlikely that the proposed grounds for refusing permission could be sustained at appeal and that the Council would be at significant risk of an award of significant costs against it at appeal.

In line with the provisions of the Council's Constitution, the Head of Planning and Development informed the Committee that based on the advice provided by the Principal Planning Officer and the representative of the Head of Legal Partnership he was giving a costs warning. If the Committee agreed to refuse permission on the grounds proposed, then for the reasons previously specified by the Officers the decision would not be implemented but deferred until the next meeting of the Committee in line with 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 proposal will result in severe traffic congestion on local road networks (Deringwood Drive, Spot Lane, Mallards Way and Madginford Road) and the increase in traffic will adversely affect residents to the point that air pollution is beyond what is reasonable for the Council to accept contrary to Policies H1(8) criteria 9, DM1 and DM6 of the Maidstone Borough Local Plan 2017.
2. The proposal will result in worsening safety issues on Church Road to the south of the site which has not been addressed and due to the constraints of the road likely will never be able to be addressed contrary to policy DM1 of the Maidstone Borough Local Plan 2017.
3. The proposal will adversely affect the settings of the Grade I listed Church and other listed buildings contrary to Policies SP18 and DM4 of the Maidstone Borough Local Plan 2017 where the development will not be protecting or enhancing the characteristics, distinctiveness, diversity and quality of the heritage assets.

In accordance with Council Procedure Rule 22.4, three Members of the Committee requested that the names for and against or abstaining from the voting be recorded in the Minutes.

Voting:

FOR (6): Councillors Adkinson, English (Chairman), Eves, Parfitt-Reid, Perry and Spooner,

AGAINST (6): Councillors Chappell-Tay, Harwood, Kimmance, Munford, Vizzard and Wilby

The Chairman exercised his casting vote in favour of refusal.

Note: Councillor Brindle did not participate in the voting as she had missed some of the discussion due to connectivity issues.

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).

269. 19/506182/FULL - RESIDENTIAL DEVELOPMENT FOR 421 DWELLINGS WITH ASSOCIATED ACCESS, INFRASTRUCTURE, DRAINAGE, OPEN SPACE AND LANDSCAPING - LAND WEST OF CHURCH ROAD, OTHAM, KENT

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

In presenting the application, the Principal Planning Officer advised the Committee that:

- He wished to correct information contained in the urgent update report published on Tuesday 26 May 2020. The Bearsted and Thurnham Society had referred to protecting open spaces by Deed and the Officer comment was that this would be dealt with under reserved matters. This was incorrect as the application was a full one and the intention of recommended condition 6 was to secure these open spaces in perpetuity.
- An on-line petition had been received objecting to development at Church Road, Otham and a number of additional representations had been received but again they did not raise any new material issues relating to the application.

The Chairman summarised statements which had been submitted by Mr Hatcher of the Chapman Avenue Area Residents' Association (an objector), Councillor Gray of Otham Parish Council, Councillor Weeks of Downswood Parish Council and Mr Goodban (agent for the applicant).

Councillors Harper, McKay and Springett (Visiting Members) addressed the meeting. Councillor Newton did not address the meeting due to connectivity issues.

It was proposed and seconded that subject to 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, the Head of Planning and Development be given delegated powers to (a) grant permission subject to the conditions and informative set out in the report; (b) seek to assimilate as good cycle links as are possible particularly in the north east part of the site; and (c) add further informatives relating to pile driving operations near to listed buildings and the minimum 10% of renewables within the development.

Contrary to the recommendation of the Head of Planning and Development, an amendment was proposed and seconded that permission be refused for the following reasons:

- (a) The proposal will result in severe traffic congestion on local road networks (Deringwood Drive, Spot Lane, Mallards Way and Madginford Road) and the increase in traffic will adversely affect residents to the point that air pollution is beyond what is reasonable for the Council to accept contrary to Policies H1(8) criteria 9, DM1 and DM6 of the Maidstone Borough Local Plan 2017;
- (b) The proposal will result in worsening safety issues on Church Road to the south of the site which has not been addressed and due to the constraints of the road likely will never be able to be addressed contrary to policy DM1 of the Maidstone Borough Local Plan 2017; and
- (c) The proposal will adversely affect the settings of the Grade I listed Church and Grade II listed Church House contrary to Policies SP18 and DM4 of the Maidstone Borough Local Plan 2017 due to the visual

effect of the whole development in both long and short term views and the development will not be protecting or enhancing the characteristics, distinctiveness, diversity and quality of the heritage assets.

In accordance with Council Procedure Rule 22.4, three Members of the Committee requested that the names for and against or abstaining from the voting be recorded in the Minutes.

The voting on the amendment was as follows:

FOR (9): Councillors Adkinson, Brindle, Chappell-Tay, English (Chairman), Eves, Kimmance, Parfitt-Reid, Perry and Spooner

AGAINST (3): Councillors Harwood, Munford and Wilby

ABSTENTION (1): Councillor Vizzard

Prior to the vote being taken on the substantive motion, the Principal Planning Officer advised the Committee that as previously the proposed grounds relating to highway and air quality issues were considered to be unreasonable, not sustainable at appeal and could lead to significant costs being awarded against the Council. In terms of the proposed reason for refusal on heritage grounds, the proposal complied with the site policy requirements to protect the setting of the listed buildings and was not sustainable. He also considered that it was unreasonable that the whole of the development was considered to harm the setting and there was no apparent balancing exercise of that harm against the benefits.

The representative of the Head of Legal Partnership advised the Committee that she agreed with the advice provided by the Principal Planning Officer that the proposed grounds for refusing permission were unreasonable, would be unsustainable at appeal and that the Council would be at significant risk of an award of significant costs against it.

In line with the provisions of the Council's Constitution, the Head of Planning and Development informed the Committee that based on the advice provided by the Principal Planning Officer and the representative of the Head of Legal Partnership, he was giving a costs warning. If the Committee agreed to refuse permission on the grounds proposed, then for the reasons previously specified by the Officers the decision would not be implemented but deferred until the next meeting of the Committee in line with 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 proposal will result in severe traffic congestion on local road networks (Deringwood Drive, Spot Lane, Mallards Way and Madginford Road) and the increase in traffic will adversely affect residents to the point that air pollution is beyond what is reasonable

for the Council to accept contrary to Policies H1(8) criteria 9, DM1 and DM6 of the Maidstone Borough Local Plan 2017.

2. The proposal will result in worsening safety issues on Church Road to the south of the site which has not been addressed and due to the constraints of the road likely will never be able to be addressed contrary to policy DM1 of the Maidstone Borough Local Plan 2017.
3. The proposal will adversely affect the settings of the Grade I listed Church and Grade II listed Church House contrary to Policies SP18 and DM4 of the Maidstone Borough Local Plan 2017 due to the visual effect of the whole development in both long and short term views and the development will not be protecting or enhancing the characteristics, distinctiveness, diversity and quality of the heritage assets.

Voting:

FOR (9): Councillors Adkinson, Brindle, Chappell-Tay, English (Chairman), Eves, Kimmance, Parfitt-Reid, Perry and Spooner

AGAINST (3): Councillors Harwood, Munford and Wilby

ABSTENTION (1): Councillor Vizzard

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).

Councillors Harwood and Wilby left the meeting after consideration of this application (9.22 p.m.).

270. 20/500202/ADV - ADVERTISEMENT CONSENT FOR 1 NO. FREE STANDING DIRECTIONAL SIGN - ADVERTISEMENT ON LAND AT COLDRED ROAD, MAIDSTONE, KENT

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

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

Voting: 11 – For 0 – Against 0 – Abstentions

271. 19/503342/FULL - RETENTION OF DWELLING FOOTPRINT AS BUILT WITH ALTERATIONS TO THE ROOF - BRAMLEY, OTHAM STREET, OTHAM, MAIDSTONE, KENT

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

The Chairman read out statements which had been submitted by Councillor Hipkins of Otham Parish Council and Mr Stratulat (the applicant).

Councillor Newton (Visiting Member) addressed the meeting.

RESOLVED: That subject to:

(a) The prior completion of a S106 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 and informative set out in the report,

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 in line with the matters set out in the recommendation and as resolved by the Planning Committee including agreeing the timeframe for the completion of the proposed works in their entirety.

Voting: 9 – For 2 – Against 0 – Abstentions

272. 20/500153/FULL - CHANGE OF USE FROM 42 FLATS OCCUPIED BY THE ELDERLY AND WARDEN FLAT TO 35 RESIDENTIAL DWELLINGS, COMPRISING 15 STUDIO APARTMENTS, 6 ONE BEDROOM AND 14 TWO BEDROOM APARTMENTS INCLUDING REFURBISHMENT OF THE EXISTING BUILDING WITH EXTERNAL AND INTERNAL ALTERATIONS. CONVERSION OF EXISTING GARDEN PAVILLION TO CYCLE STORAGE - 1 ROCKY HILL TERRACE, TERRACE ROAD, MAIDSTONE, KENT

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

Councillor Purle (Visiting Member) addressed the meeting.

RESOLVED: 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 and informatives set out in the report with (a) the amendment of condition 12 (Electric Vehicle Charging Points) to require that 50% (14 in total) of the off street car parking spaces are to have electric vehicle charging points and the amendment of

condition 11 (Ecological Enhancements) to require the incorporation of additional biodiversity and habitat enhancements within the development,

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 in line with the matters set out in the recommendation and as resolved by the Planning Committee and to finalise the wording of the amended conditions and to amend any other conditions as a consequence.

Voting: 11 – For 0 – Against 0 – Abstentions

273. 20/500154/LBC - LISTED BUILDING CONSENT FOR INTERNAL ALTERATIONS INCLUDING REMOVAL OF INTERNAL PARTITIONS (NON-ORIGINAL) AND SMALL SECTIONS OF ORIGINAL WALLS AND EXTERNAL REPAIRS AND RESTORATION OF THE BUILDING, DETACHED GARDEN PAVILION AND BOUNDARY WALLS IN CONNECTION WITH THE CONVERSION OF THE BUILDING FROM 42 FLATS OCCUPIED BY THE ELDERLY AND WARDEN FLAT TO 35 FLATS - 1 ROCKY HILL TERRACE, TERRACE ROAD, MAIDSTONE, KENT

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

Councillor Purle (Visiting Member) had previously indicated that he wished to speak on this application, but waived his right.

RESOLVED: That listed building consent be granted subject to the conditions and informative set out in the report.

Voting: 11 – For 0 – Against 0 – Abstentions

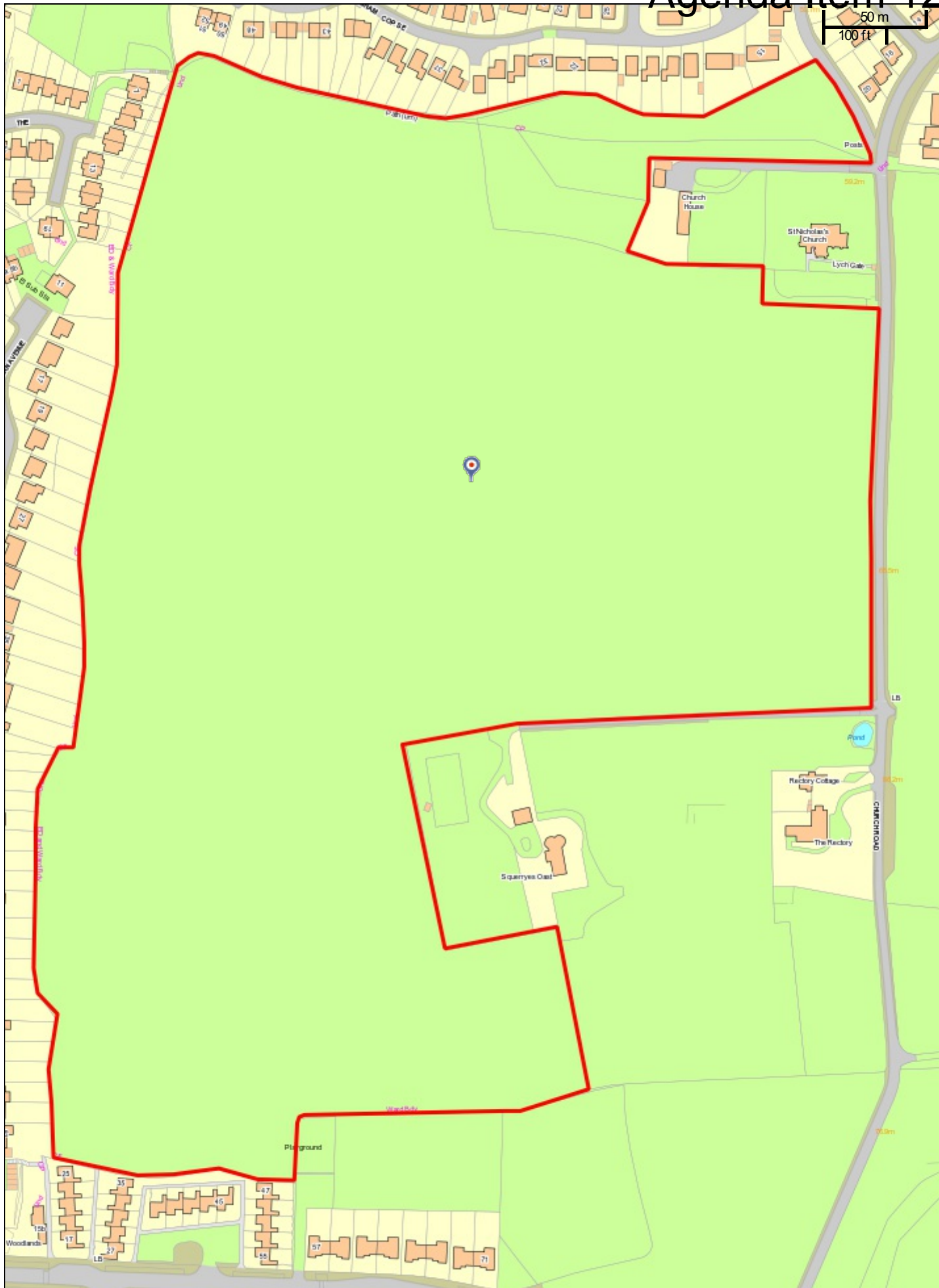
274. APPEAL DECISIONS

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.

275. DURATION OF MEETING

6.00 p.m. to 10.15 p.m.



19/501600/OUT & 19/506182/FULL - Land West of Church Road, Otham, Kent, ME15 8SB

Scale: 1:2500

Printed on: 15/5/2020 at 10:50 AM by JoannaW



REFERENCE NOS - 19/501600/OUT & 19/506182/FULL		
APPLICATION PROPOSAL		
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)		
19/506182/FULL: Residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping.		
ADDRESS Land West Of Church Road, Otham, Kent, ME15 8SB		
WARD Downswood And Otham	PARISH/TOWN COUNCIL Otham & Downswood	APPLICANT Bellway Homes Limited AGENT DHA Planning

1.0 UPDATE ON OUTLINE APPLICATION

- 1.01 The applicant lodged an appeal on the basis of non-determination of the outline application with the Planning Inspectorate (PINS) on 11th June. This means that the decision on this application now lies with PINS and not the Council. Any decision now made by Committee on this application will be in order to inform PINS what decision the Council would have made and therefore what position MBC will take at the appeal. The appellant has requested a Public Inquiry procedure which officers have advised PINS they consider is appropriate. The Council has instructed Counsel and preliminary work is underway for the appeal.
- 1.02 The applicant has confirmed that the dedicated church car park will form part of their proposals at appeal and also the additional widening of Church Road to the south of the site.

2.0 BACKGROUND & PROCEDURE

- 2.01 This report provides advice on both applications as the first two reasons for refusal are the same for each application and the third is very similar.
- 2.02 Both applications were heard at Planning Committee on 28th May 2020. The applications were both recommended for approval and the Committee Reports and Urgent Update Reports are attached at the **Appendix**. Contrary to the recommendation of the Head of Planning and Development, the Committee voted to refuse the applications for the following reasons:

Outline Application

- The proposal will result in severe traffic congestion on local road networks (Deringwood Drive, Spot Lane, Mallards Way and Madginford Road) and the increase in traffic will adversely affect residents to the point that air pollution is beyond what is reasonable for the Council to accept contrary to Policies H1(8) criteria 9, DM1 and DM6 of the Maidstone Borough Local Plan 2017.*

2. *The proposal will result in worsening safety issues on Church Road to the south of the site which has not been addressed and due to the constraints of the road likely will never be able to be addressed contrary to policy DM1.*
3. *The proposal will adversely affect the settings of the Grade I listed Church and other listed buildings contrary to Policies SP18 and DM4 of the Maidstone Borough Local Plan 2017 where the development will not be protecting or enhancing the characteristics, distinctiveness, diversity and quality of the heritage assets.*

Full Application

1. *The proposal will result in severe traffic congestion on local road networks (Deringwood Drive, Spot Lane, Mallards Way and Madginford Road) and the increase in traffic will adversely affect residents to the point that air pollution is beyond what is reasonable for the Council to accept contrary to Policies H1(8) criteria 9, DM1 and DM6 of the Maidstone Borough Local Plan 2017.*
2. *The proposal will result in worsening safety issues on Church Road to the south of the site which has not been addressed and due to the constraints of the road likely will never be able to be addressed contrary to policy DM1.*
3. *The proposal will adversely affect the settings of the Grade I listed Church and Grade II listed Church House contrary to Policies SP18 and DM4 of the Maidstone Borough Local Plan 2017 due to the visual effect of the whole development in both long and short-term views and the development will not be protecting or enhancing the characteristics, distinctiveness, diversity and quality of the heritage assets.*

2.03 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 and legal 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 decisions of the Planning Committee were deferred to its next meeting.

2.04 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.

3.0 ADVICE

3.01 Officers have sought Counsel's advice on both the relative strengths of the putative grounds of refusal and the associated 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.

3.02 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.
- Consistency in decision-making by a Council in order to maintain public confidence in the development control system. Whilst it is open to a decision maker to depart from the reasoning in a previous decision, reasons for the departure should be given. The principle applies to land use planning, as Lindblom LJ confirmed in *DLA Delivery Ltd v. Baronness Cumberlege of Newick and SSCLG [2018] EWCA CIV 1305*, at paragraph 28. It therefore follows that it appeals to both the decision made to allocate the application site for up to 440 houses in the Council's adopted Local Plan and any subsequent development management decisions relating to the same site.
- Reasons for refusal need to be full, clear and precise and refer to all relevant Development Plan policies.

3.03 In terms of the guidance on the risk of costs, Paragraph: 049 Reference ID: 16-049-20140306 of National Planning Practice Guidance states:

What type of behaviour may give rise to a substantive award against a local planning authority?

Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.*
- *failure to produce evidence to substantiate each reason for refusal on appeal*
- *vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*
- *refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead*

(This list is not exhaustive.)

Ground 1 On Both Applications (Severe Traffic Congestion & Air Quality)

1. The proposal will result in severe traffic congestion on local road networks (Deringwood Drive, Spot Lane, Mallards Way and Madginford Road) and the increase in traffic will adversely affect residents to the point that air pollution is beyond what is reasonable for the Council to accept contrary to Policies H1(8) criteria 9, DM1 and DM6 of the Maidstone Borough Local Plan 2017.

Traffic Congestion/Capacity

- 3.04 This part of the reason for refusal refers to severe congestion on the named roads. It is advised that this ground is unreasonable, cannot be sustained at appeal, and costs are highly likely to be awarded against the Council if pursued for the following reasons.
- 3.05 The NPPF at paragraph 109 states that development should only be prevented or refused on highways grounds if the residual cumulative impacts on the road network would be severe. KCC Highways in their comments on the applications are not raising objections on the basis of a severe impact upon any of the named roads. The applicant's evidence demonstrates that, with the mitigation proposed, traffic impacts on these roads would not be made any worse by the development when forecasted ahead to 2029.
- 3.06 With regard to Deringwood Drive, and as outlined in the committee reports, the proposed signalisation of the junction with Willington Street will significantly reduce the potential maximum queuing length from 288 vehicles (which includes general traffic growth, other sites with planning permission and the proposed development) down to a maximum of 39 vehicles in the AM peak hour, which would be a clear improvement. It should be noted that even without this development the predicted number of vehicles that will occur in 2029 would be 173 so again this illustrates the proposed mitigation will result in a significant improvement. KCC Highways also did not raise an objection in terms of the traffic impact on Deringwood Drive subject to the mitigation.
- 3.07 With regard to Spot Lane/Mallards Way, the proposed junction improvement where Spot Lane meets the A20 would ensure that the capacity of the junction remains the same when development traffic is taken into account and KCC Highways are not raising objections in terms of the traffic impact on this junction or on Mallards Way.
- 3.08 With regard to Madginford Road, the applicant's evidence shows that there would be no change in the traffic volumes on Madginford Road where it meets Willington Street as a result of the development and KCC Highways are not raising objections in terms of the traffic impact on this road.
- 3.09 For the above reasons it is advised that a ground relating to severe traffic congestion on the roads referred to could not be reasonably defended at

appeal and costs are highly likely to be awarded against the Council for unreasonable behaviour.

- 3.10 KCC Highways have been consulted for their views on the grounds for refusal. They have advised they do not consider there is evidence to support the view that a severe impact will arise on Spot Lane, Mallards Way or Madginford Road. In relation to Deringwood Drive, they advise the proposed junction improvement would mitigate the impact on this road but reiterate their view that this would result in a severe impact on Willington Street. In their words, they consider, *"there is thus an evidenced inter-dependency and KCC Highways could therefore support MBC on this element of the refusal reason at an appeal."*
- 3.11 Whilst KCC Highways are advising they would support the Council relating to Deringwood Drive, to pursue the ground on this basis would be unreasonable and this not recommended. The ground specifically relates to the traffic impact on Deringwood Drive only (where officers and KCC Highways advise the traffic impact can be mitigated) and not Willington Street. If the Council attempted to stretch this ground to cover Willington Street, where Committee have not raised an objection, this would be regarded as unreasonable behaviour and costs are highly likely to be awarded against the Council. It would be for KCC Highways to defend their own position if they took this approach at any appeal.
- 3.12 In terms of consistency in decision-making, the site is allocated under policy H1(8) for up to 440 dwellings and Full Council previously voted for the policy to be adopted in the Local Plan. In doing so they have found it to be sound and the Local Plan Inspector has also found the policy to be sound through an Examination in Public. The traffic impacts and congestion for the South East Maidstone Strategic sites, which include this site, were comprehensively assessed (including using the Council's own commissioned modelling) and this was a major reason for Full Council agreeing on this site allocation with the Local Plan adopted in 2017. The grounds put forward by Planning Committee do not explain what is different in 2020 from when the Council decided the site was suitable for 440 dwellings in 2017, and it is advised that there is not a defensible reason for reaching a different decision on traffic congestion. For these reasons it is advised that a ground relating to severe traffic congestion on the roads referred to would also be unreasonable on the basis of inconsistent decision-making.
- 3.13 There were some discussions at the previous meeting suggesting that because the Plan was adopted nearly 3 years ago the traffic data and evidence behind it is potentially out of date. Officers advised that this was not the case because transport evidence makes assessments into the future and in the case of the Local Plan to 2031, and for this application to 2029. This includes assessing the cumulative impact of traffic from other planned developments and background traffic growth. As such, the traffic assessment work carried out for the Local Plan remains highly relevant.

Air Quality

- 3.14 This element of the ground considers that air pollution from the traffic on the named roads would be beyond what is reasonable contrary to policy H1(8) criterion 9, DM1 and DM6. It is advised that this ground is unreasonable, cannot be sustained at appeal, and costs are highly likely to be awarded against the Council if pursued for the following reasons.
- 3.15 As outlined in the committee reports, the applicant's Air Quality Assessment concludes that small increases in NO2 concentrations are expected as a result of the proposed development and overall these increases are expected to have a negligible impact on air quality and would not cause any exceedances of the relevant Air Quality Standards. The Council's Environmental Health section has reviewed the assessment and raises no objections to these conclusions. 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 mitigations to be integrated into the development. A number of potential mitigation measures are outlined and the specific measures are secured by recommended conditions.
- 3.16 For the reasons above and as there is no evidence to the contrary, it is advised that the grounds relating to air quality impacts could not be successfully defended at appeal and costs would be very likely awarded against the Council.
- 3.17 (In the event that Committee wishes to pursue this reason for refusal policy DM21 should be referred to which concerns the transport impacts of development.)

Ground 2 On Both Applications (Highway Safety on Church Road to the South of the Site)

2. The proposal will result in worsening safety issues on Church Road to the south of the site which has not been addressed and due to the constraints of the road likely will never be able to be addressed contrary to policy DM1.

- 3.18 It is advised that this ground is unreasonable, cannot be sustained at appeal, and that there is a risk of costs being awarded against the Council if this ground is pursued but that the risk is low for the following reasons.
- 3.19 This ground is based on KCC Highways objection to both applications on the basis of worsening safety hazards for road users on Church Road. For clarity, outside the application site Church Road will be widened to 5.5m. The objection relates to the section of Church Road from a point south of the application site to the point where Church Road meets White Horse Lane (approximately a 1km distance). It relates to the narrow width of this section of Church Road, forward visibility, and no pavements. The width is below 4.8m for much of its length (between 4.1m and 4.5m) and at 3.9m for a very short section and KCC Highways require a 5.5m width along the full length of Church Road.

- 3.20 As outlined in the committee reports, Church Road is already a two-way road with a low incidence of accidents which is shown in the collected data and KCC acknowledge the road is already well-used and has a relatively good crash record. Their concern is that there will be additional traffic movements from the development. However, the predicted increase from the development is on average just over one additional movement a minute over the peak hour and the peak hour traffic associated with the development is likely to be light vehicles. On this basis it is difficult to maintain a robust objection on highway safety grounds relating to Church Road south of the site and for this reason officers remain of the view that the ground is considered to be unreasonable.
- 3.21 In addition, the applicant has put forward some mitigation in the form of extending the 30mph limit around 500m south of the Church, introducing build-outs with a give way feature on a bend just to the south of the site where there is limited visibility, and widening Church Road to 5.5m for approximately a 210m section to the south of 'Little Squerryes'. KCC Highways have acknowledged that these measures will provide improvements but will not overcome their objection. If Members pursue this ground they need to make clear whether they have considered these measures and whether they overcome their concerns or not.
- 3.22 Importantly, Policy H1(8) does not require the widening of any part of Church Road. The Local Plan Inspector explored the highway safety issues of this Policy and did not require any widening of Church Road, or reject the site allocation on this basis. Again, Full Council decided that the site allocation was sound and the Committee has not given any reason why they now take a different view. For this reason, it is advised that a ground relating to highway safety on Church Road would also be unreasonable on the basis of inconsistent decision-making.
- 3.23 The risk of costs is considered to be lower for this ground because as a matter of fact Church Road is narrow in places to the south of the site so the substance of the ground is not unfounded. However, for the reasons outlined above it is still advised that to pursue this ground would be unreasonable and so there is a risk of costs. As a matter of planning judgement, it is considered that an Inspector is unlikely to support the reason for refusal and will find highway safety conditions to the south of the site, as proposed to be mitigated, acceptable. KCC Highways have advised they will support this ground and so would be expected to lead on this ground at appeal should it be pursued by Committee.

Ground 3 On Both Applications (Harm to the Setting of Listed Buildings)

Outline

3. *The proposal will adversely affect the settings of the Grade I listed Church and other listed buildings contrary to Policies SP18 and DM4 of the Maidstone Borough Local Plan 2017 where the development will not be protecting or enhancing the characteristics, distinctiveness, diversity and quality of the heritage assets.*

Full

3. The proposal will adversely affect the settings of the Grade I listed Church and Grade II listed Church House contrary to Policies SP18 and DM4 of the Maidstone Borough Local Plan 2017 due to the visual effect of the whole development in both long and short-term views and the development will not be protecting or enhancing the characteristics, distinctiveness, diversity and quality of the heritage assets.

3.24 It is advised that this ground is unreasonable, cannot be sustained at appeal, and costs are highly likely to be awarded against the Council if pursued for the following reasons.

3.25 In agreeing to allocate the site for up to 440 houses the Council have accepted that there will inevitably be an impact upon the setting of the nearby listed buildings otherwise the site would not have been allocated at all, or a smaller area of the site and/or lower number of houses would have been allocated.

3.26 The Council's decision to adopt policy H1(8) implies an acceptance that if there was an undeveloped section of land retained along the eastern edge of the site, if the Church Road frontage was built at a lower density, and if open land to the north of the Church was retained, this would protect the setting of the Church as required under criterion 3, 4, and 6. For the outline application the detailed layout of the development is not being considered at this stage and so these requirements could be fulfilled at the reserved matters stage. For the full application the Policy requirements are being fulfilled. As such, there is no explanation as to why the Committee now considers there to be an adverse impact when the Council's adopted policy outlines how this could be avoided and has been complied with.

3.27 For the full application Members were asked to clarify if a specific element of the proposed development was causing harm to the setting of the listed buildings. Committee clarified it is the whole development that causes the adverse harm and so by implication that no development at the site is acceptable for heritage reasons. This is clearly unreasonable on the basis that the Council has allocated the site for up to 440 houses.

3.28 For the full application, the reason refers to long and short-term views (assumed to mean long 'distance' and short 'distance' views) but policy H1(8) has already specified what is necessary to ensure open views of the Church are maintained whether they be short or long distant.

3.29 Officers, including the Council's Conservation Officer have advised that the level of harm to the setting of the Church and Church House is 'less than substantial' and this is also the view of Historic England. The layout was developed in discussion with Historic England and in their comments on the full application they state, "*we also accept that it is unlikely the overall harm can be reduced given other constraints on the site and thus that the proposal in its current form is capable of meeting NPPF requirements to*

minimise and thus also justify harm.” Their objection centres on the lack of a church car park.

3.30 Where the harm is considered to be ‘less than substantial’ paragraph 196 of the NPPF requires this harm to be weighed against the public benefits of the development. In this case the public benefits are significant including providing over 400 houses in order for the Council to meet its housing requirement up to 2031 and which includes a significant quantum of affordable housing, the delivery of which is the top priority under policy ID1 (Infrastructure Delivery) of the Local Plan. This balancing exercise does not appear to have been undertaken by the Committee.

3.31 For these reasons it is advised that both reasons for refusal are unreasonable. The outline application could comply with the site policy and the full application does comply. There is no good reason for taking a different view from when the site was allocated because the number of dwellings being proposed is the same as, or less than, what is endorsed by Policy H1(8).

3.32 (In the event that these grounds are pursued on both applications they should state specifically which listed building settings are harmed. One would also expect the listed buildings affected would be the same for both applications. In relation to the full application it should clarify what is meant by a ‘long term and short term’ views.)

4.0 CONCLUSION

4.01 Reasons for refusal 1 and 3 on both applications are unreasonable, cannot be sustained at appeal, and are highly likely to result in significant costs awards against the Council. Reason for refusal 2 is unreasonable, cannot be sustained at appeal, and there is a risk of a significant costs award against the Council but this is considered to be low.

4.02 It is difficult to advise the precise level of costs, however, the appeal already lodged will be carried out under the Public Inquiry procedure where legal representation and expert witnesses (planning, highways, air quality, and heritage) will be required by all parties and this process is already underway. Counsel has advised that a costs award against the Council could be in the region of £95,000 which is considered to be a reasonable estimate. This excludes the Council's usual liability to bear its own costs associated with defending any appeal.

4.03 For the outline application, it is recommended that Committee decides to advise PINS that the Council ‘would have’ approved planning permission subject to the conditions and legal agreement as set out in the committee reports.

4.04 For the full application, it is recommended once more that planning permission is granted for the development subject to the conditions and legal agreement as set out in the committee report.

REFERENCE NO - 19/501600/OUT
<p>APPLICATION PROPOSAL</p> <p>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)</p>
ADDRESS Land West Of Church Road, Otham, Kent, ME15 8SB
RECOMMENDATION – APPROVE WITH CONDITIONS
<p>SUMMARY OF REASONS FOR RECOMMENDATION</p> <ul style="list-style-type: none"> • The site is allocated for 440 houses within the Local Plan under policy H1(8) subject to a number of criterion. • The outline application proposes up to 440 houses and for the reasons outlined in the report complies with the criterion under policy H1(8) subject to the legal agreement and conditions. • The allocation of the site for housing inevitably has an impact upon the setting of listed buildings to the north but this would be minimised and would be less than substantial. The public benefits of providing housing, including affordable housing on an allocated housing site, and the associated the social and economic benefits, and a church car park, outweigh this less than substantial harm. • KCC Highways is raising objections on the basis of an unacceptably severe traffic impact on the highway network and worsening safety hazards on Church Road. For the reasons outlined in the report the Local Planning Authority does not agree, and the objections are not considered to be reasonable grounds to refuse planning permission. • KCC Highways is raising issues of capacity and safety relating to the applicant’s proposed signalisation of the Willington Street/Deringwood Drive junction and so delegated powers are sought by officers to resolve this matter through an amended improvement scheme that is agreed with KCC Highways, or withdrawal of their objection on this matter. • Highways England is raising no objections subject to a condition that limits 230 house occupations until works to the M20 Junction 7 have been carried out in full. The applicant has signed a legal agreement to pay a proportionate amount to the upgrade works to Junction 7, which is considered appropriate and such a condition does not pass the required tests for planning conditions and is unreasonable for the reasons outlined in the report. • The outline application complies with site policy H1(8) and all other relevant Development Plan policies. There are no overriding material considerations to warrant a decision other than in accordance with the Development Plan, and so permission is recommended subject to the legal agreement and conditions set out below.
REASON FOR REFERRAL TO COMMITTEE

<ul style="list-style-type: none"> • Councillor Newton has requested the application is considered by the Planning Committee for the reasons set out below. • The recommendation is contrary to the view of Kent Highways and Highways England (statutory consultees). 			
WARD Downswood And Otham	PARISH/TOWN COUNCIL Otham	APPLICANT Bellway Homes Limited AGENT DHA Planning	
DECISION DUE DATE: 08/11/19	PUBLICITY EXPIRY DATE: 17/10/19	SITE VISIT DATE: 17/04/19 & 10/10/19	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
19/501029	EIA Screening Opinion for the proposed residential development of up to 440 dwellings and associated access, landscaping and other works on land west of Church Road, Otham.	EIA NOT REQUIRED	17/04/19

1.0 DESCRIPTION OF SITE

- 1.01 The application site has an area of approximately 16.1ha and is to the west of Church Road. The site is to the southeast of Maidstone and is between substantial residential areas to the north, west and southwest, namely cul-de-sacs within the Downswood area to the north, Chapman Avenue to the west and Woolley Road to the south. To the east are open agricultural fields and immediately to the south/southeast are a number of detached residential properties at The Rectory (Grade II listed) and Squerryes Oast. St Nicholas's Church (Grade I listed) and Church House (Grade II listed) are to the north of the site.
- 1.02 The site is in the main, an open arable field but includes an area of land at its north end that wraps around the north side of the church which has numerous trees, scrub vegetation and grass, and over which public footpath KM86 runs. The boundaries of the site are formed by established hedging on the Church Road frontage, hedging to the boundary with 'Squerryes Oast', and trees on the south, west and north boundaries. There is an area of Ancient Woodland (AW) to the southeast of the site.
- 1.03 The site is highest at its south end with a gradual fall to the north. To the west where the site backs onto gardens of properties within Chapman Avenue, there is a considerable level difference between the site and Chapman Avenue.
- 1.04 Importantly, the site is allocated for housing development in the Local Plan and policy H1(8) allows for up to 440 houses and sets out a number of criterion to be met.

2.0 PROPOSAL

2.01 This application seeks outline permission for up to 440 houses and approval of two proposed vehicular access points onto Church Road and other pedestrian and/or cycle links to residential areas to the north, west and south. All other matters such as the location and layout of the roads, houses and open space areas, the design and heights of the houses, and landscaping would be determined under a future reserved matters application(s).

2.02 As such, the local planning authority is being asked to consider whether the principle of 440 houses with two access points is acceptable at this stage.

2.03 The applicant has provided numerous assessments to support the proposals and in order to demonstrate how the site can suitably accommodate 440 houses in line with policy H1(8).

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP3, SP18, SP19, SP20, SP23, H1, OS1(16), ID1, H1(8), DM1, DM2, DM3, DM4, DM6, DM8, DM12, DM19, DM20, DM21, DM23
- Kent Waste and Minerals Plan 2016
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

4.0 LOCAL REPRESENTATIONS

(The latest notification on additional/amended details expires on 17th October. Any responses received will be reported under an Urgent Update Report)

4.01 **Otham Parish Council:** Raises objections for the following (summarised) reasons:

- Increased traffic and congestion.
- Highway safety for vehicles and pedestrians.
- Lack of transport modelling of local junctions in Downswood.
- Considerable loss of hedging to the front of the site contrary to policy.
- Harm and profound change to the landscape.
- Loss of views across the countryside.
- Harm to ecology.
- Harm to the setting of listed buildings.
- Archaeological survey should be carried out.

4.02 **Downswood Parish Council:** Raises objections for the following (summarised) reasons:

- Traffic generation, traffic flows and congestion.
- Lack of transport modelling of local junctions in Downswood.

- Question some of the assumptions and modelling within the Transport Assessment.
- Traffic assessment not sufficient and carried out when road closed.
- Site policy doesn't provide highways mitigation to the north of the site.
- Strategic highways measures in site policy have not been delivered.
- Lack of sufficient details of development to properly assess.
- Not enough room to widen Church Road without losing hedges.
- Lack of pedestrian/cycle links.
- Snow and ice will leave the site stranded.
- Lack of access for emergency vehicles.
- Inadequate access for large vehicles.
- Buses are unlikely to be able to access the site.
- Lack of decent access to bus services which are poor.
- The site does not benefit from good public transport access.
- Highway safety for vehicles and pedestrians.
- Groundwater plans inconsistent, assessment inadequate, and likelihood of sink holes not properly assessed.
- Land stability and underground conditions have not been suitably assessed.
- Loss of privacy and overlooking.
- Noise, disturbance, and light pollution.
- Inconsistent with character and appearance of local area.
- Harm to listed buildings.
- Loss of community views.
- Harm to ecology.
- Archaeology work not sufficient.
- An Environmental Impact Assessment is required.

4.03 **Bearsted Parish Council (neighbouring)**: Raises objections for the following (summarised) reasons:

- Traffic assessment not sufficient.
- No assessment of junctions to the north of the site.
- Question some of the assumptions and modelling within the Transport Assessment.
- Some of the traffic counts were carried out when road was closed or half term.
- Traffic impact will be severe.
- Public transport will not mitigate traffic.
- There is no Sunday no. 4 bus service.
- No local doctors or primary school.

4.04 **Local Residents**: 399 representations received raising the following (summarised) points:

- Increased traffic and congestion.
- Highway safety.
- Rat running occurs on local roads.
- Church Road is not safe or suitable for additional traffic.
- Traffic calming measures will make traffic worse.
- Junction mitigation has not been carried out.

APPENDIX A

- Question accuracy of Transport Assessment.
- Flood risk.
- Site isolated in floods and snow.
- Inadequate foul drainage.
- Question surface water report.
- Poor connections.
- Poor public transport.
- Car-reliant.
- Parking.
- Land stability issues on the site and in Chapman Avenue.
- Potential damage to neighbouring properties.
- Geology brings into question surface water proposals.
- Visual impact.
- Density.
- Harm to wildlife/ecology.
- Ancient woodland.
- Loss of majority of hedge.
- Loss of trees.
- Harm to the setting of the Grade I listed Church.
- Archaeology assessment is flawed.
- Ancient burial site.
- Lack of infrastructure and amenities including schools and surgeries.
- Traffic noise.
- Noise from new residents.
- Overlooking/loss of privacy.
- Overshadowing/loss of light.
- Overbearing.
- Air quality.
- Crime.
- Loss of agricultural land.
- Other more suitable sites.
- Noise and dust during construction.
- Lack of EIA.
- Fields provide peaceful lifestyle.
- Will affect house prices.
- Questioned land ownership.
- Lack of public consultation by applicant.
- Additional documents should have been uploaded to the website earlier/when they were received.
- Support the development.
- Other people should be able to enjoy the area.

4.05 **Borough Councillor Newton** requests the application is considered by the Planning Committee and raises the following (summarised) points:

- The site should never have been included in the Local Plan.
- An EIA is required for the application.
- Harm to listed buildings.
- Concern over the impact on the setting of listed buildings particularly the Grade 1 Church which was constructed prior to the Domesday Book.

- As a result of the heavy traffic on Church Road, part of the Ancient Churchyard wall has now collapsed revealing the type of construction used for the wall.
- It is my concern for the ancient buildings which is why I require this application called in to Planning Committee for determination.
- Piling may cause harm to listed buildings.
- Traffic impact unacceptable and infrastructure must be in place before development which it is not.
- Loss of hedgerows and non-compliance with policy DM3.
- Should only be one access.
- Wider junction improvements are not in place.
- Archaeology.

4.06 **Borough Councillor McKay:** Raises the following (summarised) points:

- Highway safety on Church Road.
- Does not meet access requirements.
- Lack of direct access to public transport.
- Those without a car would be isolated.
- Could lead to a judicial review if permission was granted as the strategic highway improvements within the policy and have not been agreed or provided.

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 **Highways England: No objections** subject to a condition limiting occupation to 230 dwellings until improvements to the M20 Junction 7 have been completed.

5.02 **Historic England: No objections** provided that the heritage benefit of a dedicated church car park is secured.

5.03 **Natural England: No objections.**

5.04 **KCC Highways: Raise objections** on the basis of an unacceptably severe traffic impact on the highway network and the worsening safety hazards to road users on Church Road.

5.05 **KCC Economic Development:** Seek £3324.00 per applicable house and £831.00 per applicable flat towards the extension of 'Greenfields Community Primary School' to mitigate the impact of the development.

5.06 **KCC SUDs: No objections** subject to conditions.

5.07 **KCC Archaeology: No objections** subject to condition.

APPENDIX A

- 5.08 **KCC PROW**: Concerns regarding delivery of a cycle route across PROW so suggest a holding objection. Conditions recommended relating to surfacing and agreement on the extent of widening of KM86 due to increased use.
- 5.09 **KCC Ecology: No objections** subject to conditions.
- 5.10 **MBC Conservation Officer**: Satisfied that the outline application scheme seeks to limit the harm on the setting of the listed buildings, in particular the Church, the Church House and the Rectory, and the setting of the Otham Conservation Area would be minimally impacted.
- 5.11 **MBC Environmental Health: No objections** subject to conditions relating to charging points; lighting; and contaminated land.
- 5.12 **MBC Landscape Officer: No objections** subject to conditions.
- 5.13 **Southern Water**: Confirm there is sufficient capacity.
- 5.14 **Forestry Commission**: Refers to standing advice on Ancient Woodland.
- 5.15 **Kent Police**: Recommended conditions

6.0 **APPRAISAL**

- 6.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that,
- "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."***
- 6.02 The Local Plan allocates the site for 440 houses under policy H1(8) subject to a number of criterion covering matters relating to design and layout, access, air quality, open space, infrastructure, highways and transportation.
- 6.03 This is an outline application for up to 440 houses with all matters reserved apart from access so under consideration are the principle of up to 440 houses and the points of access only. Clearly, the principle of housing is accepted under Local Plan policy H1(8) so it needs to be assessed as to whether the outline proposals comply/can comply with the policy criterion and any other relevant Development Plan policies.
- 6.04 Whilst the specific details of the development are not being considered at this stage, the applicant has provided a 'Parameter Plan' and 'Illustrative Masterplan' in order to demonstrate how the development could be suitably accommodated on the site and comply with policy H1(8). Whilst the detailed design of the development is not being considered, the applicant does wish to set some parameters through the 'Parameter Plan' which will be discussed in the relevant sections below.

6.05 The key issues for the application are centred round site allocation policy H1(8) as follows:

- Access and connectivity.
- Compliance with the design, layout, and open space criterion.
- Heritage impacts.
- Highways impacts.
- Infrastructure.
- Other matters including air quality, drainage, ecology, and amenity.

Access and Connectivity

6.06 Policy H1(8) states:

- 8. Access will be taken from Church Road only**
- 5. The hedge line along the eastern boundary of the site with Church Road shall be retained and strengthened where not required for access to the site.**

6.07 The application only proposed access from Church Road via two vehicular access points which is in accordance with policy H1(8). These would be close to the north and south ends of the site on the Church Road frontage. The access points have been assessed by Kent Highways and Kent Fire and Rescue and judged to be suitable and safe.

6.08 The proposed accesses and required visibility splays inevitably mean that some of the existing hedging fronting Church Road will need to be removed (approximately 125m). However, it would be possible to provide new double staggered native hedging behind the visibility splays and strengthen the existing hedging in general, this being a positive landscape feature of the site. Whilst landscaping is not being considered at this stage a condition can be attached to guide the landscaping details to ensure sufficient replacement hedging/hedge strengthening. This will ensure compliance with criterion 5 of the site policy.

6.09 In terms of connectivity, it is proposed to provide a new pavement from the northern access along the front of the Church within highways land to link with the existing pavement further north. As this pavement would be narrower than the 2m normally sought due to the width of Church Road (being between 1.2m to 2m and on average around 1.6m), a pedestrian/cycle route is proposed around the north side of the Church and into the site to provide an alternative attractive route which can be conditioned.

6.10 To the south, it is proposed to provide a pedestrian/cycle link via the Council owned public open space to link up with Woolley Road. This would provide an appropriate link to shops, 'Senacre Primary School', and bus stops to the south. The applicant would provide a pathway on the application site and has confirmed they would continue and construct this

on the Council owned land. The property team have confirmed that they have no objections to this. Again the detail would be provided at the reserved matters stage but a condition will be imposed to secure the link and a pathway on Council owned land. Whilst outside the applicant's control this condition is reasonable as this is land in public ownership, and the Council has indicated it has no objections to this being provided.

6.11 Public right of way KM86 runs across the north of the site and it is indicated on the Parameter Plan that open space would be provided along the route. This is welcomed by KCC PROW and they advise that the path should be surfaced due to the additional use which can be secured by condition. The Parameter Plan indicates that a connection with the pedestrian link to 'The Beams', which provides access towards Willington Street and 'Greenfields Primary School' would be provided in the northwest corner. KCC PROW and Highways refer to the existing paths here being steps and so this raises issues over access for all users. This is not the only connection to the west as the connection to the south provides access in this direction so it is not necessary for changes to these steps to be made. They also refer to the applicant's intention to widen the path to allow cycle use and that this would require a legal change to a 'cycle track' to bridleway. In response to this, the applicant has stated that any specific widening would be proposed at the reserved matters stage but details of this can be secured by condition.

6.12 So overall, the vehicular access points comply with policy H1(8), are safe, and the scheme provides good pedestrian and cycle connectivity to the local area and its services/amenities, in accordance with policy DM1 of the Local Plan.

Design, Layout, and Open Space Criterion

6.13 Policy H1(8) requires:

- 1. The tree line along the western boundary of the site will be enhanced, to protect the amenity and privacy of residents living in Chapman Avenue.**
- 2. An undeveloped section of land will be retained along the western boundary of the site, to protect the amenity and privacy of residents living in Chapman Avenue.**
- 3. An undeveloped section of land will be retained along the eastern edge of the site in order to protect the setting of St Nicholas Church and maintain clear views of the Church from Church Road.**
- 4. The Church Road frontage will be built at a lower density from the remainder of the site, to maintain and reflect the existing open character of the arable fields on the eastern side of Church Road and to provide an open setting to St Nicholas Church.**
- 6. Retain non-arable land to the north and east of St Nicholas Church, to protect its setting.**
- 7. Retain discrete section of land at the south east corner of the site to provide a 15 metres wide landscape buffer to ancient woodland**

(bordering site at this location), to be planted as per the recommendations of a landscape survey.

10. Provision of approximately 2.88ha of natural/semi-natural open space consisting of 1.4ha in accordance with policy OS1(16), and 1.48ha within the site, together with additional on/off-site provision and/or contributions towards off-site provision/improvements as required in accordance with policy DM19.

6.14 As stated above, this is an outline application but an illustrative masterplan has been provided which shows development parcels, roads, and areas of open space in order to show that 440 houses can be accommodated. This shows that development can be set away from the tree line along the western boundary to provide an undeveloped area in accordance with criterion 1 and 2. It also shows an undeveloped area of land along the east edge of the site to maintain clear views of St Nicholas Church from Church Road in line with criterion 3. Further open space is also shown to the south and southwest of the Church to limit the impact upon the setting of the Church. Land to the north of the Church is shown as open space in line with criterion 6. In the southeast corner in excess of a 15m buffer to the ancient woodland is shown in line with criterion 7. These undeveloped areas/buffers are identified on the Parameter Plan and so can be secured by condition.

6.15 In terms of open space, criterion 10 requires a total of 2.88ha to be provided for the development. In line with policy OS1(16), and as shown on the Local Plan map, part of the 2.88ha is land to the northwest of the Church and land in the southeast corner of the site (providing 1.4ha). The Parameter Plan indicates open space by the Church, in the southeast corner, and also within the development areas. The site is of a sufficient size to provide the total amount both on the edges and within the development areas, and the 2.88ha can be secured by condition. This amount of open space is considered appropriate for this size of development and can provide a mix of types including natural/semi-natural, more formal space, and play areas. Any need for off-site mitigation of existing open space would need to be sought via the Community Infrastructure Level (CIL).

6.16 For the above reasons it is considered that the application complies with design, layout, and open space requirements of policy H1(8) and these can be secured through the Parameter Plan being conditioned.

Heritage Impacts

6.17 Policy H1(8) requires:

- 3. An undeveloped section of land will be retained along the eastern edge of the site in order to protect the setting of St Nicholas Church and maintain clear views of the Church from Church Road.***
- 4. The Church Road frontage will be built at a lower density from the remainder of the site, to maintain and reflect the existing open character of the arable fields on the eastern side of Church Road and to provide an open setting to St Nicholas Church.***

6. Retain non-arable land to the north and east of St Nicholas Church, to protect its setting.

- 6.18 As outlined above, the Parameter Plan ensure compliance with the above criterion which relate to St Nicholas Church so the proposals comply with policy H1(8).
- 6.19 There are a number of heritage assets near to the site. Notably, St Nicholas's Church (Grade I listed) and two Grade II listed monuments within the grave yard, and 'Church House' (Grade II listed) immediately to the north of the site. There is also 'The Rectory' (Grade II listed) to the south. Further afield, the Otham Conservation Area is 770m to the southeast.
- 6.20 The NPPF outlines at paragraphs 193 and 194, that great weight must be given to the conservation of listed buildings irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.21 The site in particular has an impact upon the setting of the Grade I listed Church, as it forms part of its historic rural open setting to the south. This setting and the visibility it affords of the Church in its historical context, forms part of its significance and development of the site would affect this. Churches were obviously built of a certain scale so they were visible from some distance. In addition, the access points would result in a change to the character of Church Road near to the Church. There would be an impact upon the setting of Church House (GII) but this would to a lesser extent as this building is less prominent from the application site and wider area, so the openness of the application site does not contribute greatly to its significance.
- 6.22 The allocation of 440 houses at the site inevitably results in some harm to the setting of the two listed buildings to the north. Such impacts upon the setting of these listed buildings were clearly accepted when the Local Plan Inspector agreed that the allocation was acceptable for 440 houses, subject to criterion 3, 4, and 6, which all seek to protect the setting of St Nicholas Church, and in turn Church House.
- 6.23 It is therefore a case of minimising the impact upon the heritage assets and securing sensitive design in line with Paragraph 190 of the NPPF and policy SP18 of the Local Plan. To this end, discussions have been held with Historic England and amendments have been made to the Parameter Plan which indicates a larger non-development buffer to the south of 'Church House' and to the south and southwest of the Church. As stated above,

views of the Church from Church Road would be maintained, which is one of the key public views of the Church. In addition, a car park for the Church is proposed as a heritage benefit as the Church does not currently benefit from a dedicated car park. Instead cars park along Church Rd. Historic England have advised that these changes reduce the overall level of harm to significance and that a dedicated church car park is a more defined heritage benefit and on this basis, they concluded the harm has been minimised in line with Paragraph 190 of the NPPF and it is for the Council to decide whether the harm has clear and convincing justification and balance any harm against the public benefits. Historic England has no objection to the application on heritage grounds provided that the heritage benefit of a dedicated church car park is secured via a legal agreement or by condition.

- 6.24 I agree that the changes to the Parameter Plan serve to minimise the impact upon the listed buildings to the north and ensure compliance with policy H1(8). I agree with the applicant's conclusion that the harm to the listed buildings is 'less than substantial' because the amended Parameter Plan provides undeveloped areas to the north, west, and south of the listed buildings and maintains clear views of the Church from Church Road. The provision of a church car park will in itself have some harmful impacts upon the setting of listed buildings but it would be below level development and could be screened/softened. It would provide benefits to the Church in that it would assist in its ongoing use, and something which Historic England attaches weight.
- 6.25 The site allocation and therefore outline proposals, I would say inevitably, do not conserve the setting of the listed buildings and so there is some conflict with criterion 1 of policy DM4 of the Local Plan. However, the explanatory text to policy DM4 refers to carrying out a weighting exercise in line with the NPPF.
- 6.26 Whilst having special regard to the preservation of the setting of the Church and Church House, overall, it is considered that the public benefits of providing up to 440 houses including affordable housing to meet housing needs on an allocated housing site, and the associated social and economic benefits, in addition to the provision of a church car park, provide for clear and convincing justification for some harm to the heritage assets, and these benefits outweigh this less than substantial harm to St Nicholas Church and Church House in line with Paragraph 196 of the NPPF. The Parameter Plan would also ensure that the impact upon heritage assets would be minimised to an acceptable degree bearing in mind the site is allocated for housing.
- 6.27 'The Rectory' (GII listed) to the south is some 50m from the edge of the site with a two storey building and vegetation between. There would also be a buffer to the front of the site that would limit development near to this building. For these reasons the development of the site would not cause harm to the setting of this listed building. There would be no harm to the listed monuments within the church yard as the site is generally screened from these and it is considered that their setting is confined to the church yard. I concur with the Council's Conservation Officer that due to the distance from the edge of the Otham Conservation Area (770m), the

development would have a minimal impact upon its setting, and I consider no harm would be caused.

- 6.28 In relation to archaeology, KCC Heritage advises that on the back of geophysical surveys carried out by applicant, there are no indications of significant archaeology surviving on the site. However, they suggest the area around the church may contain important archaeology (which may be revealed following intrusive field evaluation works) and recommend a condition to this end, which is considered appropriate.

Highways Impacts

Wider Network/Strategic Junctions

- 6.29 The Local Plan examination process which led to the adoption of the Local Plan in October 2017 involved the Local Plan Inspector considering, in great detail, the highways impacts and mitigation for the southeast Local Plan sites (which includes the application site), including objections/representations from statutory consultees and third parties. This involved carefully considering proposed junction improvements and bus service improvements (monies towards some of which had already been secured under planning permissions). The Local Plan Inspector in his Final Report concluded,

"169. The development proposals in the submitted plan already incorporate measures to mitigate the travel impacts. These include highway capacity improvements and improved bus services (including direct links to railway stations). If these measures are further supported by the bus access and bus priority measures, the impacts on congestion need not be severe. Air quality issues are capable of being addressed by these and other measures, including by action at national level.

170. In conclusion the Policy SP3 South East Maidstone Strategic Development Location will generate additional traffic and could contribute to an increase in congestion, particularly at peak hours, even after mitigation in the form of road improvements and other measures to make sustainable travel more attractive and effective. However the concentration of development close to the town does allow alternative and more sustainable means of travel to be made available. That is less likely to be the case were the housing to be located away from the town in another part of the Borough where residents would still need access to employment and services in the town."

- 6.30 The adopted Local Plan therefore includes strategic highways improvements for the southeast Maidstone sites, and relevant to this application, they are outlined under the site allocation policy (criterion 13-17).
- 6.31 The application site and its potential development of 440 houses was included within the cumulative transport assessments carried out under the planning applications for the strategic southeast housing sites H1(7) - Land North of Bicknor Wood, and H1(10) - Land South of Sutton Road, within the Local Plan. These sites were granted planning permission in early 2018. The

transport assessment cumulatively assessed all the southeast housing allocations and also included other commitment development (planning permissions at the time).

- 6.32 Under those applications, the Council accepted that the cumulative impact of development from all the southeast housing allocations could be suitably mitigated with improvements to the capacity of various junctions and improvements to bus services. Being prior to the introduction of CIL, financial contributions were secured under section 106 agreements towards various off-site highways works/improvements which are outlined in the Council's Infrastructure Delivery Plan (IDP), where the total infrastructure costs and funding streams are stated.
- 6.33 Decisions to approve permission at Planning Committee on sites H1(7) and H1(10) with financial contributions towards infrastructure were made prior to the adoption of the Local Plan in September 2017. The Local Plan Inspectors Final Report and adoption of the Local Plan confirmed that the Council's approach to mitigating the transport impact of the southeast development sites is sound.
- 6.34 For the current application, the applicant has provided a Transport Assessment and carried out up to date traffic surveys on local roads and assessments of appropriate local junctions. Whilst the Parish and residents have questioned the accuracy of the traffic surveys, Kent Highways have raised no issues with them. For wider/strategic junctions the applicant's evidence provides the likely additional impact of the development but relies upon the recent cumulative assessment of transport impacts carried for sites H1(7) and H1(10) and the mitigation (which included the application site). These assessments concluded that the cumulative traffic impact upon the local network (including the application site) would not be severe subject improvements to relevant junctions and public transport. The Council has accepted this conclusion and so this is considered to be an appropriate approach and there are no reasonable grounds to now disagree or depart from this approach that has been accepted recently by the Council.
- 6.35 The site allocation policy as criterion (13-17) relating to strategic highways and transportation improvements as follows:
- 13. Bus prioritisation measures on the A274 Sutton Road from the Willington Street junction to the Wheatsheaf junction, together with bus infrastructure improvements.**
 - 14. Improvements to capacity at the junctions of Willington Street/Wallis Avenue and Sutton Road.**
 - 15. Package of measures to significantly relieve traffic congestion on Sutton Road and Willington Street.**
 - 16. Improvements to capacity at the A229/A274 Wheatsheaf junction.**
 - 17. Improvements to frequency and/or quality of bus services along A274 Sutton Road corridor.**

6.36 The above improvements are based on the cumulative impact of development in southeast Maidstone and so compliance with the above criterion would be via monies towards the improvements. A change in circumstances since the previous decisions is the introduction of the Council's Community Infrastructure Levy (CIL), such that any monies towards strategic highways works required from cumulative transport impacts would be via CIL rather than financial contributions under a section 106 agreement. The applicant will have to pay CIL should planning permission be granted and implemented, and the Council can decide to use monies for the relevant highways improvements. This ensures compliance with the strategic highways requirements under the site policy.

6.37 Although none of the above improvements have commenced and clearly a number of the southeast sites are completed and occupied/part-occupied or under construction, the delivery of highway improvements is not the responsibility of the Local Planning Authority (LPA) or the applicant. The LPA can secure improvements via monies, CIL, or planning conditions but it is the responsibility of the Highways Authority to implement highways works. Therefore the LPA cannot withhold planning permission because highways works have not been delivered.

6.38 KCC Highways has been consulted on the application and has raised strong objections as it considers the proposals do not conclusively demonstrate that the impact of the development can be fully mitigated and that the strategic junction improvements are not expected to provide sufficient capacity. They consider the residual traffic impact on the network is considered to be severe. They state,

"KCC Highways has previously raised concerns over the suitability and effectiveness of the piecemeal mitigation measures proposed in the cumulative transport impact assessment (CTIA) in relation to other planning applications for large-scale housing growth in south east Maidstone. These equally apply to this planning application.

By relying on the principle that financial contributions can be made towards the package of junction modifications on the A274, A229 and A20 corridors identified in the CTIA, the TA has not demonstrated that mitigation of impact can be achieved. KCC Highways expectation is that queuing and delay will be worsened by the additional development in the continued absence of effective mitigation. This, in turn, will result in more road users seeking to use alternative routes through the nearby communities of Otham, Downswood, Leeds and Langley. The level of impact is therefore unacceptably severe and KCC Highways strongly object to the development proposals on this basis."

6.39 Essentially, the Highways Authority does not consider that the junction and public transport improvements outlined in the Local Plan, and to which monies have been secured, are sufficient to mitigate the impact of the development. This is the same position that was taken under the previous planning applications and at the Local Plan Inquiry by the Highways Authority. So this argument has been tested through planning applications and importantly through an Examination in Public. As outlined above, the

mitigation measures are considered sound and are within the adopted Local Plan. On this basis, it is considered that the Highway Authorities objection is not reasonable grounds to refuse planning permission and could not be defended at appeal.

Public Transport

6.40 The applicant has confirmed that the scheme will be designed to accommodate buses through appropriate road widths and swept paths should the local bus provider wish to divert into the site. 'Arriva' have confirmed that they do not require any monies to subsidise a diversion once the development is nearing full occupation, and I note existing bus stops are within walking distance on Deringwood Drive and Woolley Road so diversion of the service is not essential. Therefore, it is not necessary to secure any funding for this service, and I consider the development could be designed to accommodate buses, with the decision to divert a commercial decision for the bus operator. As outlined above, the site has/provides good connectivity to local bus stops.

6.41 The applicant has provided a Framework Travel Plan for the development which would encourage sustainable travel and its aims are proportionate for this site and its location. This can be secured by condition and a monitoring fee of £5,000 will be secured under a section 106 agreement.

Church Road to the South of Site

6.42 KCC Highways have raised an objection based on worsening safety hazards to road users on Church Road to the south of the site. This is based on the road width and also lack of forward visibility in places. They state that a width of 4.8m is sufficient for two cars to pass but not two larger vehicles. The width is below 4.8m for much of its length (between 4.1m and 4.5m) and at 3.9m for a very short section. KCC consider a 5.5m width to be essential referring to the Kent Design Guide. The request for a 5.5m width is based on guidance for major access roads within new developments so in circumstances where you are proposing a new road. This is not to say it is not relevant at all to existing roads but clearly existing roads have potential constraints and it is the local context and conditions that must be taken into account.

6.43 The applicant states that Church Road is already a two way road with a low incidence of accidents which is shown in the collected data. KCC acknowledge the road is already well-used and has a relatively good crash record but outline that there will be additional traffic movements from the development. Having driven this road both ways a number of times including in the AM peak, I noted that in a limited number of places cars had to stop to let other cars pass but it was generally a case of slowing down to pass. When larger vehicles are involved, stopping would probably need to be carried out as some representations on the application suggest. The applicant's traffic flows suggest that between 81 and 84 movements would exit and enter the site from Church Road to the south in the AM and PM peaks. This would be on average just over one additional movement a minute over the peak hour. This is not considered to represent a significant

increase in movements on Church Road and on this basis it is not considered that the development would have an unacceptable or severe impact on highway safety beyond the current situation, or that warrants objection on the basis of road width or visibility in accordance with policy DM21. I also note that policy H1(8) under criterion 12 only requires road widening outside site H1(6) further south on Church Road (which will be carried out in connection with permission on that site).

- 6.44 It is also important to note that the applicant has investigated widening along Church Road where they do own some land on either side. To carry out widening would result in the removal of trees and hedging on both sides of the road of which a large section (325m) is Ancient Woodland. There is also a large section of third party land (460m) on the east side. So notwithstanding the conclusion above, the environmental impact this would have through loss of Ancient Woodland and visual harm to the character of Church Road is considered to outweigh any benefits of road widening.
- 6.45 The applicant is proposing some measures to improve Church Road including extending the 30mph speed limit by approximately 500m south of its current location by the Church, and also by introducing build-outs with a give way feature on a bend just to the south of the site where there is limited visibility. A safety audit submitted by the applicant, and KCC Highways has confirmed that this is acceptable and KCC state that this measure supports the extension of the 30mph speed limit. These works, which aid in highway safety where visibility is more limited, can be secured by condition. KCC Highways have sought clarification on swept paths which the applicant is responding to, and an update will be reported to Planning Committee via an urgent update report.

Local Junctions

- 6.46 The applicant has assessed the impact upon the junction of Church Road/Deringwood Drive, Deringwood Drive/Willington Street, and Spot Lane/A20.
- 6.47 Improvements to Church Rd/Deringwood Drive are proposed essentially widening both roads near the junction and replacing some of the parking bays, which has been deemed sufficient to accommodate the development traffic by KCC. This would result in the loss of some grassed verge and most likely 2/3 trees but this would not be unduly harmful to the local area and is necessary to accommodate the allocated site.
- 6.48 For the Deringwood Drive/Willington Street junction, the applicant's evidence suggests this junction will be beyond its design capacity imminently when taking into account general traffic growth and traffic from developments within the Local Plan/with planning permission. The issue is the difficulty in traffic leaving Deringwood Drive and so the queuing on this arm, rather than along Willington Street. It is of note that no issues for this junction have been identified, or any mitigation required by KCC Highways for any other developments to date, despite them impacting on this junction.

- 6.49 The applicant is proposing signalisation of the junction that would better manage traffic, provide safer opportunities for Deringwood Drive and development traffic to exit, and improve pedestrian crossing facilities. Whilst this would not bring the Deringwood Drive arm within design capacity but it must be noted that the junction in its current form will reach its capacity soon with the level of development already approved (without this development). On this basis it is considered to be a proportionate response to mitigate the traffic impact of this application and one that brings other benefits. However, KCC Highways have assessed the proposals and consider that this would introduce a new delay on Willington Street so any mitigation for Deringwood Drive would effectively be counteracted by the introduction of queuing and delays on Willington Street. They also consider there are outstanding safety issues to resolve with the design. On this basis they consider that there are both capacity and safety issues outstanding.
- 6.50 It is therefore recommended that delegated powers are given to officers to resolve this matter through an amended improvement scheme that is agreed with KCC Highways. If this cannot be agreed or KCC do not remove their objection specifically to the impacts at this junction, the application will be reported back to Planning Committee with a recommendation on this matter.
- 6.51 For the Spot Lane/A20 junction, the Spot Lane arm would be just over design capacity with general traffic growth, traffic from developments within the Local Plan/with planning permission, and the application traffic. This would mean an increase in queuing on Spot Lane but it is considered that the impact is not severe or dangerous, and does not warrant mitigation or objection in line with policy DM21.

M20 Junction 7

- 6.52 As background, under the recent applications at sites H1(7) and H1(10), financial contributions to cover the total costs of upgrade works to Junction 7 of the M20 (including scheme design and contract costs) were decided to be apportioned between those two sites and the application site H1(8) (3 sites in total). This totalled £4.66m and the applicant (Bellway Homes), along with completing a legal agreement for financial contributions for site H1(7), also completed a legal agreement for monies in connection with H1(8). Therefore a proportionate financial contribution towards Junction 7 has already been secured for this site by the applicant. These legal agreements and the triggers for payment were agreed with KCC (who would provide the works) and on this basis Highways England previously raised no objections.
- 6.53 Highways England now does not raise any objections to the application but this is subject to a condition that there is no occupation beyond 230 dwellings until improvements to the M20 Junction 7 have been completed. This is primarily based on mitigation for development within the wider Local Plan, rather than this specific development.

- 6.54 Such a condition is not considered to be reasonable and therefore does not pass the NPPF tests for conditions, on the basis that the applicant has no control as to when the funding for these works will be provided and/or the works are carried out (which is the responsibility of the Highways Authority), particularly bearing in mind they are being funded by three separate developments, one of which hasn't commenced (site H1(10)). In addition, 230 occupations of this specific development do not necessitate the entire upgrade works being carried out to Junction 7, and this precise trigger has not been justified. Highways England instead states that it needs to retain an element of control over the development pipeline (of the Local Plan) in the interests of highway safety and operational effectiveness, which is not specific to this planning application. Indeed, predicated traffic for 220 occupations (50% of the development) are 20 additional movements in the AM and PM peaks, a level which does not justify upgrading of the whole junction. Such restrictions on occupation were also not required and placed upon the other planning permissions so this would not be a consistent approach by the LPA. The other permissions simply required payment at set trigger points.
- 6.55 For these reasons it is considered that the requested condition does not pass the NPPF tests for conditions and should not be attached. The applicant has signed a legal agreement to pay a proportionate amount to the upgrade works to Junction 7, which is considered appropriate. In the absence of this condition, Highways England object to the application and so any decision to approve the application will need to be referred to the Secretary of State in line with the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018.

Off-Site Infrastructure

- 6.56 Policy H1(8) states:

11. Contributions will be provided towards the expansion of an existing primary school within south east Maidstone to mitigate the impact of the development on primary school infrastructure.

- 6.57 The adopted CIL is charged on new floor space to help deliver infrastructure to support development. The scale of development proposed here is not such that it generates the need for a new standalone school or doctor's surgery, or specific on-site infrastructure but will obviously place an additional demand on such services. On this basis, CIL monies could be used towards such services to mitigate the impact of the development which is in accordance with policy DM20.
- 6.58 An exception is made under the Council's Regulation 123 CIL list (list of infrastructure types and/or projects which the Council intends will be, or may be, wholly or partly funded through the CIL), for education. The Reg. 123 List specifically allows for section 106 monies to be collected towards "expansion of an existing school within southeast Maidstone to accommodate site H1(8)" as identified in the Infrastructure Delivery Plan. This is identified as the 'Greenfields Community Primary School' and KCC have requested £3,324.00 per applicable house and £831.00 per applicable

flat towards the expansion of school to mitigate the impact of the development. This contribution would go towards planned expansion of the school to provide 4 additional classrooms and has been justified by KCC, and as it is specifically identified under the Reg.123 list, it is considered necessary, directly related to the development, and reasonable and in this specific case appropriate to be collected via a section 106 agreement which is being progressed and nearing completion. This is in accordance with criterion 12 of policy H1(8).

Other Matters

Affordable Housing

6.59 Affordable Housing is proposed at 30% with the tenure split 70% affordable rent and 30% shared ownership. This overall amount (30%) is in accordance with policy SP21 as is the tenure split and this will be secured under the legal agreement. A monitoring fee for the s106 will also be secured.

Air Quality

6.60 Policy H1(8) requires:

9. *Appropriate air quality mitigation measures to be agreed with the council will be implemented as part of the development.*

6.61 An air quality assessment has been submitted which concludes that small increases in NO₂ concentrations are expected as a result of the proposed development and overall, these increases are expected to have a negligible impact on air quality and not cause any exceedances of the relevant Air Quality Standards. The site is located outside any Air Quality Management Areas and it concludes that new residents would not be subjected to poor air quality. The Environmental Health section has reviewed the assessment and raises 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 mitigations to be integrated into the development. A number of potential mitigation measures are outlined and the specific measures can be secured by condition which can include measures such as EV charging points for houses with off-street parking as this is a requirement under policy DM23 of the Local Plan.

Drainage

6.62 The Environment Agency's flood risk from surface water map shows a narrow overland flow path running from north to south through the centre of the site. The applicant has assessed this and confirms that some surface water flooding could occur along this natural flow path in extreme rainfall events. The report goes on to state that this flow path could be realigned to fit in with the layout of housing so it runs through areas of open space and is not affected by the development or displaced off-site. This is a detailed

matter that would be dealt with at reserved matters stage but it shows that this is not a constraint to development of the site in principle.

6.63 For surface water from the development, it is proposed at this stage that there would be a series of swales that would drain to deep bore soakaways at a level to avoid any potential issues with flooding of fissures/gullies. Again this would be dealt with at the detailed stage but KCC LLFA have confirmed that this could be feasible but it will be necessary to develop a detailed drainage scheme to confirm the scheme can be satisfactorily accommodated within the final development layout and recommend conditions to secure this.

6.64 Southern Water has confirmed there is sufficient capacity on the local network for foul drainage ensures compliance with criterion 15 of policy H1(8).

Ecology

6.65 The site is mainly an arable field with grassland and scrub around its margins and hedging along the Church Road frontage and edges. Features of ecological importance within the site include hedgerows and an area of semi-improved grassland in the north-east corner, which are all on the outside edges of the site. In terms of protected species, a low population of breeding slow worms has been recorded and there is suitable habitat for foraging and roosting bats, badgers, hedgehogs and breeding birds which is around the edges of the site. Apart from where required for access, the hedges can remain and the Parameter Plan shows that the habitats on the outskirts of the site would largely not be developed and this plan will be conditioned. Various mitigation measures are proposed to protect habitat and species and create/enhance habitat, which can be secured by condition. KCC Ecology are satisfied that that appropriate mitigation has been recommended to minimise or avoid impacts on these habitats and species and recommend conditions to secure the mitigation measures, a site wide management plan, and bat sensitive lighting. The development would therefore be in accordance with policy DM3 of the Local Plan.

6.66 There is an area of ancient woodland that adjoins the site at its south end. It is proposed that a 15m buffer to this woodland would be provided which can also be secured by condition.

6.67 Enhancements are proposed in the form of new native planting, wildflower grassland, permeability for hedgehogs, bat and bird boxes, and habitat piles. This is considered a proportionate response based on the low ecological value of the site and will provide an appropriate biodiversity net gain for this development in line with the NPPG.

Residential Amenity

6.68 The layout of housing is not being determined at this stage but clearly there is room to ensure that houses are sited a suitable distance from neighbouring properties to ensure there is no unacceptable impact upon privacy, light, or outlook. The Parameter Plan shows building free/buffers

around the edges of the site to comply with the site policy, which are shown in the region of 10m which would also ensure amenity is protected. Any noise and disturbance from the normal occupation of a housing development is not objectionable.

Environmental Impact Assessment

6.69 The applicant submitted a separate Screening Opinion for the development just before the application was submitted to ask whether the LPA considered an EIA was required. It was concluded that the development would not be likely to have significant effects upon the environment sufficient to warrant an EIA. A request to the Secretary of State (SoS) was also made by a third party to seek his opinion, and the SoS also concluded the development was not 'EIA development'.

Representations

6.70 Matters raised but not considered above relate to land stability, construction matters, house prices, land ownership, and uploading of documents to the website.

6.71 Representations refer to the underlying geology of the area/land stability and potential damage to neighbouring properties with regard to the built development, and flooding from the surface water drainage scheme. The precise location of any built development would be decided at the reserved matters stage and could be sited to ensure there are no land stability issues to neighbouring land/or this could be demonstrated, if necessary. In terms of the surface water drainage scheme, the fine details of this are required by condition.

6.72 Matters relating to construction refer to noise, disturbance, and dust which are all matters that would be dealt with under environmental protection legislation and are not planning matters. The impact upon house prices is not a planning consideration. The red outline application site has been amended so it excludes any land not in control of the applicant. Additional/amended information provided by the applicant was uploaded to the website at the same time, with a formal 21 day re-consultation carried out on all the information. This is standard practice and carried out to avoid numerous re-consultations on single documents each time to 300+ residents in this case.

7.0 CONCLUSION

7.01 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications must be determined in accordance with the Development Plan unless materials considerations indicate otherwise.

7.02 The site is allocated for 440 houses within the Local Plan under policy H1(8) subject to a number of criterion. The outline application proposes up to 440 houses and for the reasons outlined in the report above, the proposals comply with all policy criterion subject to the legal agreement and

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conditions. The application also complies with all other relevant Development Plan policies.

- 7.03 The allocation of the site for housing would inevitably have an impact upon the setting of listed buildings to the north but this would be minimised in line with the Parameter Plan and the impact would be 'less than substantial'. The public benefits of providing housing, including affordable housing on an allocated housing site, and the associated the social and economic benefits, and a church car park, outweigh this less than substantial harm.
- 7.04 Kent Highways are raising objections on the basis of an unacceptably severe traffic impact on the highway network and worsening safety hazards on Church Road. For the reasons outlined in the report the Local Planning Authority does not agree the impact is severe, and the objections are not considered to be reasonable grounds to refuse planning permission.
- 7.05 KCC have raised capacity and safety concerns regarding the proposed signalisation of the Willington Street/Deringwood Drive junction so it is recommended that delegated powers are given to officers to resolve this matter through an amended improvement scheme that is agreed with KCC Highways. If this cannot be agreed or KCC do not remove their objection specifically to the impacts at this junction, the application will be reported back to Planning Committee for a decision on this matter.
- 7.06 Highways England is raising no objections subject to a condition that limits 230 house occupations until works to the M20 Junction 7 have been carried out in full. The applicant has signed a legal agreement to pay a proportionate amount to the upgrade works to Junction 7, which is considered appropriate and such a condition does not pass the required tests for planning conditions and is unreasonable for the reasons outlined above.
- 7.07 All representations received on the application have been fully considered in reaching this recommendation.
- 7.08 It is concluded that the development is acceptable and complies with policy H1(8) and all other relevant policies of the Development Plan. There are no overriding material considerations to warrant a decision other than in accordance with the Development Plan, and so permission is recommended subject to the legal agreement and conditions, and resolution of the matters as set out below.

8.0 RECOMMENDATION

Subject to:

- The conditions set out below, and the prior completion of a legal agreement to secure the heads of terms set out below;
- The agreement of any improvements to the Willington Street/Deringwood Drive junction with KCC Highways or removal of their objection specifically

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to impacts at this junction (with any relevant amendment of condition 15);
and

- Referral of the decision to the Secretary of State

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. £3324.00 per applicable house and £831.00 per applicable flat towards the expansion of Greenfields Community Primary School.
2. 30% affordable housing provision (made up of 70% affordable rent and 30% shared ownership).
3. £5,000 Travel Plan monitoring fee.
4. £1,500 Section 106 monitoring fee.

Conditions:

Time Limit

1. No phase of the development hereby approved shall commence until approval of the following reserved matters has been obtained in writing from the local planning authority for that phase:
a) Scale b) Layout c) Appearance d) Landscaping

Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later;

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

Access

2. The access points hereby permitted shall be carried out in accordance with drawing no. 06 RevF (Proposed Access Arrangement) and the visibility splays kept free of obstruction above a height of 1 metre.

Reason: In the interests of highway safety.

Parameters

3. The layout details submitted pursuant to condition 1 shall follow the principles of the development areas and buffers/landscape areas as shown on the approved Parameter Plan (Drawing No. 16206/C03HG).

Reason: To ensure the development accords with the site allocation policy, limits impacts upon heritage assets, protects and enhances biodiversity, and provides a high quality design.

4. The layout details submitted pursuant to condition 1 shall provide at least a 15m development free buffer to the Ancient Woodland in the southern part of the site.

Reason: To protect the Ancient Woodland in the interests of biodiversity.

5. The layout details submitted pursuant to condition 1 shall provide at least 2.88 hectares of on-site public open space.

Reason: To comply with the site policy and provide a high quality development.

6. The layout and access details submitted pursuant to condition 1 shall provide the following:

- A pedestrian and cycle link from Church Road to the development area via the open space to the north of St Nicholas Church and Church House.
- A pedestrian and cycle link to and across the area of Council owned land to the south of the site providing a link to Woolley Road.

Reason: To ensure appropriate connectivity in the interests of sustainability and highway safety.

7. The landscape details submitted pursuant to condition 1 shall provide the following:

- Native planting within the buffers areas as shown on the Parameter Plan.
- Strengthening and replacement native hedge planting along the site frontage with Church Road.

Reason: To ensure the development accords with the site allocation policy and to provide an appropriate setting.

Pre-Commencement

8. 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 within the Flood Risk and Sustainable Drainage Assessment (Herrington, March 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):

- 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.

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. 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.

9. No development shall take place until the mitigation measures detailed within chapter 6 of the Ecological Appraisal (Aspect Ecology; March 2019) have been implemented as detailed. If works have not commenced by March 2020 an updated ecological mitigation strategy shall be submitted to the local planning authority for written approval. It must include the following information:
- a) Updated ecological appraisal
 - b) Results of recommended specific species surveys
 - c) Over view of the ecological mitigation required
 - d) Detailed methodology to implement the mitigation
 - e) Timing of the proposed works
 - f) Details of who will be carrying out the works.
 - g) Maps clearly showing the mitigation areas.

The mitigation must be implemented as detailed within the approved document.

Reason: In the interest of biodiversity protection and enhancement.

10. No development shall take place 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:

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- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- 4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

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

Reason: In the interests of human health.

11. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of
 - a) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - b) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable 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 and that due regard is had to the preservation in situ of important archaeological remains.

Pre-Slab Level

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12. No development above slab level shall take place until, details of the mechanism to ensure the proposed car park for St Nicholas Church can be used by the Church in perpetuity and the timing of its implementation, have been submitted to an approved in writing by the Local Planning Authority. Once implemented the car park shall only be used in connection with use of the Church.

Reason: To ensure the heritage benefit of the Church car park is secured.

13. No development above slab level shall take place until the specific air quality mitigation measures, which shall include the type and location of electric vehicle charging points, 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.

Reason: In the interests of limiting impacts upon air quality.

14. No development above slab level shall take place until a "bat sensitive lighting plan" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting plan shall:

- a) 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;

- b) 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.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the approved plan.

Reason: In the interest of biodiversity protection and enhancement.

Pre-Occupation

15. The development shall not be occupied until the following off-site highways works have been provided in full:
 - a) Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 within the 'Iceni Transport Note – July 2019' or any alternative scheme agreed in writing with the Local Planning Authority (in consultation with the Highways Authority);
 - b) Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 35.1 RevA within the 'Iceni Transport Note – September 2019' or any alternative scheme agreed in writing with the Local Planning Authority (in consultation with the Highways Authority);

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- c) Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2 within the 'Iceni Transport Note – July 2019';
- d) The give way/build out feature on Church Road as shown on drawing no. 34.3 within the 'Iceni Transport Note – July 2019';
- e) Extension of the 30mph speed limit to the south of the application site to a position agreed in writing with the Local Plan Authority (in consultation with the Highways Authority); and

Reason: In the interest of highway safety.

16. The development shall not be occupied until a Final Travel Plan for the development which follows the principles of the Framework Travel Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Travel Plan.

Reason: In order to promote sustainable transport use.

17. The development shall not be occupied until a site-wide landscape and ecological management plan (LEMP), including timetable for implementation, long term design objectives, management responsibilities and maintenance schedules for all landscaped, open space, and drainage areas, but excluding privately owned domestic gardens, has been submitted to and approved in writing by the local planning authority. Landscape and ecological management shall be carried out in accordance with the approved plan and its timetable unless the local planning authority gives written consent to any variation.

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

18. The development shall not be occupied until details of upgrade works to PROW KM86 have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved works have been carried out in full.

Reason: In order to provide appropriate connectivity.

19. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed'

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features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

19/501600

Local Residents

25 further neighbour representations have been received. The following (summarised) points relate to issues raised beyond those already made:

- Deringwood Drive/Willington Street junction will be badly affected, is already failing, and the proposed signalisation is unsafe and will cause further congestion.
- Mitigation should be provided at the Spot Lane junction.
- Conflicting transport information.
- Car park next to Church will cause harm.

Officer Comment: These matters have been considered/addressed in the Committee Report.

Otham Parish Council raises the following (summarised) points beyond those already made:

- Question Historic England's views.
- Car park by Church will harm its setting and is not a benefit.
- Concerns regarding proposed traffic signals at Deringwood Drive/Willington Street junction with regard to safety.
- Conflicting transport information.

Officer Comment: These matters have been considered/addressed in the Committee Report.

Downswood Parish Council raises the following (summarised) points beyond those already made:

- Question who was re-consulted on additional information.
- A Transport Note is missing.
- Question Historic England's views.
- Latest revision of Parameter Plan is not that agreed with Historic England.
- Lack of geophysical survey.
- Disagree with applicant's Transport Notes conclusions.
- Concerns regarding proposed traffic signals at Deringwood Drive/Willington Street junction with regard to safety, and they will not solve congestion.
- Church Road/Deringwood Drive junction alterations would be worse for pedestrians and result in tree loss

Officer Comment

Notification letters that amended/additional details had been submitted were sent to all residents who made representations on the application.

The Transport Note referred to was an earlier response to the Parish Council's points that was superseded by later Transport Notes hence why it was not uploaded.

The more recent Parameter Plans are exactly the same with regards to the buffer around the listed buildings and so the Historic England advice remains relevant.

A geophysical survey was recently provided and reviewed by KCC Archaeology and their comments are in the Committee Report.

All other matters have been considered/addressed in the Committee Report.

Councillor Newton raises the following summarised points:

- Maintain objections to the site ever being placed in the Local Plan by Maidstone Borough Council.
- Site has an abundance of biodiversity.
- Area of arable farmland bounded by hedges and trees.
- Poor access via Church Road.
- Congestion.
- Traffic signals at Deringwood Drive/Willington Street junction will create hazards and congestion.
- Application fails to comply with the NPPF on heritage grounds.
- Car park by Church will harm its setting.
- Development will affect the setting of 'The Rectory'.
- An impartial Government Inspector should decide the application.

Officer Comment: *These matters have been considered/addressed in the Committee Report.*

REFERENCE NO - 19/501600/OUT

APPLICATION PROPOSAL

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)

ADDRESS Land West Of Church Road, Otham, Kent, ME15 8SB

RECOMMENDATION – APPROVE WITH CONDITIONS

SUMMARY OF REASONS FOR RECOMMENDATION

- The site is allocated for 440 houses within the Local Plan under policy H1(8) subject to criterion.
- The outline application proposes up to 440 houses and for the reasons outlined in the report complies with the criterion under policy H1(8) subject to the legal agreement and conditions.
- The allocation of the site for housing inevitably has an impact upon the setting of listed buildings to the north but this would be minimised and would be less than substantial. The public benefits of providing housing, including affordable housing on an allocated housing site, and the associated the social and economic benefits, outweigh this less than substantial harm.
- KCC Highways is raising objections based on an unacceptably severe traffic impact on the A229/A274 and Willington Street corridors and worsening safety hazards on Church Road. For the reasons outlined in the report the Local Planning Authority does not agree, and the objections are not considered to be reasonable grounds to refuse planning permission.
- Historic England are now raising objections as the dedicated church car park has been removed on the basis that there is less heritage benefit which might outweigh the harm to the setting of the Church, and an increase in vehicular movements on Church Road might have the effect of discouraging people from using the Church, which they consider could damage its economic viability. For the reasons outlined in the report the Local Planning Authority does not agree the development would threaten the Church's economic viability. Officers do however consider that the car park should still be secured as it would represent a clear heritage benefit.
- The outline application complies with site policy H1(8) and all other relevant Development Plan policies. There are no overriding material considerations to warrant a decision other than in accordance with the Development Plan, and so permission is recommended subject to the legal agreement and conditions set out below.

REASON FOR REFERRAL TO COMMITTEE

- Councillor Newton has requested the application is considered by the Planning Committee for the reasons set out below.

<ul style="list-style-type: none"> The recommendation is contrary to the view of Kent Highways (statutory consultee). 			
WARD Downswood And Otham	PARISH/TOWN COUNCIL Otham	APPLICANT Bellway Homes Limited AGENT DHA Planning	
DECISION DUE DATE: 08/11/19	PUBLICITY EXPIRY DATE: 17/10/19	SITE VISIT DATE: 17/04/19 & 10/10/19	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
19/501029	EIA Screening Opinion for the proposed residential development of up to 440 dwellings and associated access, landscaping and other works on land west of Church Road, Otham.	EIA NOT REQUIRED	17/04/19
19/506182	Residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping.	PENDING	

1.0 **BACKGROUND**

1.01 This application was reported to Planning Committee on 24th October 2019 where officers recommended approval. The previous committee report and urgent update are attached at the **Appendix**. Planning Committee deferred consideration of the application for the following reasons:

1. That consideration of this application be deferred for further discussions to:

- 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;*

- *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.*
2. *That the Ward Member, Downswood and Otham Parish Councils and the Chairman, Vice-Chairman and Political Group Spokespersons of the Planning Committee are to be involved in these discussions.*

1.02 A meeting was held in December 2019 with relevant Members and the Parish Councils where the applicant presented their response to the deferral reasons and provided clarification on some matters. The meeting was not held to make any decisions on the application as this must be done by the Planning Committee but to discuss and seek clarification on the applicant's responses to the deferral reasons.

1.03 After the meeting the applicant submitted the following additional information:

- Transport Technical Notes (commenting on the highway deferral points and with amended/new junction improvements for Deringwood Drive/Willington Street and Spot Lane and safety audits)
- Amended Parameter Plan
- Plan showing potential widening on Church Rd to the south of the site
- Clarification on renewables and surface water drainage

1.04 The additional details were sent to KCC Highways and the parties involved in the above meeting group and their comments on these specific matters are summarised below. Further comments on the application have been received from local residents/groups and Councillors Newton and Cooke which are also set out below.

2.0 LOCAL REPRESENTATIONS (FOLLOWING DEFERRAL)

2.01 **Otham Parish Council:** *"The parish council does not agree with the findings and our original objections remain."*

2.02 **Downswood Parish Council:** Raises objections for the following (summarised) reasons:

- Removal of the dedicated church car park would result in an objection from Historic England.
- Residents bounding the site should be afforded the same buffers to the ancient woodland.
- The Highways Authority have historically advised that signalisation of Deringwood Drive/Willington Street is dangerous.
- Signalisation of Deringwood Drive/Willington Street is dangerous for the reasons outlined in the safety audit and do not agree that the safety audit has been overcome.

- Swept path analysis is not adequate.
- Icy conditions will make junction dangerous.
- Highway Technical Notes has many misleading and disingenuous statements.
- Spot Lane junction changes are not sufficient and will make it harder for pedestrians to cross.
- Spot Lane changes are dangerous and don't pass the safety audit.
- Intermittent widening of Church Road would be likely to encourage vehicles to speed up as they approach the most dangerous narrow section, so increasing the likelihood of accidents on a much busier Church Road.
- SUDs will lead to the potential creation of solution features / sink holes in this notorious geological formation.
- KCC LLFA has questioned the SUDs proposals.
- Irresponsible, in the light of the Site Investigation Report repeated concerns relating to the dangers of allowing ingress of surface water at ground level, to assume the proposed SuDS would not only work but in a safe manner with minimal risk.
- Cannot understand the nature or purposed of the extra "wet pond" proposed to be added to the detailed site layout for the full planning application?
- Nothing in this additional information which has overcome the many concerns that DPC have with the principle of the development of this site, let alone the engineering and other specialist details.

2.03 **Local Residents:** 34 further representations received raising the following (summarised) points:

- Increased traffic and congestion on local and strategic roads.
- Highway safety.
- Traffic lights and junction changes at Willington Street will be dangerous.
- Local roads affecting by flooding.
- Flooding results in the closure of Mallards Way.
- Access should be via Woolley Road.
- Travel plan is worthless.
- The amount of information is confusing.
- Removal of church car park results in Historic England objection.
- Historic England comments on the detailed application are relevant as the church car park has been removed.
- Where will church goers park.
- Church car park should be provided.
- Highway safety issues from church goers parking.
- Heritage Statement is not fit for purpose.
- Rat running occurs on local roads.
- Church Road is not safe or suitable for additional traffic.
- Widening would harm Church Road.
- Damage to church from construction.
- Development is premature.
- Junction improvements on A274 will not be sufficient.
- Land stability issues on the site and in Chapman Avenue.
- Potential damage to neighbouring properties.
- Geology brings into question surface water proposals.

- Flood risk.
- Harm to wildlife/ecology.
- Harm to the setting of the Grade I listed Church.
- Lack of infrastructure and amenities including schools and surgeries.
- Overlooking/loss of privacy.
- Air quality.
- Noise and dust during construction.
- The applicant's response to the deferral reasons is not clear.
- What is being proposed under the outline application is not clear.
- Problems with sewers.

2.04 Chapman Avenue Area Residents Association: Raises the following (summarised) points:

- No minutes of the meeting held post deferral.
- KCC Highways objections cannot be resolved.
- Served by narrow country lanes.
- Overwhelmed congested traffic system.
- Highway safety.
- Flood risk.
- Potential for anti-social behaviour.
- Damage to the environment.
- Harm to setting of listed buildings.
- Pollution.
- High density.

2.05 Bearsted & Thurnham Society: Raises the following (summarised) points:

- Severe traffic issues.
- Traffic signals at the junction of Deringwood Drive and Willington Street have been constantly rejected by KCC on traffic safety grounds in view of the steep downhill approaches.
- Stopping more traffic at the signals will increase pollution
- At peak times, traffic on Spot Lane is already congested.
- The alternative route, south towards Sutton Road via Church Road and Gore Court Road is a narrow country lane.
- The developer demonstrates that Willington Street, without the traffic arising from the proposed houses will be grossly over-congested.
- Lack of local amenities and infrastructure.
- Harm to church.
- The current practice of parking along Church Road will be impossible.
- As a Grade 1 listed building, the church should be afforded the highest levels of protection, both as a structure and to ensure its continuing viability.

2.06 Borough Councillor Newton:

- Spot Lane / Mallards Way was recently flooded and impassable by traffic three times this year due to The River Len overflowing. Willington Street was also flooded at the same time.

2.07 **County Councillor Cooke:** Raises the following (summarised) points:

- What work has been undertaken to evaluate alternative means of access to the application site, as alternatives do exist.
- What scrutiny has been applied to the applicant's highway responses.
- The proposals for Church Road with Deringwood Drive undo and reverse earlier improvements that were introduced to improve pedestrian safety, returning the junction to as it was before the safety work was undertaken.
- Object strongly to traffic lights at the junction of Deringwood Drive and Willington Street which cannot be accommodated safely.
- Additional traffic cannot be accommodated via any access to Church Road.
- The additional traffic would render Church Road as unsafe as due to the narrowness of Church Road.
- Extremely adverse impact on Grade I listed Church especially as the applicant has no intention of delivering the dedicated car parking for the church that persuaded Historic England to withdraw its objection.
- In the absence of such dedicated parking facility, the planning authority must consider the objection of Historic England to be valid.

3.0 CONSULTATIONS (FOLLOWING DEFERRAL)

3.01 **KCC Highways: Maintain objections** on the basis of:

- Worsening safety hazards to road users on Church Road.
- An unacceptably severe traffic impact upon the local highway network specifically the A229/A274 and Willington Street corridors.

3.02 **Historic England: Now raise objections** as the dedicated church car park has been removed on the basis that there is less heritage benefit which might outweigh the harm to the setting of the Church, and an increase in vehicular movements on Church Road might have the effect of discouraging people from using the Church, which they consider could damage its economic viability.

4.0 APPRAISAL

4.01 The appraisal will focus on the reasons for deferral of the application as set out below:

Seek to remove the proposed car park for the Church from the scheme

4.02 The applicant has removed the dedicated church car park from their proposals and this is no longer shown on the Parameter Plan but instead would be an undeveloped landscaped area. The consequence of this is that Historic England (HE) are now raising an objection to the proposals.

4.03 HE considers that without a dedicated church car park in the application there is less heritage benefit which might outweigh the harm arising from

this application. They also have serious concerns that an increase in vehicular movements on Church Road might have the effect of discouraging people from using the Church, which they consider could damage its economic viability.

- 4.04 As before officers recognise the clear benefit of providing a dedicated church car park and consider its impact upon the setting of the building to be acceptable. The church provides other community services beyond worship including 'messy church' for children, concerts, coffee mornings and other events. The car park would help support the listed building by providing off-street parking in a convenient location to support church services and help sustain the alternative facilities/events at the church and provide disabled parking bays. Whilst there is not requirement for the applicant to provide the car park, officers would still recommend that this is secured to provide a clear benefit to the Grade I listed building.
- 4.05 However, I do not agree with HE that the development would threaten the Church's economic viability without the car park. I consider the development would actually provide safer on-street parking on the roads within the new housing estate to the current situation on Church Road and so would not discourage people from using the church.
- 4.06 In conclusion, the car park has been removed as requested by Committee and this results in an objection from HE. Officers consider the car park should still be secured as it would represent a clear heritage benefit for the Grade I listed building and is ongoing use. However, should Members proceed without the car park officers still consider that the public benefits of providing up to 440 houses including affordable housing to meet housing needs on an allocated housing site, and the associated social and economic benefits provide for clear and convincing justification for some harm to the heritage assets, and these benefits outweigh this less than substantial harm to St Nicholas Church and Church House in line with Paragraph 196 of the NPPF. This is also the view whilst having special regard to the preservation of the setting of the Church and Church House in line with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Parameter Plan ensures that the impact upon heritage assets would be minimised to an acceptable degree bearing in mind the site is allocated for housing. Condition 12 which would have secured the car park has been removed.
- 4.07 It is not considered that parking associated with the Church will result in any unacceptable highway safety conditions on the basis that the road is being widened outside the site, the development will provide potential places to park within it, and no objections are raised by KCC Highways on this issue.

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

4.08 The Parameter Plan has been amended to indicate a larger amount of open space near to the Ancient Woodland which is labelled as 'additional woodland as part of an ecological area to protect the ancient woodland'. This area is now a minimum of 30m in depth (previously 15m) and the increased area can be secured under condition 4 and the woodland planting secured under condition 7. Around the Church, orchard planting is proposed in place of the car park and it is considered that this would enhance the landscaped setting around the Church and can be secured under condition 7. Both conditions 4 and 7 are amended in the recommendation below.

Seek to resolve the outstanding issues relating to improvements to the Willington Street/Deringwood Drive junction

4.09 When the application was originally reported to Planning Committee the proposed signalisation of this junction was not resolved with safety issues still outstanding. The applicant has now amended the junction improvements twice to overcome the issues raised by the independent safety auditor with the principal change being that the number of approach lanes on Deringwood Drive (DD) has been reduced from two to one. The latest scheme for signalisation has overcome the remaining safety audit issues and KCC Highways have confirmed they are satisfied the recommendations of the Road Safety Audit have been addressed.

4.10 I remind Members the applicant's evidence suggests this junction will be beyond its design capacity imminently when taking into account general traffic growth and traffic from developments within the Local Plan/with planning permission. The main issue is considered to be the difficulty in traffic leaving DD and so the queuing on this arm, rather than along Willington Street (WS). The proposed signalisation would better manage traffic, provide safer opportunities for DD and development traffic to exit onto WS, and improve pedestrian crossing facilities. Whilst this would not bring the DD arm within design capacity it would reduce the potential maximum queuing length on DD from 288 vehicles in the AM peak hour (which has the most traffic) to a maximum of 39 vehicles. On this basis it is considered to be a proportionate response to mitigate the traffic impact of this application and one that provides mitigation for other committed development.

4.11 However, KCC Highways still consider that this change to the junction would introduce a new delay on WS so any mitigation for DD would effectively be counteracted by the introduction of queuing and delays on WS. They consider this would be result in a severe traffic impact but importantly have not identified any highway safety issues. Willington Street South and Deringwood Drive arms of the proposed junction would be up to 14% over theoretical capacity if all pedestrian crossings were operated. However, the applicant has carried out further modelling work to demonstrate that an additional set of traffic lights on WS would not result in any worsening of traffic conditions during the peak hours because

queuing of this nature could already be expected to occur along the WS corridor due to interactions with the existing signalised junctions further to the north. KCC Highways have reviewed this evidence and consider that because such modelling is highly sensitive to changes in prevailing conditions, they regard such sensitivities to limit the confidence that can be attached to the applicants' conclusion. They also consider the extent to which the junctions are predicted to operate over capacity is also likely to have distorted the modelling outputs, such that there is less certainty that mitigation of impact can be achieved at this location. So basically, they do not agree with the applicant's conclusions.

4.12 Whilst there may be some sensitivity in the modelling, as there is for any modelling, KCC Highways have not provided any modelling or analysis to counter that put forward by the applicant. Nor do I consider that up to 14% over theoretical capacity on two arms of the junction results in a severe impact and most importantly KCC Highways have not raised any highway safety issues if any increased delays did occur on Wellington Street. Having driven along WS in the AM peak, I noted that extensive queuing occurs, and I consider that in line with the applicant's analysis, new traffic signals are unlikely to result in any significant change in traffic conditions on Wellington Street or to a degree that would result in a severe impact above the current conditions or result in dangerous driving conditions.

4.13 On this basis, it is considered that the signalisation of the DD/WS junction which has passed a Stage 1 Safety Audit, provides for appropriate management of traffic from DD, improves pedestrian crossing facilities, and would not have a severe impact upon traffic flows on WS. It therefore remains a requirement that it is delivered prior to occupation under the off-site highways works listed in condition 15.

Give further consideration to the impact of the development on the Spot Lane junction and possible mitigation

4.14 The original committee report outlined that for the Spot Lane/A20 junction, the Spot Lane arm would be just over design capacity with general traffic growth, traffic from developments within the Local Plan/with planning permission, and the application traffic. This would mean an increase in queuing on Spot Lane but officers considered that the impact is not severe or dangerous and does not warrant mitigation or objection in line with policy DM21.

4.15 The applicant has reviewed the junction in line with the deferral request and is proposing some mitigation in the form of kerb realignment on the Spot Lane arm. This will allow for two vehicles to be positioned side-by-side at the junction, thereby allowing left turning vehicles to pass a single right turning vehicle. This would reduce the potential maximum queuing length on Spot Lane from 58 vehicles in the AM peak hour to a maximum of 30 vehicles. Officers maintain that the impact on this junction is not severe but as Members considered that mitigation needed to be investigated this has been added to condition 15. KCC Highways also advise that the improvement passes the safety audit and achieves the required mitigation of impact.

Investigate the potential widening of Church Road to the south of the site where this would not involve the loss of Ancient Woodland

- 4.16 This has been investigated and Church Road could be widened on the west side to 5.5m (the width sought by KCC Highways) for approximately a 210m section to the south of 'Little Squerryes'. This would not involve any loss of ancient woodland but the widening would result in the cutting back and potential loss of hedging/trees.
- 4.17 As set out in the original report, officers maintain that the based on just over one additional movement a minute over the peak hour from the development, it would not have an unacceptable or severe impact on highway safety beyond the current situation. Also, based on this, that any benefits of road widening are not considered to outweigh the visual harm to Church Road that would result from the loss of hedging and the change in character. However, if Members considered the benefits of this section of widening outweighs any visual impact then it could be justified and secured by condition. KCC Highways welcome the additional widening proposed but as it does not cover the whole length of Church Road they maintain an objection.

Seek to optimise the amount of renewable energy generated on site (to avoid use of fossil fuel heating)

- 4.18 The applicant is agreeable to providing PV panels on 10% of the houses and this would be on the affordable units. Officers maintain that Local Plan policy does not require this but a condition is added to secure this as this was sought by Members.

Seek further clarification of the surface water drainage scheme and how it can be satisfactorily accommodated within the development layout

- 4.19 The application is supported by a Flood Risk and Drainage Report which considers that the most viable solution for managing surface water run-off is via deep infiltration into the ground. Various SUDS would also be proposed including permeable surfacing, swales, deep bore soakaways and a number of drainage basins. The existing surface water flow path which crosses the site is to be partially re-aligned, directing through the centre of the site as a green corridor, which allows water to naturally flow across the site without posing a risk to the proposed dwellings. The water will only be re-directed on site to ensure water is not displaced off site. As stated in the main report this is an outline application and so the precise details would be dealt with at reserved matter stage/via conditions and KCC LLFA have confirmed that this could be feasible but it will be necessary to develop a detailed drainage scheme to confirm the scheme can be satisfactorily accommodated within the final development layout and recommend conditions to secure this.

Representations

4.20 The further representations received since the committee meeting either relate to the considerations above, or do not raise any new material issues beyond those previously considered.

5.0 CONCLUSION

5.01 The applicant has responded to the deferral reasons as follows:

1. The church car park has been removed.
2. A greater amount of wooded open space to protect the Ancient Woodland has been provided.
3. An enhanced area of landscaping has been provided around the Church.
4. The improvements to the Willington Street/Deringwood Drive junction have now passed a Stage 1 Safety Audit and are considered acceptable.
5. An improvement to the Spot Lane/A20 junction has been proposed and has passed a Stage 1 Safety Audit and is considered acceptable.
6. Widening on Church Road has been investigated and could be secured if Members consider it is necessary.
7. Renewable energy measures are proposed.
8. Clarification of the potential SUDs proposals have been provided.

5.02 It is considered that the applicant has comprehensively responded to the deferral reasons and officers once more recommended permission. For completeness I set out the full conclusion on the application once more below:

5.03 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications must be determined in accordance with the Development Plan unless materials considerations indicate otherwise.

5.04 The site is allocated for 440 houses within the Local Plan under policy H1(8) subject to criterion. The outline application proposes up to 440 houses and for the reasons outlined in the original committee report within the **Appendix** and above, the proposals comply with all policy criterion subject to the legal agreement and conditions. The application also complies with all other relevant Development Plan policies.

5.05 The allocation of the site for housing would inevitably have an impact upon the setting of listed buildings to the north but this would be minimised in line with the Parameter Plan and the impact would be 'less than substantial'. The public benefits of providing housing, including affordable housing on an allocated housing site, and the associated social and economic benefits, outweigh this less than substantial harm.

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- 5.06 Kent Highways are raising objections on the basis of an unacceptably severe traffic impact on the local highway specifically the A229/A274 and Willington Street corridors and worsening safety hazards on Church Road. For the reasons outlined in the reports the Local Planning Authority does not agree the impact is severe, and the objections are not considered to be reasonable grounds to refuse planning permission.
- 5.07 Historic England are now raising objections as the dedicated church car park has been removed on the basis that there is less heritage benefit which might outweigh the harm, and an increase in vehicular movements on Church Road might have the effect of discouraging people from using the Church, which they consider could damage its economic viability. For the reasons outlined in the report above the Local Planning Authority does not agree the development would threaten the Church's economic viability.
- 5.08 All representations received on the application have been fully considered in reaching this recommendation.
- 5.09 It is concluded that the development is acceptable and complies with policy H1(8) and all other relevant policies of the Development Plan. There are no overriding material considerations to warrant a decision other than in accordance with the Development Plan, and so permission is recommended subject to the legal agreement and conditions.

6.0 RECOMMENDATION

Subject to:

The conditions set out below, and the prior completion of a legal agreement to secure the heads of terms 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. £3324.00 per applicable house and £831.00 per applicable flat towards the expansion of Greenfields Community Primary School.
2. 30% affordable housing provision (made up of 70% affordable rent and 30% shared ownership).
3. £1,422 Travel Plan monitoring fee.
4. £1,500 Section 106 monitoring fee.

Conditions:

Time Limit

1. No phase of the development hereby approved shall commence until approval of the following reserved matters has been obtained in writing from the local planning authority for that phase:

a) Scale b) Layout c) Appearance d) Landscaping

Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later;

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

Access

2. The access points hereby permitted shall be carried out in accordance with drawing no. 06 RevF (Proposed Access Arrangement) and the visibility splays kept free of obstruction above a height of 1 metre.

Reason: In the interests of highway safety.

Parameters

3. The layout details submitted pursuant to condition 1 shall follow the principles of the development areas and buffers/landscape areas as shown on the approved Parameter Plan (Drawing No. 16206/C03L).

Reason: To ensure the development accords with the site allocation policy, limits impacts upon heritage assets, protects and enhances biodiversity, and provides a high quality design.

4. The layout details submitted pursuant to condition 1 shall provide at least a 30m woodland planted development free buffer to the Ancient Woodland in the southern part of the site as shown on the approved Parameter Plan (Drawing No. 16206/C03L).

Reason: To protect the Ancient Woodland in the interests of biodiversity.

5. The layout details submitted pursuant to condition 1 shall provide at least 2.88 hectares of on-site public open space.

Reason: To comply with the site policy and provide a high quality development.

6. The layout and access details submitted pursuant to condition 1 shall provide the following:

- A pedestrian and cycle link from Church Road to the development area via the open space to the north of St Nicholas Church and Church House.
- A pedestrian and cycle link to and across the area of Council owned land to the south of the site providing a link to Woolley Road.

Reason: To ensure appropriate connectivity in the interests of sustainability and highway safety.

7. The landscape details submitted pursuant to condition 1 shall provide the following:

- Native planting within the buffers areas as shown on the Parameter Plan.
- Strengthening and replacement native hedge planting along the site frontage with Church Road.
- Woodland planting within the Ancient Woodland buffer
- Orchard planting to the south of St Nicholas Church.

Reason: To ensure the development accords with the site allocation policy and to provide an appropriate setting.

Pre-Commencement

8. 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 within the Flood Risk and Sustainable Drainage Assessment (Herrington, March 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):

- 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.

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. 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.

9. No development shall take place until the mitigation measures detailed within chapter 6 of the Ecological Appraisal (Aspect Ecology; March 2019) have been implemented as detailed. If works have not commenced by March 2020 an updated ecological mitigation strategy shall be submitted to the local planning authority for written approval. It must include the following information:

- a) Updated ecological appraisal
- b) Results of recommended specific species surveys
- c) Over view of the ecological mitigation required
- d) Detailed methodology to implement the mitigation
- e) Timing of the proposed works
- f) Details of who will be carrying out the works.
- g) Maps clearly showing the mitigation areas.

The mitigation must be implemented as detailed within the approved document.

Reason: In the interest of biodiversity protection and enhancement.

10. No development shall take place until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.

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

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

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

include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

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

Reason: In the interests of human health.

11. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of
 - a) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - b) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable 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 and that due regard is had to the preservation in situ of important archaeological remains.

Pre-Slab Level

12. No development above slab level shall take place until the specific air quality mitigation measures, which shall include the type and location of electric vehicle charging points, 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.

Reason: In the interests of limiting impacts upon air quality.

13. No development above slab level shall take place until a "bat sensitive lighting plan" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting plan shall:
 - a) 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;
 - b) 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.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the approved plan.

Reason: In the interest of biodiversity protection and enhancement.

Pre-Occupation

14. The development shall not be occupied until the following off-site highways works have been provided in full:

- a) Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 within the 'Iceni Transport Note – July 2019' or any alternative scheme agreed in writing with the Local Planning Authority (in consultation with the Highways Authority);
- b) Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 14915-H-01 RevP4 at Appendix C of the 'DHA Transport Technical Note – February 2020' or any alternative scheme agreed in writing with the Local Planning Authority (in consultation with the Highways Authority);
- c) Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2 within the 'Iceni Transport Note – July 2019';
- d) The give way/build out feature on Church Road as shown on drawing no. 34.3 within the 'Iceni Transport Note – July 2019';
- e) Extension of the 30mph speed limit to the south of the application site to a position agreed in writing with the Local Plan Authority (in consultation with the Highways Authority); and
- f) Improvements to the A20 Ashford Road/Spot Lane/Roseacre Lane junction as shown on drawing no. 14915-H-02 RevP1 at Appendix J of the 'DHA Transport Technical Note – December 2019' or any alternative scheme agreed in writing with the Local Planning Authority (in consultation with the Highways Authority);

Reason: In the interest of highway safety.

15. The development shall not be occupied until a Final Travel Plan for the development which follows the principles of the Framework Travel Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Travel Plan.

Reason: In order to promote sustainable transport use.

16. The development shall not be occupied until a site-wide landscape and ecological management plan (LEMP), including timetable for implementation, long term design objectives, management responsibilities and maintenance schedules for all landscaped, open space, and drainage areas, but excluding privately owned domestic gardens, has been

submitted to and approved in writing by the local planning authority. Landscape and ecological management shall be carried out in accordance with the approved plan and its timetable unless the local planning authority gives written consent to any variation.

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

17. The development shall not be occupied until details of upgrade works to PROW KM86 have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved works have been carried out in full.

Reason: In order to provide appropriate connectivity.

18. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

19. The reserved matters details submitted pursuant to condition 1 shall provide for PV panels on 10% of the residential units and these shall be affordable units.

Reason: In the interests of sustainable development.

19/501600

Local Residents

1 neighbour representation has been received since the agenda was published which does not raise any further material planning considerations beyond those considered in the report(s).

The Chapman Avenue Area Residents Association and Otham Parish Council have written to the Secretary of State (SoS) to request that the application is called-in for his consideration (22/05/20), informing him that the application is being reported to Planning Committee on 28th May. To date MBC have not received any communication from the SoS but this request does not affect MBC making a decision/resolution on the application. Should the SoS want more time to consider this request before MBC issues the decision, they can issue a holding direction.

Chapman Avenue Area Residents Association have also sent in a petition with 181 signatures against the application.

REFERENCE NO - 19/506182/FULL

APPLICATION PROPOSAL

Residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping.

ADDRESS Land West Of Church Road, Otham, Kent, ME15 8SB

RECOMMENDATION – APPROVE WITH CONDITIONS

SUMMARY OF REASONS FOR RECOMMENDATION

- The site is allocated for 440 houses within the Local Plan under policy H1(8) subject to criterion.
- The application proposes 421 houses and for the reasons outlined in the report complies with the criterion under policy H1(8) subject to the legal agreement and conditions.
- The allocation of the site for housing inevitably has an impact upon the setting of listed buildings to the north but this would be minimised and would be less than substantial. The public benefits of providing housing, including affordable housing on an allocated housing site, and the associated the social and economic benefits, outweigh this less than substantial harm.
- KCC Highways are raising objections on the basis of an unacceptably severe traffic impact on the A229/A274 and Willington Street corridors, and worsening safety hazards on Church Road. For the reasons outlined in the report the Local Planning Authority does not agree, and the objections are not considered to be reasonable grounds to refuse planning permission.
- Historic England are raising objections as no dedicated church car park is proposed so there is less heritage benefit which might outweigh the harm to the setting of the Church, and an increase in vehicular movements on Church Road might have the effect of discouraging people from using the Church, which they consider could damage its economic viability. For the reasons outlined in the report the Local Planning Authority does not agree the development would threaten the Church's economic viability.
- The application complies with site policy H1(8) and all other relevant Development Plan policies. There are no overriding material considerations to warrant a decision other than in accordance with the Development Plan, and so permission is recommended subject to the legal agreement and conditions set out below.

REASON FOR REFERRAL TO COMMITTEE

- Councillor Newton has requested the application is considered by the Planning Committee for the reasons set out below.
- Otham Parish Council objects and requests the application is considered by the Planning Committee for the reasons set out below.

<ul style="list-style-type: none"> The recommendation is contrary to the view of Kent Highways and Historic England (statutory consultees). 			
WARD Downswood And Otham	PARISH/TOWN COUNCIL Otham & Downswood	APPLICANT Bellway Homes Limited AGENT DHA Planning	
DECISION DUE DATE: 13/04/20	PUBLICITY EXPIRY DATE: 10/02/20	SITE VISIT DATE: 17/04/19 & 10/10/19	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
19/501029	EIA Screening Opinion for the proposed residential development of up to 440 dwellings and associated access, landscaping and other works on land west of Church Road, Otham.	EIA NOT REQUIRED	17/04/19
19/501600	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).	PENDING	

1.0 DESCRIPTION OF SITE

- 1.01 The application site has an area of approximately 16.1ha and is to the west of Church Road. The site is to the southeast of Maidstone and is between substantial residential areas to the north, west and southwest, namely cul-de-sacs within the Downswood area to the north, Chapman Avenue to the west and Woolley Road to the south. To the east are open agricultural fields and immediately to the south/southeast are a number of detached residential properties at The Rectory (Grade II listed) and Squerryes Oast. St Nicholas's Church (Grade I listed) and Church House (Grade II listed) are to the north of the site.
- 1.02 The site is in the main, an open arable field but includes an area of land at its north end that wraps around the north side of the church which has numerous trees, scrub vegetation and grass, and over which public footpath KM86 runs. The boundaries of the site are formed by established hedging on the Church Road frontage, hedging to the boundary with 'Squerryes Oast', and trees on the south, west and north boundaries. There is an area of Ancient Woodland (AW) to the southeast of the site.
- 1.03 The site is highest at its south end with a gradual fall to the north. To the west where the site backs onto gardens of properties within Chapman Avenue, there is a considerable level difference between the site and Chapman Avenue.

1.04 Importantly, the site is allocated for housing development in the Local Plan and policy H1(8) allows for up to 440 houses and sets out a number of criteria to be met.

1.05 A separate outline application for up to 440 houses was reported to Planning Committee in October 2019 with a decision deferred for a number of reasons. That application is being reported back to Committee on this agenda.

2.0 PROPOSAL

2.01 This application seeks full permission for 421 houses with two access points off Church Road, and pedestrian/cycle links northwest, northeast and south. A range of detached, semi-detached, and terraced houses are proposed and a number of apartment blocks to provide a mix of house types and sizes. Affordable housing would be provided at 30% (126 units). Houses would be largely 2 storeys in height with the apartment blocks at 3 storeys. Building designs are 'traditional' in style in terms of their height, form and appearance. Significant areas of open space are provided around the edges and within the housing areas. The design and layout will be discussed in more detail in the assessment below.

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP3, SP18, SP19, SP20, SP23, H1, OS1(16), ID1, H1(8), DM1, DM2, DM3, DM4, DM6, DM8, DM12, DM19, DM20, DM21, DM23
- Kent Waste and Minerals Plan 2016
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Maidstone Building for Life 12
- MBC Air Quality Guidance
- MBC Public Art Guidance

4.0 LOCAL REPRESENTATIONS

4.01 **Otham Parish Council:** Strongly object to the application for the following (summarised) reasons:

- Increased traffic and congestion.
- Highway safety for vehicles and pedestrians.
- Will be traffic problems at all local junctions.
- Church Road is narrow and not suitable for additional traffic which will raise safety issues.
- Proposed traffic calming on Church Road will cause queuing.
- Lighting for proposed traffic calming on Church Road is not suitable by listed building or local area.
- The setting of St Nicholas Church will be irrevocably harmed.
- Area of green space should be preserved as it provides a lung to the urban areas.
- Lack of local infrastructure.

4.02 Downswood Parish Council: Raises objections for the following (summarised) reasons:

- Will result in severe traffic congestion.
- Proposed traffic mitigation measures will make the situation worse.
- Inconsistency in the detail, standard and quality of the investigative work carried out and the reports submitted.
- Misleading and incorrect statements are made and deficiencies in various reports
- Missing documents.
- Lack of assessment of noise and vibration, Community impact and severance, visual intrusion from existing residents' perception, and cumulative environmental impact.
- Loss of green open space for existing residents.
- Not in accordance with sections 9, 15 and 16 of the NPPF.
- Unacceptable impacts upon highway safety.
- Land stability and underground conditions have not been suitably assessed.
- No substantial benefits to outweigh harm to the listed Church.
- Contrary to policies SP18, SP23, and DM1, DM3, DM4, DM12, DM21, DM23.
- 3 storey apartments are not in keeping and on the edges of the site.
- Doesn't respect neighbouring amenity.
- Residents will be exposed to excessive noise, vibration, odour, and air pollution.
- Overlooking, visual intrusion, loss of privacy and light.
- Loss of views of the countryside.
- Lack of primary and secondary school places.
- Poor design.
- No emergency access.
- Object to PROW being a shared footway/cycleway.
- No mention of disabled parking.
- Doesn't comply with site policy H1(8).
- Loss of hedging on Church Road.
- Lack of assessment of air quality impacts off site.
- Foul and surface water drainage is questionable.
- Traffic signals as Willington Street/Deringwood Drive would not work and would be dangerous.
- Church Road/Deringwood Drive changes are dangerous.
- Spot Lane/Ashford Road changes are not sufficient.
- Will have a wide-ranging visual impact.
- The SUDs proposals may not be feasible.
- Lack of pedestrian/cycle links.
- Harm to ecology.
- Archaeology work not sufficient.
- Lack of local infrastructure

4.03 Bearsted Parish Council (neighbouring): Raises objections for the following (summarised) reasons:

- Traffic impact will be severe.

- Congestion on local roads.
- Not a good location for modal shift.
- Highway safety and congestion on Roseacre Lane and the Spot Lane junction with the A20.
- Flooding can make roads impassable adding to congestion.

4.04 **Joint Parishes Group:** Support the objections raised by Parish Councils.

4.05 **Bearsted & Thurnham Society:** Raises objections for the following (summarised) reasons:

- Traffic lights at Deringwood Drive/Willington Street have been rejected on safety grounds and will increase pollution.
- Congestion on local roads.
- Church Road is a narrow country lane.
- Lack of local services/infrastructure.
- Design not in keeping.
- Harm to the listed church and lack of parking for users of church.

4.06 **Chapman Avenue Area Residents Association:** Raises the following (summarised) points:

- Process adopted by Planning Department and Planning Committee is underhand.
- Increased traffic, congestion, and highway safety issues.
- Traffic impact is severe.
- Will block views of the Church from existing houses.
- Site allocation was ill thought out.
- Strong objections from KCC Highways.
- Traffic lights are not suitable and will be dangerous.
- Increased pollution from traffic lights.
- Traffic data is unrealistic.
- Increased flood risk.
- Land stability needs to be addressed.
- Density too high.
- Poor public transport options.
- Views will be damaged and there will be light and noise pollution.
- Harm to wildlife.
- Oppressive to outlook and loss of privacy.
- Served by narrow country lanes.
- Overwhelmed congested traffic system.
- Highway safety.
- Sewage capacity problems.
- Flood risk.
- Potential for anti-social behaviour.
- How will landscaped areas be managed.
- Damage to the environment.
- Design not in-keeping.
- Harm to setting of listed buildings.
- Air pollution.
- Poor open spaces.
- Pressure on existing infrastructure and no new facilities proposed.

- Archaeology.
- Density is too high.

4.07 The Parochial Church Council: Raises objections for the following (summarised) reasons:

- Lack of car park will create parking difficulties for church.
- Can't extend churchyard.
- Loss of parking on Church Road from new accesses.
- Church car park would not cause any harm above the housing.
- Pedestrian conflicts.
- Parking provision is needed.

4.08 Local Residents: 363 representations received raising the following (summarised) points:

- Increased traffic and congestion.
- Highway safety.
- Pedestrian safety including school children.
- Rat running occurs on local roads.
- Will encourage dangerous driving.
- Church Road is not safe or suitable for additional traffic.
- Traffic lights on Willington Street will be dangerous and cause further congestion.
- Increased noise and pollution to properties near proposed traffic lights.
- Spot Lane/A20 junction is dangerous.
- Changes to Spot Lane/A20 junction will make no difference.
- Spot Lane floods.
- Traffic calming measures will make traffic worse.
- Traffic calming lighting is not suitable next to listed building.
- Cars won't be able to get out of the site.
- Travel Plan is totally unrealistic.
- Do not listen to Kent Highways advice.
- Need speed bumps.
- Congestion harms local businesses.
- Congestion delays emergency vehicles.
- Junction mitigation has not been carried out.
- Traffic calming on Church Rd won't allow larger vehicles to pass.
- Damage to roads.
- Question accuracy of Transport Assessment.
- Relief road is needed.
- Flood risk.
- Inadequate foul drainage.
- Question surface water report.
- Poor connections for pedestrian and cyclists.
- Poor public transport.
- Should have park and ride.
- Car-reliant and unsustainable.
- Lack of parking proposed.
- Land stability issues on the site and in Chapman Avenue.
- More testing should be carried out for drainage and stability.
- Potential damage to neighbouring properties from subsidence.

- Geology brings into question surface water proposals.
- Visual impact.
- Density too high.
- Harm to wildlife/ecology.
- Water pollution.
- Lack of ecology surveys.
- Lack of local green space.
- Loss of countryside.
- Loss of rural character.
- Loss of ancient woodland.
- Loss of Grade 2 agricultural land.
- Loss of hedge.
- Loss of trees.
- Substantial harm to the setting of the Grade I listed Church.
- Will block view of Church.
- Car park should be provided for the Church.
- Pile driving could harm listed buildings.
- Loss of land to extend church yard.
- Buff brick colours not appropriate near church.
- Ancient burial site.
- Lack of infrastructure and amenities including schools and surgeries.
- No local medical centre.
- Lack of water supply.
- Traffic noise.
- Noise from new residents.
- Overlooking/loss of privacy particularly from apartments.
- Overshadowing/loss of light.
- Overbearing.
- Air quality/pollution.
- 3 storey buildings are out of place.
- Gardens are too small.
- No use of ragstone.
- Crime.
- Loss of agricultural land.
- Other more suitable sites.
- Brownfield land should be used.
- Noise and dust during construction.
- Construction could damage properties.
- Lack of public consultation by applicant.
- Other people should be able to enjoy the area.
- Excessive amounts of information provided.
- Assessments are flawed and desktop based.
- Loss of property value.
- Loss of views.
- Affordable housing will put additional pressure on police force.
- Increased risk of crime.
- Documents have been uploaded at different times without sufficient time to comment.
- Additional documents should have been uploaded to the website earlier/when they were received.
- Contrary to the NPPF.
- Contrary to numerous Local Plan policies.

- Development outside the site allocation in the southeast corner.
- Site should not have been allocated.
- Site allocation process was mishandled by offices and members.
- Development is premature.
- Question land ownership.

4.09 **Borough Councillor Newton** requests the application is considered by the Planning Committee and raises the following (summarised) points:

- Harm to the setting of the Grade I Church which was constructed prior to the Domesday Book.
- Harm to the setting of the Grade II listed buildings.
- Full archaeological survey should be carried out if permission is granted.
- Poor local facilities which require a car to drive to.
- Access and roads to the site are unsuitable.
- Traffic lights will be dangerous in icy conditions and increase congestion on Willington Street.
- Spot Lane junction changes will increase the chance of collisions.
- Congestion caused by flooding and traffic calming on Mallards Way.

4.10 **Borough Councillor McKay**: Raises the following (summarised) points:

- Highway safety on Church Road.
- Church Road is not wide enough and cannot be widened.
- Access plan is not accurate.
- Traffic lights at Deringwood Drive/Willington Street junction will increase congestion and raise safety issues and a decline in air quality.

4.11 **County Councillor Cooke**: Raises the following (summarised) points:

- Traffic congestion.
- Church Road is narrow and unsuitable
- Junction changes at Deringwood Drive/Willington Street would render junction more unsafe.
- Should be refused on highway grounds.
- Adverse impact on Grade I listed Church.
- No planning gain from the dedicated car park for the church.
- Flooding from surface water.
- Lack of local service and infrastructure.

4.09 **Helen Whately MP**: Outlines the concerns of local resident's as follows:

- The increased traffic generated by the proposal will create chaos and severe congestion in Deringwood Drive and Willington Street.
- There have already been accidents at the junction with Church Road and Deringwood Drive and increased traffic can only make it more dangerous.
- The church is a Grade 1 listed building and will be seriously affected by this development.
- There is inadequate provision for disposal for surface water.
- There are no plans for additional local amenities such as schools, dentists or doctors which are already over stretched.

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 **Highways England: No objections** subject to a financial contribution of a proportionate amount being made to address the mitigation works needed at M20 J7.
- 5.02 **Historic England: Raise objections** regarding the setting of the Church and consider that without a dedicated church car park there is less heritage benefit which might outweigh the harm arising from this application, and an increase in vehicular movements on Church Road might have the effect of discouraging people from using the Church, which they consider could damage its economic viability.
- 5.03 **Natural England: No objections.**
- 5.04 **Environment Agency: No objections** subject to conditions.
- 5.05 **KCC Highways: Raise objections** on the basis of an unacceptably severe traffic impact on the A229/A274 and Willington Street corridors and worsening safety hazards on Church Road due to a greater likelihood of hazardous conflicts between road users.
- 5.06 **KCC Economic Development:** Seek £1,096,089 towards the extension of 'Greenfields Community Primary School' to mitigate the impact of the development.
- 5.07 **KCC SUDs: No objections** subject to conditions.
- 5.08 **KCC Archaeology: No objections** subject to condition.
- 5.09 **KCC Minerals:** No comments to make.
- 5.10 **KCC PROW:** Question how PROW KM86 will be accommodated within the development and concerns raised with the proposal to establish a cycle route along this path as the legal status of the right of way will need to be changed to enable cycling, in addition to physical path improvements on the ground.
- 5.11 **KCC Ecology: No objections** subject to conditions.
- 5.12 **MBC Conservation Officer:** Advises that the harm to the Church and Church House would be less than substantial.
- 5.13 **MBC Environmental Health: No objections** subject to conditions relating to charging points; lighting; travel plan; and contaminated land.

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5.14 MBC Landscape Officer: Raise some concerns regarding future pressure on trees along part of the east boundary.

5.15 **Southern Water**: Confirm there is sufficient capacity.

5.16 **Forestry Commission**: Refers to standing advice on Ancient Woodland.

6.0 APPRAISAL

6.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that,

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

6.02 The Local Plan allocates the site for 440 houses under policy H1(8) subject to a number of criterion covering matters relating to design and layout, access, air quality, open space, infrastructure, highways and transportation.

6.03 This is a detailed application for 421 houses. Clearly, the principle of housing is accepted under Local Plan policy H1(8) so it needs to be assessed as to whether the proposals comply/can comply with the policy criterion and any other relevant Development Plan policies.

6.04 The key issues for the application are centred round site allocation policy H1(8) as follows:

- Access and connectivity.
- Layout and open space.
- Design, appearance and landscaping.
- Heritage impacts.
- Highways impacts.
- Infrastructure.
- Other matters including Affordable Housing, Air Quality, Drainage, Ecology, and Amenity.

6.05 The revised NPPF has a chapter dedicated to design (12- Achieving Well-designed Places) and there is specific reference to the design framework 'Building for Life 12'. This application has been developed and assessed against Maidstone's own version of this.

Access and Connectivity

6.06 Policy H1(8) states:

8. Access will be taken from Church Road only

5. The hedge line along the eastern boundary of the site with Church Road shall be retained and strengthened where not required for access to the site.

- 6.07 The application only proposes vehicular access from Church Road via two access points which is in accordance with policy H1(8). These would be close to the north and south ends of the site on the Church Road frontage. The access points have been assessed by Kent Highways and Kent Fire and Rescue and judged to be suitable and safe.
- 6.08 The proposed accesses and required visibility splays inevitably mean that some of the existing hedging fronting Church Road will need to be removed (approximately 125m). However, new native hedge planting is proposed behind the visibility splays and other native tree and shrub planting to strengthen the existing hedging in general, this being a positive landscape feature of the site. These measures are shown on the Landscape Strategy Plan but the fine details of species and number of plants etc. will be secured under a condition. The condition will specify the measures required and will ensure compliance with criterion 5 of the site policy.
- 6.09 In terms of connectivity, it is proposed to provide a new pavement from the northern access along the front of the Church within highways land to link with the existing pavement further north. As this pavement would be narrower than the 2m normally sought due to the width of Church Road (being between 1.2m to 2m and on average around 1.6m), a hard surfaced path is proposed around the north side of the Church and into the site to provide an alternative attractive route.
- 6.10 This hard-surfaced path would run across the north part of the site and connect with the pedestrian link to 'The Beams' in the northwest corner which provides access towards Willington Street and 'Greenfields Primary School'. KCC PROW and Highways refer to the existing paths here being steps and so this raises issues over access for all users. This is not the only connection to the west as there is a connection to the south (discussed below) that provides access in this direction so it is not necessary for changes to these steps to be made.
- 6.11 Public right of way (PROW) KM86 also runs across this area to the north of the Church. The definitive line of this PROW is not actually walked on the ground and an alternative more direct route is used. The applicant is proposing to upgrade and hard surface the route walked on the ground and provide a separate cycle route alongside part of the path. KCC PROW recommends that the PROW is diverted to follow the applicant's proposed route so there are not two routes and to also allow room for the cycle route alongside. The applicant is agreeable to this approach and would need to apply for a diversion under separate Highways legislation. Should the diversion not be successful this would simply mean that the current situation remains but with a new hard surface. This would be acceptable and causes no harmful impact upon the definitive PROW. As the diversion is not necessary to make the development acceptable a condition is not required but the applicant will be encouraged to apply for this diversion by way of an informative.

6.12 To the south, it is proposed to provide a pedestrian/cycle link via the Council owned public open space to link up with Woolley Road. This would provide an appropriate link to shops, 'Senacre Primary School', and bus stops to the south. The applicant would provide the pathway on the application site and has confirmed they would continue and construct this on the Council owned land. The Council's Property Section have confirmed that they have no objections to this. A condition will be imposed to secure the link and a pathway on Council owned land. Whilst outside the applicant's control this condition is reasonable as this is land in public ownership, and the Council has indicated it has no objections to this being provided.

6.13 So overall, the vehicular access points comply with policy H1(8), are safe, and the scheme provides good pedestrian/cycle connectivity to the local area and its services/amenities, in accordance with policy DM1 of the Local Plan.

Layout and Open Space

6.14 Policy H1(8) requires:

- 1. The tree line along the western boundary of the site will be enhanced, to protect the amenity and privacy of residents living in Chapman Avenue.**
- 2. An undeveloped section of land will be retained along the western boundary of the site, to protect the amenity and privacy of residents living in Chapman Avenue.**
- 3. An undeveloped section of land will be retained along the eastern edge of the site in order to protect the setting of St Nicholas Church and maintain clear views of the Church from Church Road.**
- 4. The Church Road frontage will be built at a lower density from the remainder of the site, to maintain and reflect the existing open character of the arable fields on the eastern side of Church Road and to provide an open setting to St Nicholas Church.**
- 6. Retain non-arable land to the north and east of St Nicholas Church, to protect its setting.**
- 7. Retain discrete section of land at the south east corner of the site to provide a 15 metres wide landscape buffer to ancient woodland (bordering site at this location), to be planted as per the recommendations of a landscape survey.**
- 10. Provision of approximately 2.88ha of natural/semi-natural open space consisting of 1.4ha in accordance with policy OS1(16), and 1.48ha within the site, together with additional on/off-site provision and/or contributions towards off-site provision/improvements as required in accordance with policy DM19.**

6.15 The roads and houses are set back around 8m-15m from the boundary/tree line along the western boundary and so this area is undeveloped apart from a path which provides a recreational route around the development. New landscaping can be secured to improve this buffer and provide an

appropriate setting in accordance with criterion 1 and 2. Building would be set back just over 35m from the east edge of the site to maintain clear views of St Nicholas Church from Church Road in line with criterion 3. Further open space is proposed to the south and southeast of the Church to provide space to limit the impact upon the setting of the Church. Land to the north and west of the Church would be maintained as undeveloped and provide a natural/semi-natural area of open space to benefit biodiversity in line with criterion 6. In the southeast corner a large undeveloped area providing in excess of a 30m buffer to the Ancient Woodland (AW) is proposed in line with criterion 7.

- 6.16 In terms of open space, criterion 10 requires a total of 2.88ha to be provided for the development. In line with policy OS1(16), and as shown on the Local Plan map, part of this is land to the north and west of the Church and this area would be natural/semi-natural space. The Local Plan also seeks land in the southeast corner of the site and this is provided. Two houses are proposed in a small part of this open space area but this would not cause any visual or landscape harm to the surrounding area as they would be surrounded by new landscaped areas within the site and existing woodland and vegetation outside the site. This would be a natural/semi-natural area providing a buffer to the AW. Together with the buffers around the site and Church and more formal areas within the developed area including children's play areas, a total of 3.6ha of open space would be provided which is in excess of the site policy requirement. This is reflected in the density of the development which at 26 dwellings per hectare is slightly lower than the typical density of recent urban edge housing developments which tend to be around 30dph but this is appropriate bearing in mind the open space requirements and proximity of the listed Church.
- 6.17 This amount of open space is considered appropriate for this size of development and provides a mix of types including natural/semi-natural, more formal space, and play areas. For these reasons it is considered that the application complies with design, layout, and open space requirements of policy H1(8).
- 6.18 More generally, the layout has been developed using the constraints and opportunities at the site. This includes the required buffers around the edges of the site and to the Church and listed buildings but also providing different open space areas through the developed area as well. A key element of the scheme is to utilise views of the listed Church from within the development to create a unique sense of place.
- 6.19 Different character areas are proposed across the scheme and these are created largely from the different areas of open space proposed and are described and assessed below.
- The 'Frontage' character area to Church Road has buildings set well back from the road and relatively low in density with detached houses and a significant landscape buffer which limits the impact upon the character of Church Road as far as possible and ensure views of the Church.

Structural native tree and shrub planting is proposed to provide a buffer at the front of the site and a new native hedgerow.

- The 'Entrance' character area around the northern access by the Church is largely open and spacious with detached houses fronting onto the spine road with wide planted verges and structural tree planting. Estate railings are proposed to create a semi-formal parkland character. This is appropriate to provide an arrival space which is sympathetic to the Church setting. A small orchard is proposed to the north of the entrance with wild meadow planting.
- The 'Avenue' character area around the southern access provides a tree lined street linking the access to the central green. There would be strong building lines and front gardens would be enclosed with hedgerows and picket fences. This provides a distinct entrance to the site here.
- The 'Central Green' character area provides a key focal point within the development. It provides useable open space and a children's play area and is bounded by 2, 2.5 and 3 storey buildings which provide enclosure and surveillance of the open space. The large central area of open space provides a sense of arrival and meeting place/focus within the middle of the site as advocated by 'Maidstone Building for Life 12'. In the southeast corner of the central green there would be a hard-surfaced area that would use high quality paving laid to direct views towards the Church along a green corridor. Tree planting would be provided on the boundaries of this space.
- The 'Greenway' character area is the link and view corridor from the central open space towards the Church. It features tree-lined verges and the buildings either side frame the vista and draw attention to the Church spire creating a sense of place.
- The 'Square' character area is an area of open space within the southern part of the site that is arranged around a formal landscaped square with a small children's play area. This provides an interesting and contrasting formal space against the natural/semi-natural spaces around the outsides of the development.
- The 'Green Edge' character area runs along the south, west and part of the north boundaries. These areas feature narrower roads with cul-de-sacs and private drives and a lower density with detached houses. Landscaping would be provided to supplement existing trees and hedges which would provide a quality setting to the development.

6.20 These areas create a distinct character using the different areas of open space as their focus across the site as advocated by 'Maidstone Building for Life 12'.

6.21 The built areas are made up of perimeter blocks with buildings facing outwards to ensure active streetscenes. Where flank elevations are exposed

windows and/or different materials at first floor level are provided to ensure interest. On corners, buildings are dual fronted to address both streets.

- 6.22 The proposed affordable housing is spread throughout the development in three areas so is well integrated and would be tenure blind so it would not appear any different to the market housing in accordance with policy SP20.
- 6.23 Overall, the layout is considered to be of high-quality providing connections to the local area, creating a unique sense of place with distinct open space and character areas in accordance with policy DM1 of the Local Plan and 'Maidstone Building for Life 12'.

Design, Appearance & Landscaping

- 6.24 The house designs are 'traditional' in form and appearance with detached, semi-detached, and terrace houses with mainly gabled roofs. Interest would be provided from two storey projecting gables, bay windows, porches and detailing in the form of soldier courses, bricked arches above windows, and bullnose hanging tile detailing. The apartment blocks would be three storeys in height and their mass would be broken up with varying ridge heights, projecting gables set down from the main ridge lines, juliette balconies, different materials, and fenestration on all elevations to provide relief. Whilst comments have been received stating that three storey buildings are not in keeping with the local area, the massing of these buildings is appropriately broken up and variations in heights will provide interest across the scheme.
- 6.25 Materials would include red and buff coloured multi-stock bricks, clay roof and hanging tiles, slate roof tiles, and white composite boarding on some properties. A number of houses would be predominantly finished in ragstone and these are at prominent locations across the development including at the site entrances and on corners. Not only would this provide a quality vernacular material but the buildings would provide focal points and wayfinding points across the development.
- 6.26 Hard surfaces are predominantly block paving for roads, parking spaces and parking courts and resin bound/block paved paths for the open space areas. Boundary treatments include ragstone walls at the entrances, brick walls on exposed boundaries, picket fencing and metal railings.
- 6.27 Parking provision would accord with adopted standards with around a quarter of properties with tandem spaces, where the standards seek independently accessible spaces. The reason being that occupants may be less reluctant to use their tandem spaces and instead park on roads. To counter this an over-provision of on-street visitor parking bays are proposed. I consider this strikes the right balance between on-plot parking provision and an attractive development that is not dominated by parking.
- 6.28 In addition to the planting schemes within the different character areas outlined above, landscaping across the scheme involves significant numbers of street trees to create the main formal crescent avenue through the development but also within the smaller streets. Smaller streets would also

feature significant hedgerows enclosing front gardens. For the edges of the site, native structural planting is proposed and for the edge to the Ancient Woodland in the southeast corner a large area of native tree and shrub planting is proposed. The species indicatively put forward at this stage are mainly native but do include more ornamental species in some of the housing streets. The full details are not provided at this stage but some species are not appropriate such as cherry laurel which can be invasive. Therefore a condition will be attached requiring specific details and specify a requirement for predominantly native planting. However, overall the amount of proposed landscaping would provide a high quality environment and setting to the development.

6.29 With regard to trees, no trees would be removed for the development as they are on the edges of the site. There are a few areas where there is a small RPA conflict with proposed roads and parking spaces, but these all fall in previously ploughed land, so the landscape officer would expect any potential root presence to be below plough depth and, in any event, arboricultural supervision is proposed to ensure that any excavation is carried out to minimise potential damage. The landscape officer has raised some concerns regarding the proximity of houses to trees along part of the west boundary by 'Squerryes Oast' and potential future pressure on these trees due to shade. The majority of these trees are within the site, are category B trees and would provide good screening/softening of the development. I consider these trees should be retained and therefore the applicant has moved the houses forward by two metres to provide more space and on balance this is considered to be acceptable. These trees can be retained under the landscaping scheme and an Arboricultural Method Statement secured by condition can provide details of any pruning required.

Heritage Impacts

6.30 Policy H1(8) requires:

- 3. An undeveloped section of land will be retained along the eastern edge of the site in order to protect the setting of St Nicholas Church and maintain clear views of the Church from Church Road.**
- 4. The Church Road frontage will be built at a lower density from the remainder of the site, to maintain and reflect the existing open character of the arable fields on the eastern side of Church Road and to provide an open setting to St Nicholas Church.**
- 6. Retain non-arable land to the north and east of St Nicholas Church, to protect its setting.**

6.31 As outlined above, the proposed plans ensure compliance with the above criterion which relate to St Nicholas Church so the proposals comply with policy H1(8).

6.32 There are a number of heritage assets near to the site. Notably, St Nicholas's Church (Grade I listed) and two Grade II listed monuments within the grave yard, and 'Church House' (Grade II listed) immediately to the north of the site. There is also 'The Rectory' (Grade II listed) to the

south. Further afield, the Otham Conservation Area is 770m to the southeast.

- 6.33 The NPPF outlines at paragraphs 193 and 194, that great weight must be given to the conservation of listed buildings irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. The NPPF also 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. Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.34 The development in particular has an impact upon the setting of the Grade I listed Church as it forms part of its historic rural open setting to the south. This setting and the visibility it affords of the Church in its historical context forms part of its significance and development of the site would affect this. Churches were obviously built of a certain scale so they were visible from some distance. There would be an impact upon the setting of Church House (GII) but this would to a lesser extent as this building is less prominent from the application site and wider area, so the openness of the application site does not contribute greatly to its significance.
- 6.35 The allocation of 440 houses at the site would inevitably result in some harm to the setting of the two listed buildings to the north. Such impacts upon the setting of these listed buildings were clearly accepted when the Local Plan Inspector agreed that the allocation was acceptable for 440 houses, subject to criterion 3, 4, and 6, which all seek to protect the setting of St Nicholas Church, and in turn Church House.
- 6.36 It is therefore a case of minimising the impact upon the heritage assets and securing sensitive design in line with Paragraph 190 of the NPPF and policy SP18 of the Local Plan. To this end, discussions have previously been held with Historic England and a large non-development area to the south of 'Church House' and to the south and southwest of the Church was agreed and has been provided. As stated above, views of the Church from Church Road would be maintained, which is one of the key public views of the Church.
- 6.37 It is considered that the layout of the development with significant space around the Church House and the Church serves to minimise the impact upon the listed buildings to the north and ensure compliance with policy H1(8). I agree with the applicant's conclusion that the harm to the listed buildings is 'less than substantial' because the layout provides undeveloped areas to the north, west, and south of the listed buildings and maintains clear views of the Church from Church Road.

- 6.38 Historic England (HE) are objecting to this detailed application because a dedicated church car park is not proposed within the site (as it was originally for the outline application). Under the outline application a car park was proposed but the resolution of the Planning Committee on 24th October 2019 was to remove this car park so whilst officers recognise the clear benefits of providing a car park, understandably the applicant has not proposed it. HE accept the principle of development at the site and accept that it is unlikely the overall harm can be reduced given other constraints on the site and thus that the proposal in its current form is capable of meeting NPPF requirements to minimise and thus also justify harm. However, HE considers that without a dedicated church car park in the application there is less heritage benefit which might outweigh the harm arising from this application. They also have serious concerns that an increase in vehicular movements on Church Road might have the effect of discouraging people from using the Church, which could damage its economic viability.
- 6.39 There is no requirement for the applicant to provide a dedicated Church car park, however, the scheme provides a crescent of 28 additional parking spaces at the north end of the site that could be used by visitors of the Church. These spaces would not be secured exclusively for church goers and could be used by new residents of the development but are provided on the basis that church goers are likely to park within the new development in the future. Although not necessary, this is a sensible proposal.
- 6.40 I do not agree with HE that the development would threaten the Church's economic viability. I consider the development would actually provide safer on-street parking on the roads within the new housing estate to the current situation on Church Road and so would not discourage people from using the church.
- 6.41 The site allocation I would say inevitably does not conserve the setting of the listed buildings and so there is some conflict with criterion 1 of policy DM4 of the Local Plan. However, the explanatory text to policy DM4 refers to carrying out a weighting exercise in line with the NPPF.
- 6.42 Whilst having special regard to the preservation of the setting of the Church and Church House, overall, it is considered that the public benefits of providing 421 houses including affordable housing to meet housing needs on an allocated housing site, and the associated social and economic benefits provide for clear and convincing justification for some harm to the heritage assets, and these benefits outweigh this less than substantial harm to St Nicholas Church and Church House in line with Paragraph 196 of the NPPF. The layout has been carefully designed to ensure that the impact upon heritage assets would be minimised to an acceptable degree bearing in mind the site is allocated for housing.
- 6.43 'The Rectory' (GII listed) to the south is some 50m from the edge of the site with a two storey building and vegetation between. There would also be a buffer to the front of the site that would limit development near to this

building. For these reasons the development of the site would not cause harm to the setting of this listed building. There would be no harm to the listed monuments within the church yard as the site is generally screened from these and it is considered that their setting is confined to the church yard. I concur with the Council's Conservation Officer that due to the distance from the edge of the Otham Conservation Area (770m), the development would have a minimal impact upon its setting, and I consider no harm would be caused.

- 6.44 In relation to archaeology, KCC Heritage advises that on the back of geophysical surveys carried out by applicant, there are no indications of significant archaeology surviving on the site. However, they suggest the area around the church may contain important archaeology (which may be revealed following intrusive field evaluation works) and recommend a condition to this end, which is considered appropriate.

Highways Impacts

Wider Network/Strategic Junctions

- 6.45 The Local Plan examination process which led to the adoption of the Local Plan in October 2017 involved the Local Plan Inspector considering, in great detail, the highways impacts and mitigation for the southeast Local Plan sites (which includes the application site), including objections/representations from statutory consultees and third parties. This involved carefully considering evidence provided by the Council, including the A274 Corridor Study, and the specific mitigation being a number of junction improvements on the A274, bus priority measures and bus service improvements (monies towards some of which had already been secured under planning permissions). The Local Plan Inspector was satisfied that the Council's evidence demonstrated the traffic impact of the Local Plan sites could be suitably mitigated, and in his Final Report concluded,

"169. The development proposals in the submitted plan already incorporate measures to mitigate the travel impacts. These include highway capacity improvements and improved bus services (including direct links to railway stations). If these measures are further supported by the bus access and bus priority measures, the impacts on congestion need not be severe. Air quality issues are capable of being addressed by these and other measures, including by action at national level.

170. In conclusion the Policy SP3 South East Maidstone Strategic Development Location will generate additional traffic and could contribute to an increase in congestion, particularly at peak hours, even after mitigation in the form of road improvements and other measures to make sustainable travel more attractive and effective. However the concentration of development close to the town does allow alternative and more sustainable means of travel to be made available. That is less likely to be the case were the housing to be located away from the town in another part of the Borough where residents would still need access to employment and services in the town."

APPENDIX E

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- 6.46 The adopted Local Plan therefore includes strategic highways improvements for the southeast Maidstone sites, and relevant to this application, they are outlined under the site allocation policy (criterion 13-17).
- 6.47 The application site and its potential development of 440 houses was included within the cumulative transport assessments carried out under the planning applications for the strategic southeast housing sites H1(7) - Land North of Bicknor Wood, and H1(10) - Land South of Sutton Road, within the Local Plan. These sites were granted planning permission in early 2018. The transport assessment cumulatively assessed all the southeast housing allocations and also included other commitment development (planning permissions at the time).
- 6.48 Under those applications, the Council accepted that the cumulative impact of development from all the southeast housing allocations could be suitably mitigated with improvements to the capacity of various junctions and improvements to bus services. Being prior to the introduction of CIL, financial contributions were secured under section 106 agreements towards various off-site highways works/improvements which are outlined in the Council's Infrastructure Delivery Plan (IDP), where the total infrastructure costs and funding streams are stated.
- 6.49 Decisions to approve permission at Planning Committee on sites H1(7) and H1(10) with financial contributions towards infrastructure were made prior to the adoption of the Local Plan in September 2017. The Local Plan Inspectors Final Report and adoption of the Local Plan confirmed that the Council's approach to mitigating the transport impact of the southeast development sites is sound.
- 6.50 For the current application, the applicant has provided a Transport Assessment and carried out up to date traffic surveys on local roads and assessments of appropriate local junctions. Whilst the Parish and residents have questioned the accuracy of the traffic surveys, Kent Highways have raised no issues with them. For wider/strategic junctions the applicant's evidence provides the likely additional impact of the development but relies upon the recent cumulative assessment of transport impacts carried for sites H1(7) and H1(10) and the mitigation (which included the application site). These assessments concluded that the cumulative traffic impact upon the local network (including the application site) would not be severe subject improvements to relevant junctions and public transport. The Council has accepted this conclusion and so this is considered to be an appropriate approach and there are no reasonable grounds to now disagree or depart from this approach that has been accepted recently by the Council.
- 6.51 The site allocation policy as criterion (13-17) relating to strategic highways and transportation improvements as follows:

13. Bus prioritisation measures on the A274 Sutton Road from the Wellington Street junction to the Wheatsheaf junction, together with bus infrastructure improvements.

14. Improvements to capacity at the junctions of Willington Street/Wallis Avenue and Sutton Road.

15. Package of measures to significantly relieve traffic congestion on Sutton Road and Willington Street.

16. Improvements to capacity at the A229/A274 Wheatsheaf junction.

17. Improvements to frequency and/or quality of bus services along A274 Sutton Road corridor.

6.52 The above improvements are based on the cumulative impact of development in southeast Maidstone and so compliance with the above criterion would be via monies towards the improvements. A change in circumstances since the previous decisions is the introduction of the Council's Community Infrastructure Levy (CIL), such that any monies towards strategic highways works required from cumulative transport impacts would be via CIL rather than financial contributions under a section 106 agreement. The applicant will have to pay CIL should planning permission be granted and implemented, and the Council can decide to use monies for the relevant highways improvements. This ensures compliance with the strategic highways requirements under the site policy.

6.53 Although none of the above improvements have commenced and clearly a number of the southeast sites are completed and occupied/part-occupied or under construction, the delivery of highway improvements is not the responsibility of the Local Planning Authority (LPA) or the applicant. The LPA can secure improvements via monies, CIL, or planning conditions but it is the responsibility of the Highways Authority to implement highways works. Therefore the LPA cannot withhold planning permission because highways works have not been delivered. However it is noted that Kent County Council have recently consulted on proposed improvement schemes at the junctions either end of Willington Street with Sutton Road and the A20 and along the A229 corridor with the improvements designed to relieve congestion.

6.54 KCC Highways have been consulted on the application and have raised strong objections as they consider the Transport Assessment does not demonstrate that the impact of the development can be fully mitigated and that the strategic junction improvements on the A274 and at either end of Willington Street are not expected to provide sufficient capacity. They consider the residual traffic impact on the network is considered to be severe. They state,

"The applicant has been unable to conclusively demonstrate that suitable mitigation of impact can be achieved on the A229/A274 and Willington Street corridors. KCC Highways maintain the view that the residual traffic impact on the local highway network will be unacceptably severe and an objection is raised on this basis."

6.55 Essentially, the Highways Authority does not consider that the junction and public transport improvements outlined in the Local Plan, and to which monies have been secured, are sufficient to mitigate the impact of the development. This is the same position that was taken under the previous

planning applications and at the Local Plan Inquiry by the Highways Authority. So this argument has been tested through planning applications and importantly through an Examination in Public. As outlined above, the mitigation measures are considered sound and are within the adopted Local Plan. On this basis, it is considered that the Highway Authorities objection is not reasonable grounds to refuse planning permission and could not be defended at appeal.

Public Transport

- 6.56 The scheme is designed to accommodate buses through the necessary road width of the main road which provides a loop in and out of the site between the access points. 'Arriva' have confirmed that they do not require any monies to subsidise a diversion once the development is nearing full occupation, and I note existing bus stops are within walking distance on Deringwood Drive and Woolley Road so diversion of the service is not essential. Therefore, it is not necessary to secure any funding for this service and the development has been designed to accommodate buses, with the decision to divert a commercial decision for the bus operator. As outlined above, the site has/provides good connectivity to local bus stops.
- 6.57 The applicant has provided a Framework Travel Plan for the development which would encourage sustainable travel with potential measures and initiatives including the provision of resident travel information packs, cycle parking, bicycle purchase discounts, walking/cycling 'buddy' schemes and the promotion of car sharing. Implementation will be overseen by a Travel Plan Co-ordinator. The indicative Travel Plan targets seek to achieve, as a minimum, a 10% reduction in single occupancy car travel, a 10% increase in the use of non-car modes of travel and a 10% reduction in peak period vehicle trips. Its aims are proportionate for this development and its location. This can be secured by condition and a monitoring fee of £1,422 will be secured under a section 106 agreement.

Church Road to the South of Site

- 6.58 KCC Highways have raised an objection based on worsening safety hazards to road users on Church Road to the south of the site but not outside the site where widening to 5.5m is proposed. This is based on the road width and also lack of forward visibility in places. They state that a width of 4.8m is sufficient for two cars to pass but not two larger vehicles. The width is below 4.8m for much of its length (between 4.1m and 4.5m) and at 3.9m for a very short section. KCC consider a 5.5m width to be essential referring to the Kent Design Guide. The request for a 5.5m width is based on guidance for major access roads within new developments so in circumstances where you are proposing a new road. This is not to say it is not relevant at all to existing roads but clearly existing roads have potential constraints and it is the local context and conditions that must be taken into account.
- 6.59 The applicant states that Church Road is already a two-way road with a low incidence of accidents which is shown in the collected data. KCC acknowledge the road is already well-used and has a relatively good crash

record but outline that there will be additional traffic movements from the development. Having driven this road both ways a number of times including in the AM peak, I noted that in a limited number of places cars had to stop to let other cars pass but it was generally a case of slowing down to pass. When larger vehicles are involved, stopping would probably need to be carried out as some representations on the application suggest. The applicant's traffic flows suggest that between 81 and 84 movements would exit and enter the site from Church Road to the south in the AM and PM peaks. This would be on average just over one additional movement a minute over the peak hour. This is not considered to represent a significant increase in movements on Church Road and on this basis it is not considered that the development would have an unacceptable or severe impact on highway safety beyond the current situation, or that warrants objection on the basis of road width or visibility in accordance with policy DM21. I also note that policy H1(8) under criterion 12 only requires road widening outside site H1(6) further south on Church Road (which will be carried out in connection with permission on that site).

6.60 In connection with the Planning Committee deferral of the outline application the applicant has investigated further widening along Church Road where it could be widened on the west side to 5.5m for approximately a 210m section to the south of 'Little Squerryes'. This would not involve any loss of ancient woodland but the widening would result in the cutting back and potential loss of hedging/trees. Based on just over one additional movement a minute over the peak hour from the development, it is considered that any benefits of road widening do not outweigh the visual harm to Church Road that would result.

6.61 The applicant is proposing some measures to improve Church Road including extending the 30mph speed limit by approximately 500m south of its current location by the Church, and also by introducing build-outs with a give way feature on a bend just to the south of the site where there is limited visibility. A safety audit submitted by the applicant, and KCC Highways has confirmed that this is acceptable and KCC state that this measure supports the extension of the 30mph speed limit. These works, which aid in highway safety where visibility is more limited, can be secured by condition. It is not considered that parking associated with the Church will result in any unacceptable highway safety conditions on the basis that the road is being widened outside the site, the development will provide potential places to park within it, and no objections are raised by KCC Highways.

Local Junctions

6.62 The applicant has assessed the impact upon the junction of Church Road/Deringwood Drive, Deringwood Drive/Willington Street, and Spot Lane/A20.

6.63 Improvements to Church Rd/Deringwood Drive are proposed essentially widening both roads near the junction and replacing some of the parking bays, which has been deemed sufficient to accommodate the development traffic by KCC. This would result in the loss of some grassed verge and

most likely 2/3 trees but this would not be unduly harmful to the local area and is necessary to accommodate the allocated site.

- 6.64 For the Deringwood Drive/Willington Street junction, the applicant's evidence suggests this junction will be beyond its design capacity imminently when taking into account general traffic growth and traffic from developments within the Local Plan/with planning permission. The main issue is considered to be the difficulty for traffic leaving Deringwood Drive and so the queuing on this arm as a result of traffic on Willington Street rather than along Willington Street. It is of note that no issues for this junction have been identified, or any mitigation required by KCC Highways for any other developments to date, despite them impacting on this junction.
- 6.65 The applicant is proposing signalisation of the junction that would better manage traffic, provide safer opportunities for Deringwood Drive and development traffic to exit, and improve pedestrian crossing facilities. Whilst this would not bring the Deringwood Drive arm within design capacity it would reduce the potential maximum queuing length on Deringwood Drive from 288 vehicles in the AM peak hour (which has the most traffic) to a maximum of 39 vehicles. On this basis it is considered to be a proportionate response to mitigate the traffic impact of this application and one that provides mitigation for other committed development.
- 6.66 The junction improvement has passed an independent Safety Audit and KCC Highways have confirmed they are satisfied the recommendations of the Audit have been addressed.
- 6.67 However, KCC Highways consider that this junction improvement would introduce a new delay on Willington Street. They consider this would be result in a severe traffic impact but importantly have not identified any highway safety issues. Willington Street South and Deringwood Drive arms of the proposed junction would be up to 14% over theoretical capacity if all pedestrian crossings were operated but the applicant considers that queuing of this nature could already be expected to occur along the Willington Street corridor due to interactions with the existing signalised junctions further to the north. This assertion is supported by capacity modelling of the Ashford Road and Madginford Road junctions that shows how each would individually exhibit extensive queues along Willington Street during the peak periods. The applicant has also forecasted how the sequence of traffic signalled junctions (i.e. two existing and one proposed) would operate in unison. The findings indicate that the proposed new traffic signals would not worsen delays across this part of the network. The contention being made is essentially that an additional set of traffic signals on a busy route will not result in a worsening of traffic conditions.
- 6.68 KCC Highways have reviewed this evidence and consider that because such modelling is highly sensitive to changes in prevailing conditions, they regard such sensitivities to limit the confidence that can be attached to the applicants' conclusion. They also consider the extent to which the junctions are predicted to operate over capacity is also likely to have distorted the modelling outputs, such that there is less certainty that mitigation of impact

can be achieved at this location. So basically they do not agree with the applicant's conclusions.

- 6.69 Whilst there may be some sensitivity in the modelling, as there is for any modelling, KCC Highways have not provided any modelling or analysis to counter that put forward by the applicant. Nor do I consider that up to 14% over theoretical capacity on two arms of the junction results in a severe impact and most importantly KCC Highways have not raised any highway safety issues if any increased delays did occur on Willington Street.
- 6.70 Having driven along Willington Street in the AM peak, I noted that extensive queuing does occur, and I consider that in line with the applicant's analysis, new traffic signals are unlikely to result in any significant change in traffic conditions on Willington Street or to a degree that would result in a severe impact above the current conditions or result in dangerous driving conditions. The proposed signals would serve to significantly lower predicted queuing on Deringwood Drive and would better manage traffic, provide safer opportunities for Deringwood Drive traffic to exit, and improve pedestrian crossing facilities. On this basis it is considered to be a suitable intervention to provide a proportionate mitigation of the impact of the development and can be secured by condition.
- 6.71 For the Spot Lane/A20 junction, the Spot Lane arm would be just over design capacity with general traffic growth, traffic from developments within the Local Plan/with planning permission, and the application traffic. Improvements to this junction are proposed to widen the Spot Lane arm of the junction utilising an area of the verge that is part of the public highway which increases carriageway capacity to enable two cars to queue side-by-side whilst also retaining the existing footway. The modelling shows that the improvement would mitigate the impact of the development and not make conditions any worse than they would be otherwise, and it has passed the Safety Audit. KCC Highways consider that the proposed mitigation is acceptable and this can be secured by condition.

M20 Junction 7

- 6.72 As background, under the recent applications at sites H1(7) and H1(10), financial contributions to cover the total costs of upgrade works to Junction 7 of the M20 (including scheme design and contract costs) were decided to be apportioned between those two sites and the application site H1(8) (3 sites in total). This totalled £4.66m and the applicant (Bellway Homes), along with completing a legal agreement for financial contributions for site H1(7), also completed a legal agreement for monies in connection with H1(8). Therefore a proportionate financial contribution towards Junction 7 has already been secured for this site by the applicant. These legal agreements and the triggers for payment were agreed with KCC (who would provide the works) and on this basis Highways England are raising no objections.

Off-Site Infrastructure

6.73 Policy H1(8) states:

11. Contributions will be provided towards the expansion of an existing primary school within south east Maidstone to mitigate the impact of the development on primary school infrastructure.

6.74 The adopted CIL is charged on new floor space to help deliver infrastructure to support development. The scale of development proposed here is not such that it generates the need for a new standalone school or doctor's surgery or specific on-site infrastructure but will obviously place an additional demand on such services. On this basis, CIL monies could be used towards such services to mitigate the impact of the development which is in accordance with policy DM20.

6.75 An exception is made under the Council's Regulation 123 CIL list (list of infrastructure types and/or projects which the Council intends will be, or may be, wholly or partly funded through the CIL), for education. The Reg. 123 List specifically allows for section 106 monies to be collected towards "expansion of an existing school within southeast Maidstone to accommodate site H1(8)" as identified in the Infrastructure Delivery Plan. This is identified as the 'Greenfields Community Primary School' and KCC have requested £1,096,089 towards the expansion of school to mitigate the impact of the development. This contribution would go towards planned expansion of the school to provide 4 additional classrooms and has been justified by KCC, and as it is specifically identified under the Reg. 123 list, it is considered necessary, directly related to the development, and reasonable and in this specific case appropriate to be collected via a section 106 agreement which is being progressed. This is in accordance with criterion 12 of policy H1(8).

Other Matters

Affordable Housing

6.76 Affordable Housing is proposed at 30% (126 units) with the tenure split 70% affordable rent and 30% shared ownership. This overall amount (30%) is in accordance with policy SP21 as is the tenure split and this will be secured under the legal agreement. The accommodation provides a mix of house sizes including 1 and 2 bed flats, 2, 3, and 4 bed houses and the amounts proposed are broadly in line with the current need. A monitoring fee for the s106 of £3,750 will also be secured.

Air Quality

6.77 Policy H1(8) requires:

9. Appropriate air quality mitigation measures to be agreed with the council will be implemented as part of the development.

6.78 An air quality assessment has been submitted which concludes that small increases in NO₂ concentrations are expected as a result of the proposed development and overall, these increases are expected to have a negligible

impact on air quality and not cause any exceedances of the relevant Air Quality Standards. The site is located outside any Air Quality Management Areas and it concludes that new residents would not be subjected to poor air quality. The Environmental Health section has reviewed the assessment and raises 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 mitigations to be integrated into the development. A number of potential mitigation measures are outlined and the specific measures can be secured by condition which can include measures such as EV charging points for houses with on-plot parking as this is a requirement under policy DM23 of the Local Plan.

Drainage

- 6.79 The Environment Agency's flood risk from surface water map shows a narrow overland flow path running from north to south through the centre of the site. Some surface water flooding could occur along this natural flow path in extreme rainfall events and the applicant is proposing to realign this so it runs through the central open space and open space further north. This will ensure it does not affect proposed houses and water is not displaced off-site so it would continue to flow across the site unhindered.
- 6.80 For surface water from the development, permeable paving would be used for private driveways so water would drain into the ground as it currently does. For the rest of the site, water would be collected in storage tanks beneath a series of swales/attenuation basins with which would then drain to deep bore soakaways at a level to avoid any potential issues with flooding of fissures/gulls. KCC LLFA has raised no objections to the principles of the SUDs scheme to the fine details being provided by condition. They also consider that more swales could be used which can be dealt with by condition.
- 6.81 Southern Water has confirmed there is sufficient capacity on the local network for foul drainage which ensures compliance with criterion 15 of policy H1(8).

Ecology

- 6.82 The site is mainly an arable field with grassland and scrub around its margins and hedging along the Church Road frontage and edges. Features of ecological importance within the site include hedgerows and an area of semi-improved grassland in the north-east corner, which are all on the outside edges of the site. In terms of protected species, a low population of breeding slow worms has been recorded and there is suitable habitat for foraging and roosting bats, badgers, hedgehogs and breeding birds which is around the edges of the site. Apart from where required for access, the hedges would remain and the habitats on the outskirts of the site would largely not be developed. Various mitigation measures and enhancements are proposed to protect habitat and species and create/enhance habitat, which can be secured by condition. Notably open space in the northeast corner of the site would be managed to benefit ecology and in particular

reptiles and a permanently wet pond is proposed at the north end of the central green. KCC Ecology are satisfied that appropriate mitigation has been recommended to minimise or avoid impacts on these habitats and species and recommend conditions to secure the mitigation measures, a site wide management plan, and bat sensitive lighting. The development would therefore be in accordance with policy DM3 of the Local Plan.

6.83 There would be well over a 15m buffer with native tree and shrub planting to the Ancient Woodland in the southeast corner which can be secured by condition.

6.84 Other enhancements include new native planting, wildflower grassland, permeability for hedgehogs, bat and bird boxes, and habitat piles. This is considered a proportionate response based on the low ecological value of the site and will provide an appropriate biodiversity net gain for this development in line with the NPPG.

Residential Amenity

6.85 Houses and gardens to the west at 'The Beams' and Chapman Avenue are at a lower level than the site so the impact upon privacy and outlook can be more pronounced. However buildings would be at their closest 16m from the end of gardens and at least 30m from any houses and in most cases further. At these distances and even taking into account that some of the 3 storey buildings would be along the west edge of the site, there would not be a harmful impact upon privacy, light or outlook. Properties to the south off Woolley Road would be at least 24m away and properties to the north off Longham Copse would be at least 38m away and at these distances there would be no harmful impacts upon privacy, light or outlook. 'Squerryes Oast' to the east would be at least 70m away; 'Rectory Cottage' to the southeast at least 34m away; and 'Church House' and 'The Coach House' at least 42m away to the northeast. At these distances there would be no harmful impacts upon privacy, light or outlook. Any noise and disturbance from the normal occupation of a housing development is not objectionable.

Public Art

6.86 In line with the Council's guidance a scheme of this size should provide an element of public art and this would help to create a sense of place. This will be secured by way of condition.

Environmental Impact Assessment

6.87 The applicant submitted a separate Screening Opinion for housing development last year to ask whether the LPA considered an EIA was required. It was concluded that the development would not be likely to have significant effects upon the environment sufficient to warrant an EIA. A request to the Secretary of State (SoS) was also made by a third party to seek his opinion, and the SoS also concluded the development was not 'EIA development'.

Representations

- 6.88 Matters raised but not considered in the assessment above relate to land stability, construction disturbance and may cause damage to properties, noise and pollution from traffic lights, flooding of local roads, damage to roads, house prices, loss of a view, land ownership, and uploading of documents to the website.
- 6.89 Representations refer to the underlying geology of the area/land stability and potential damage to neighbouring properties with regard to the built development, and flooding from the surface water drainage scheme. The applicant has carried out ground investigations and is aware of the underlying geology including the potential for fissures or gulls to open up. Due to the presence of these ground conditions they outline that a piled solution is assumed for the entirety of the site but they intend to carry out testing to determine if a piled solution is required throughout, or whether traditional foundation system could be utilised in certain areas. The applicant has also investigated land stability through borehole and penetration tests along the perimeters where the slope/cliff faces are present. They conclude that development is set sufficiently back from the edges of the site and any deep bore soakaways near to the slope should discharge at a depth lower than the base of the slopes. I consider this level of investigation is a sufficient to explain how the local ground conditions would be dealt with in the build process in line with paragraph 178(a) of the NPPF and at the Building Regulations stage the developer would need to provide a structural engineer's report to demonstrate any foundations designs are sound. In terms of the surface water drainage scheme, KCC LLFA are satisfied the fine details can be detail with by condition.
- 6.90 Matters relating to construction refer to noise, disturbance, and dust which are all matters that would be dealt with under environmental protection legislation and are not planning matters. Any impacts upon neighbouring properties or buildings from construction is not a planning consideration but a private matter between the developer and third parties. I do not consider the installation of traffic lights on Willington Street would have any significant impacts upon noise or air quality to nearby properties above the current situation where vehicles have to wait at present. Local roads flood occasionally so vehicles may have to find other routes but this is not frequent event that renders the development unacceptable on highway grounds. Damage to roads, any impact upon house prices, and the loss of a view are not material planning considerations. Re-consultation and notification has been carried out on all significant amended or additional information. Some additional documents have been uploaded to the website such as clarifications from the applicant and some design changes but it is not considered that the information necessitated formal re-consultation or that any parties have been prejudiced through not receiving a notification. The same land ownership issue was raised as under the outline application because the applicant submitted the incorrect red outline plan but this has been amended in line with the outline application.

7.0 CONCLUSION

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- 7.01 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications must be determined in accordance with the Development Plan unless materials considerations indicate otherwise.
- 7.02 The site is allocated for 440 houses within the Local Plan under policy H1(8) subject to criterion. The application proposes 421 houses and for the reasons outlined in the report above, the proposals comply with all policy criterion subject to the legal agreement and conditions. The application also complies with all other relevant Development Plan policies.
- 7.03 The allocation of the site for housing would inevitably have an impact upon the setting of listed buildings to the north but this would be minimised and the impact would be 'less than substantial'. The public benefits of providing housing, including affordable housing on an allocated housing site, and the associated the social and economic benefits, outweigh this less than substantial harm.
- 7.04 Kent Highways are raising objections based on unacceptably severe traffic impact on the A229/A274 and Willington Street corridors and worsening safety hazards on Church Road. For the reasons outlined in the report the Local Planning Authority does not agree, and the objections are not considered to be reasonable grounds to refuse planning permission.
- 7.05 Historic England are raising objections as no dedicated church car park is proposed so there is less heritage benefit which might outweigh the harm to the setting of the Church, and an increase in vehicular movements on Church Road might have the effect of discouraging people from using the Church, which they consider could damage its economic viability. For the reasons outlined in the report the Local Planning Authority does not agree the development would threaten the Church's economic viability.
- 7.06 All representations received on the application have been fully considered in reaching this recommendation.
- 7.07 It is concluded that the development is acceptable and complies with policy H1(8) and all other relevant policies of the Development Plan. There are no overriding material considerations to warrant a decision other than in accordance with the Development Plan, and so permission is recommended subject to the legal agreement and conditions.

8.0 RECOMMENDATION

Subject to:

The conditions set out below, and the prior completion of a legal agreement to secure the heads of terms 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. £1,096,089 towards the expansion of Greenfields Community Primary School.
2. 30% affordable housing provision (made up of 70% affordable rent and 30% shared ownership).
3. £1,422 Travel Plan monitoring fee.
4. £3,750 Section 106 monitoring fee.

Conditions:

Approved Plans

1. The development hereby permitted shall be carried out in accordance with the latest revisions of the plans listed on the Drawing Issue Sheet dated 16/04/20.

Reason: To clarify which plans have been approved, to ensure a high-quality development, and to protect residential amenity.

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 boundary treatments as shown on drawing nos. 16206 P101 RevT and 16206/SK55D and maintained thereafter.

Reason: To ensure a high-quality development and to protect residential amenity.

4. The development shall be carried out in accordance with the hard surfaces as shown on drawing nos. 16206 P105 and maintained thereafter.

Reason: To ensure a high-quality development.

5. All planting, seeding and turfing specified in the approved landscape details shall be carried out either before or in the first planting season (October to February) following the occupation of the building(s) or the completion of the development to which phase they relate, whichever is the sooner; and

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 unless the local planning authority gives written consent to any variation.

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

6. Excluding the area in the southeast corner of the site adjacent to ancient woodland, the areas of open space as shown on pages 58 and 59 of the Design & Access Statement shall be maintained as publicly accessible open space in perpetuity.

Reason: To ensure adequate open space areas for the development.

7. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) 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.

Pre-Commencement

8. No development shall take place until a Phasing Plan for the development including open space areas has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing plan unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that affordable housing, open space areas, and connections are provided in time to cater for the needs and impacts arising out of the development and to assist with the determination of conditions.

9. No development shall take place until, a review and (if required) update of the mitigation measures detailed within chapter 6 of the Ecological Appraisal (Aspect Ecology; March 2019) which shall be informed by updated ecological survey(s), have been submitted to and approved in writing by the local planning authority. It must include the following information:

- a) Updated ecological appraisal
- b) Results of recommended specific species surveys (where required)
- c) Letter detailing why the mitigation detailed within the Ecological Appraisal is still valid

OR

d) Updated mitigation strategy – including the following:

- Over view of the ecological mitigation required
- Detailed methodology to implement the mitigation
- Timing of the proposed works
- Details of who will be carrying out the works.
- Maps clearly showing the mitigation areas.

The mitigation must be implemented as approved.

Reason: In the interest of biodiversity protection and enhancement.

10. 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 Flood Risk and Sustainable Drainage Assessment (dated January 2020 by Herrington) 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. It shall also explore the use of more swales within the development.

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.

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. 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.

11. Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

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

12. No development shall take place until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- 4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

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

Reason: In the interests of human health.

13. No development in any phase shall take place until the applicant has secured the implementation of the following details for that phase:

- a) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
- b) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

The development shall be carried out in accordance with the approved details.

Reason: To ensure that features of archaeological interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological remains.

14. No development in any phase shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority for that phase. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan.

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

Pre-Slab Level

15. No development above slab level shall take place until specific details of the landscaping proposals, which shall follow the principles shown on the Landscape Strategy Plan (drawing no. 6703 LSP ASP5 RevK), have been submitted to and approved in writing by the local planning authority. The scheme shall be designed in accordance with the principles of the Council's landscape character guidance 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 the following:

- a) Strengthening and replacement native hedge planting along the site frontage with Church Road.
- b) Structural native tree and shrub planting along the site frontage with Church Road.
- c) Retention of trees along the western boundary and new native tree and shrub planting.
- d) Retention of trees along the southern boundary and new native tree and shrub planting.
- e) Retention of trees along the boundaries with the property 'Squerrys Oast'
- f) Native woodland and shrub planting to create at least a 30m buffer from the Ancient Woodland in the south east corner
- g) Orchard planting to the south of St Nicholas Church.
- h) Native hedge planting within the development.

Reason: To ensure the development accords with the site allocation policy and to provide an appropriate setting.

16. No development above slab level shall take place in any phase until full details of the ecological enhancements outlined in the Ecological Appraisal and their delivery have been submitted to and approved in writing by the local planning authority for that phase. The development shall be carried out

in accordance with the approved details and measures shall include the following:

- a) Wildflower grassland
- b) Measures to allow hedgehogs to move through the development and domes.
- c) Bat and bird boxes.
- d) Habitat piles.

Reason: In the interest of biodiversity protection and enhancement.

17. No development above slab level shall take place in any phase until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) for that phase have been submitted to and approved in writing by the local planning authority and the development shall be constructed using the approved materials. The materials shall follow the 'Materials Distribution Diagram' (16206/SK55D) and include the following:

- a) Multi stock facing bricks
- b) Clay hanging tiles
- c) Clay roof tiles
- d) Slate roof tiles
- e) Ragstone on buildings
- f) Ragstone walling

Reason: To ensure a high-quality appearance.

18. No development above slab level shall take place in any phase until written details and large-scale plans showing the following architectural detailing have been submitted to and approved in writing by the local planning authority for that phase, and the development shall be carried out in accordance with the approved details:

- a) Soldier courses
- b) Bricked arches above windows
- c) Bullnose hanging tile detailing.
- d) Roof overhangs

Reason: To ensure a high-quality appearance.

19. No development above slab level shall take place until a sample panel of the ragstone for the walling and buildings, including mortar mix details, has been submitted to and approved in writing by the Local Planning Authority. Such details as approved shall be fully implemented on site.

Reason: To ensure a high-quality appearance.

20. No development above slab level shall take place until the specific air quality mitigation measures, which shall include the type and location of electric vehicle charging points, 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.

Reason: In the interests of limiting impacts upon air quality.

21. No development above slab level shall take place until a "bat sensitive lighting plan" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting plan shall:

- a) 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;
- b) 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.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the approved plan.

Reason: In the interest of biodiversity protection and enhancement.

22. No development above slab level for any phase shall take place until details of lighting for streets and houses have been submitted to and approved in writing by the local planning authority for that phase.

Reason: In the interest of visual amenity.

23. No development above slab level shall take place until details of the play equipment, bins, seating, surfacing and boundary treatments for the LAP, LEAP and open space areas 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.

Reason: To ensure a high-quality development.

24. No development above slab level shall take place until a written statement of public art to be provided on site in the form of a Public Art Delivery Plan has been submitted to and approved in writing by the local planning authority. This should include the selection and commissioning process, the artist's brief, the budget, possible form, materials and locations of public art, the timetable for provision, maintenance agreement and community engagement, and the development shall be carried out in accordance with the approved details.

Reason: In the interests of the good place making in accordance with the provisions of the Maidstone Borough Council Public Art Guidance.

Pre-Occupation

25. The development shall not be occupied until the following off-site highways works have been provided in full:
- a) Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 or any alternative scheme agreed in writing with the Local Planning Authority (in consultation with the Highways Authority);
 - b) Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 14915-H-01 RevP4 at Appendix C of the 'DHA Transport Technical Note – March 2020' or any alternative scheme agreed in writing with the Local Planning Authority (in consultation with the Highways Authority);
 - c) Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2;
 - d) The give way/build out feature on Church Road as shown on drawing no. 41.1 (Proposed Traffic Calming Arrangement);
 - e) Extension of the 30mph speed limit to the south of the application site to a position agreed in writing with the Local Plan Authority (in consultation with the Highways Authority); and
 - f) Improvements to the A20 Ashford Road/Spot Lane/Roseacre Lane junction as shown on drawing no. 14915-H-02 RevP1 at Appendix J of the 'DHA Transport Technical Note – March 2020' or any alternative scheme agreed in writing with the Local Planning Authority (in consultation with the Highways Authority);

Reason: In the interest of highway safety.

26. The development shall not be occupied until a Final Travel Plan for the development which follows the principles of the Framework Travel Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Travel Plan.

Reason: In order to promote sustainable transport use.

27. The development shall not be occupied until a site-wide landscape and ecological management plan (LEMP), including timetable for implementation, long term design objectives, management responsibilities and maintenance schedules for all landscaped, open space, and drainage areas, but excluding privately owned domestic gardens, has been submitted to and approved in writing by the local planning authority. Landscape and ecological management shall be carried out in accordance with the approved plan and its timetable unless the local planning authority gives written consent to any variation.

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

28. The development shall not be occupied until details of the pedestrian and cycle link to and across the area of Council owned land to the south of the site providing a link to Woolley Road and the timing of its delivery 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.

Reason: To ensure appropriate connectivity in the interests of sustainability and highway safety.

29. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

30. The development shall not be occupied until details of the metal railings, picket fencing, and any boundary treatments for open space areas 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

Reason: To ensure a high-quality development'

31. The visibility splays shown on drawing no. 06 RevF (Proposed Access Arrangement) shall be kept free of obstruction above a height of 1 metre.

Reason: In the interests of highway safety.

32. If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not recommence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed. Upon completion of the building works, this condition shall not be discharged until a closure report has been

submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

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

Reason: In the interests of human health.

Informative:

The applicant is encouraged to pursue the formal diversion of public right of way KM86 to follow the route currently walked on the ground, which will be formalised as part of this development, and to allow for cycle use along any diverted route as part of the process.

19/506182

Local Residents

6 neighbour representations have been received since the agenda was published which do not raise any further material planning considerations beyond those considered in the report.

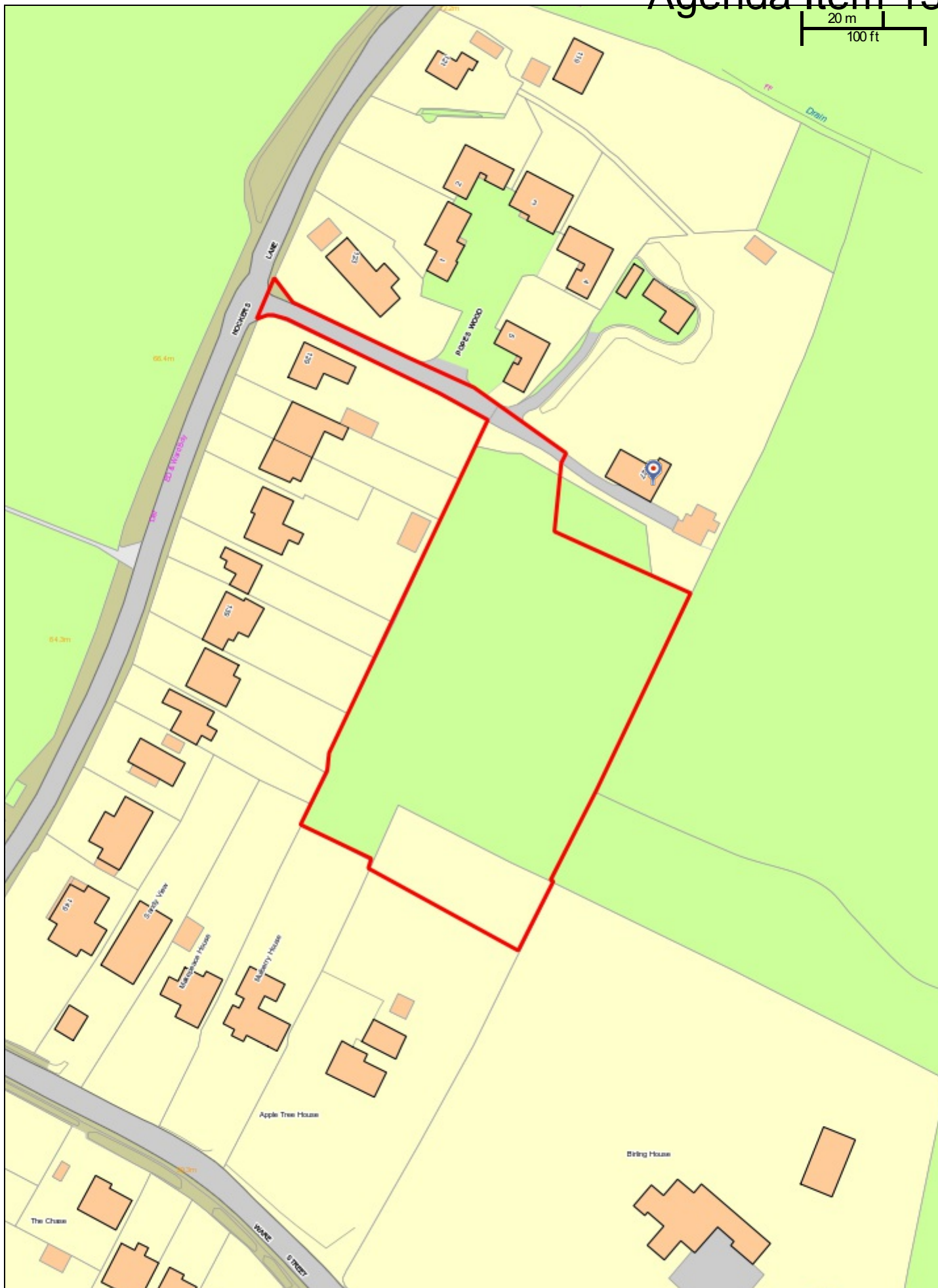
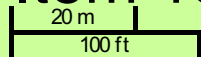
Bearsted & Thurnham Society raises the following (summarised) points:

- The church car park should be provided, sympathetically surfaced with a footpath direct to the church, and should be owned by the church.
- Northern access road and SUDs basin should be moved further south.
- Green land to the north, south and west of the church should be protected by Deed.
- Further archaeological work should be required.
- There should be no financial burden on the church.

Officer Comment: These matters have been considered/addressed in the Committee Report. Areas of landscaping/buffers/open space are secured by conditions and at the reserved matters stage the management and public use of any areas of public open space would be secured in perpetuity by way of condition.

The Chapman Avenue Area Residents Association and Otham Parish Council have written to the Secretary of State (SoS) to request that the application is called-in for his consideration (22/05/20), informing him that the application is being reported to Planning Committee on 28th May. To date MBC have not received any communication from the SoS but this request does not affect MBC making a decision/resolution on the application. Should the SoS want more time to consider this request before MBC issues the decision, they can issue a holding direction.

Chapman Avenue Area Residents Association have also sent in a petition with 181 signatures against the application.



19/504734/FULL 127 Hockers Lane, Thurnham, Maidstone, Kent

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REFERENCE NO - 19/504734/FULL		
APPLICATION PROPOSAL Erection of 5no. detached dwellings with new access road and associated parking.		
ADDRESS 127 Hockers Lane, Thurnham Maidstone ME14 5JY		
RECOMMENDATION Grant Planning Permission subject to planning conditions set out in Section 8.0 of the report		
SUMMARY OF REASONS FOR RECOMMENDATION <ul style="list-style-type: none"> The proposed new dwellings are acceptable in terms of design and appearance, and there are no unacceptable impacts on the character, appearance and visual amenity of the locality generally. Despite its location in the countryside, the development is within close enough proximity of the Maidstone Urban Area and the services found within, and it is not considered to be in an isolated location. The proposals have been found to be acceptable in relation to parking and highway safety The proposal is in line with the requirements of policy SS1, SP1, SP17, SP19, DM1, DM12 and DM30 of the adopted Maidstone Borough Local Plan (2017). 		
REASON FOR REFERRAL TO COMMITTEE <ul style="list-style-type: none"> Thurnham Parish Council have requested the application is refused on grounds that the site is inappropriate and unsustainable location for residential development as set out at paragraph 4.04 and referral if officers are minded to approve. Cllr Nick de Wiggondene-Sheppard requested that the planning application be referred to the planning committee in the event that officers were minded to recommend approval due to the application history and location. 		
WARD Detling And Thurnham	PARISH/TOWN COUNCIL Thurnham	APPLICANT Mr & Mrs Callen AGENT Consilium Town Planning Services Limited
TARGET DECISION DATE 03/07/20 (EOT)		PUBLICITY EXPIRY DATE 26/11/19

Relevant Planning History

- 16/506899/FULL Erection of 7 detached dwellings including ancillary works with alterations to highway access onto Ware Street Refused permission 8 February 2017 for the following reasons. (Appeal dismissed).
- Given the backland location of the site in the open countryside, area of special landscape character and within the setting of the AONB, the proposal fails to respect the surrounding landscape context as well as the existing topography of the site due to the significant amount of earth grading required to provide a level site. As such the proposal would fail to respect the topography and respond to the location of the site and would constitute inappropriate and visually harmful development in this rural location contrary to policies ENV28, ENV34 and ENV33 of the Maidstone Borough-Wide Local Plan 2000, paragraphs 17, 56, 58 and 115 of the National Planning Policy Framework and emerging Local Plan policies DM1 and SP17.
(Officer comment: this decision was taken before the adoption of the Local Plan which cancelled the area of special landscape character designation. As set out below the current proposal has been revised to address the issues that were raised)

2. The proposed backland development, by reason of its siting, scale and design, would fail to reflect the predominantly linear pattern of housing development located to the south and west of the site along Ware Street and Hockers Lane. The backland development would dominate the frontage properties and the proposal would be out of keeping with the character and appearance of the area and surrounding pattern of development, contrary to Policies ENV28, ENV34 and ENV33 of the Maidstone Borough-Wide Local Plan 2000 and paragraphs 17, 56, 58 and 115 of the National Planning Policy Framework and emerging Local Plan policy SP17.
(Officer Comment: Whilst this proposal did have a 'linear character' running parallel and behind existing properties, these reasons appear to be advocating new ribbon development along Hockers Lane which is not considered appropriate).
- 16/500159/FULL Erection of 10 detached dwellings including ancillary works with alterations to highway access onto Ware Street. Refused permission 27 April 2016 for the following reasons. (Appeal dismissed).
1. The proposed development is considered to be unacceptable by virtue of the significant amounts of earth grading required to provide a level site to facilitate the construction of 2 storey houses at the back end of the site. Given the backland location of the site outside of the urban edge boundary within an area of special landscape character, the proposal fails to respect the surrounding landscape context as well as existing ground levels to surrounding residential curtilages and would constitute inappropriate development in this location contrary to policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000, paragraphs 17, 56 and 58 of the National Planning Policy Framework and the aims and principles of the Kent Design Guide.
(Officer comment: The current planning application with half the number of houses does not require the earth grading works that were of concern with this earlier application. With the subsequent adoption of the Local Plan in October 2017 the application site does not have any landscape designation.)
2. The proposed development is considered to be unacceptable by virtue of the poor, unsympathetic and cramped layout of the development incorporating poorly sited houses, especially house nos.2, 5 and 6, of an inappropriate scale, density and massing in relation to the size and backland location of the site and setting of no.127 Hockers Lane. As such, the proposal would be out of keeping with the character and appearance of the area and surrounding pattern of development, contrary to Policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and paragraphs 17, 56 and 58 of the National Planning Policy Framework and the aims and principles of the Kent Design Guide.
(Officer comment: The issues that were raised have been resolved by the reduction in the number of dwellings by half from 10 to 5 units.)
3. The proposed development is considered to be unacceptable by virtue of the inappropriate siting of house nos.5 and 6 directly in front of and in close proximity to no.127 Hockers Lane separated by a distance of 9 metres adversely impacting on the general outlook from the front windows of this house to the south. As such, it is considered that the siting, scale and proximity of these houses would be visually intrusive constituting an unneighbourly form of development contrary to Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and paragraph 17 of the National Planning Policy Framework.
(Officer comment: The issues that were raised have been resolved by the reduction in the number of dwellings by half from 10 to 5 units.)
4. By virtue of the lack of information submitted, it is not possible to fully assess the impact the proposal would have on ecology/biodiversity and arboricultural implications within the application site. The application thereby fails to comply with central government planning policy as set out in section 11 of the National Planning

Policy Framework and Circular 06/2005.

(Officer comment: The current application is supported by a phase 1 ecological survey and a bat emergence survey. The applicant has also submitted a tree survey which has been assessed by the tree officer and found acceptable)

5. By virtue of the lack of information submitted, it is not possible to fully assess the impact the proposal would have with regard to surface water drainage within the application site and surrounding area. The application thereby fails to comply with central government planning policy as set out in section 10 of the National Planning Policy Framework and the National Planning Policy Guidance.
(Officer comment: As with other similar applications this information can reasonably be dealt with by planning condition).

6. In the absence of an appropriate legal mechanism to secure the provision of necessary contributions towards the primary school and local libraries, the impact of the development would be detrimental to existing social infrastructure and therefore contrary to Policy CF1 of the Maidstone Borough-Wide Local Plan 2000 and national policy as set out in the National Planning Policy Framework.
(Officer comment: There is no requirement for a s106 legal agreement as the Council's Community Infrastructure Levy is now in place and the reduction from 10 units to 5 units)

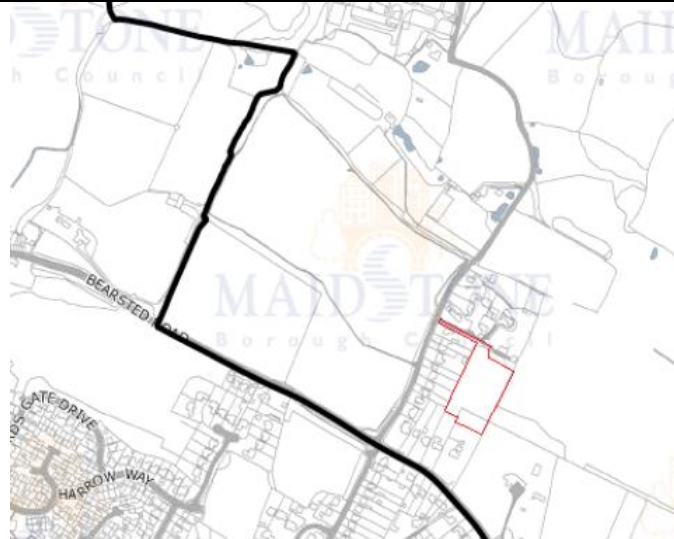
MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site (0.49 hectares) forms part of the expansive and intensively managed domestic rear garden of Apple Tree House, a substantial detached residential dwelling fronting Ware Street. The highly managed landscape of Bearsted Golf Course and the rear garden and tennis courts of Birling House (fronting Ware Street) are located to the east of the site and to the remaining three sides of the site existing residential development as set out below.

- 1.02 Apple Tree House and the neighbouring detached property called Mulberry House are to the south. To the west are the rear gardens (circa 30 metres long) of 9 mainly detached dwellings fronting Hockers Lane. To the north, set substantially back from Hockers Lane are two detached dwellings called Elmview (set back by circa 88 metres) and 127 Hockers Lane (circa 95 metres) and the Popes Wood development. The Popes Wood development consists of 5 detached properties arranged as a homestead located to the rear of 123 Hockers Lane. The vehicular access to these 7 properties between 123 and 129 Hockers Lane will also serve the proposed development.

Relationship of the application site to the Maidstone Urban Boundary



- 1.03 The site lies just outside of the Maidstone urban area boundary, which is located 95 metres to the south (along Ware Street), and also 430 metres to the west of the site. Whilst the site is located in the countryside, the area has a suburban character, with a formal row of dwellings and parked cars along this part of Hockers Lane and the children's day nursery on the corner of Ware Street and Hockers Lane.
- 1.04 The Kent Downs Area of Outstanding Natural Beauty is located 780 metres (0.4 miles) to the north of the application site, on the opposite side of the M20 Motorway. There are no protected trees on the site and no listed buildings in the vicinity of the site. The site is within a Minerals Safeguarding Area

2. PROPOSAL

- 2.01 The application proposes 5 detached dwellings with an access road and associated parking. The proposed two-storey detached dwellings are positioned facing a central landscaped area that also provides a looped access drive linking the existing drive from Popes Wood.
- 2.02 The current submission has sought to address the concerns expressed with the two previous planning applications with a significantly different proposal. The changes include a reduction in the number of proposed dwellings, changes to the plot coverage, built form, layout, appearance and access arrangements.

3. POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2017): Policies SS1 (Maidstone Borough Spatial Strategy); SP17 (Countryside); DM1 (Principles of Good Design); DM3 (Natural Environment); DM5 (Development on Brownfield Land); DM8 (External Lighting); DM11 (Residential Garden Land); DM12 (Density of Housing Development); DM23 (Vehicle Parking Standards) and DM30 (Design Principles in the Countryside).
- Supplementary Planning Documents: Kent Minerals and Waste Plan, the Kent Downs AONB Management Plan 2014-2019. The Maidstone Landscape Character Assessment March 2012 (LCA) and the Maidstone Landscape Capacity Study: Sensitivity Assessment January 2015
- National Planning Policy Framework (NPPF).
- National Planning Practice Guidance (NPPG).

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 Following public consultation 18 representations have been received with 9 objecting and 9 in support of the application.
- 4.02 The 9 representations objecting to the proposal raised concerns in relation to the following summarised grounds:
- The site is not allocated for housing,
 - The site is unsustainable location for housing,
 - Development out of character with the locality,
 - Development would have cramped appearance,
 - The development would exacerbate traffic issues in the area,
 - There is no identified need for the type of houses proposed,
 - Overlooking and Loss of privacy,
 - Loss of light and outlook.
- 4.03 The 9 representations in support of the proposal raised the following summarised points:
- There is a demand for family sized dwellings in the area,
 - The site is within easy walking distance to services at Bearsted and Grove Green,
 - The dwellings are well designed and would assimilate well in the local area,

- The scheme uses natural levels of the site to lessen the impact,
- The low density and high-quality of the scheme addressed previous concerns,
- The height and scale of the properties are similar to neighboring houses.

4.04 **Thurnham Parish Council:** Object. The site is an inappropriate and unsustainable location for residential development. The proposed development would injure the character of the local area and amenities of nearby residents.

4.05 **Bearsted and Turnham Society:** Object. The site is in an unsustainable location and therefore, the reasons given for refusing the previous application are still relevant.

4.06 **Cllr Nick de Wiggondene-Sheppard:** Request that the planning application be referred to the planning committee in the event that officers were minded to recommend approval due to the application history and location.

4.07 The planning issues raised by neighbours and other objectors are discussed in the detailed assessment below.

5. CONSULTATIONS

5.01 **Mid Kent (MBC) Environmental Health:** No objection, subject to conditions on land contamination, hours of work and informative.

5.02 **KCC Highways and Transport:** No objection subject to planning conditions after assessing the proposed access arrangement, sustainability of the site, parking including turning provision at the site.

5.03 **Southern Water:** No objection. The exact position of the public sewers must be determined on site by the applicant and all existing infrastructure should be protected during the course of construction works.

5.04 **Natural England:** No comment. Application should be assessed using Natural England published Standing Advice on protected species.

5.05 **MBC Tree Officer:** No objection, subject to pre commencement conditions on tree protection and section of "no dig" porous drive.

5.06 **KCC Infrastructure:** No objection. The application is on a site of 0.5ha or more and it is assumed this site will pay the CIL adopted by Maidstone Borough rather than s106.

6. APPRAISAL Main Issues

6.01 The main planning consideration are:

- Sustainability of the location,
- Potential impact on the setting of the Kent Downs AONB
- Potential impact on the character and appearance of the local area,
- Neighbour amenity,
- Standard of accommodation,
- Transport, parking, access and highway safety.
- Ecology, biodiversity, trees and landscape

Sustainability of the location

6.02 Paragraph 3 of Local Plan policy SS1 states "An expanded Maidstone urban area will be the principal focus for development in the borough". Local Plan policy SP1

states that "As the largest and most sustainable location, Maidstone urban area, as defined on the policies map, will be the focus for new development.

- 6.03 Paragraph 4.23 of the Maidstone Borough Local Plan (October 2017) states that "The town of Maidstone cannot accommodate all of the growth that is required on existing urban sites, and the most sustainable locations for additional planned development are at the edge of the urban area, expanding the boundary of the settlement in these locations. A characteristic of Maidstone is the way tracts of rural and semi-rural land penetrate into the urban area".
- 6.04 In policy terms the application site is located within the countryside. Local Plan policy SP17 states that "Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area".
- 6.05 Whilst the application site is located in the countryside, the Maidstone Urban Area boundary is under 100 metres to the south and 430 metres to the west of the site (see map after paragraph 1.02). The site is within easy walking distance to facilities and services available at Bearsted and Grove Green on foot, along with public transport opportunities.
- 6.06 The principle of the proposed development is considered acceptable due to the close relationship of the site to the urban area and the access to facilities, services and public transport that the urban area offers.
- Potential impact on the setting of the Kent Downs AONB and landscape**
- 6.07 Policy SP17 of the Local Plan states that development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area.
- 6.08 Policy DM1 advises that development must "Respect the topography and respond to the location of the site and sensitively incorporate natural features such as trees, hedges and ponds worth of retention within the site. Particular attention should be paid in rural and semi-rural areas where the retention and addition of native vegetation appropriate to local landscape character around the site boundaries should be used as positive tool to help assimilate development in a manner which reflects and respects the local and natural character of the area".
- 6.09 Policy DM30 of the Local Plan seeks to achieve high quality design in all development in the countryside. It emphasises the need for mass and scale to maintain and possibly enhance local distinctiveness including landscape features. The policy also requires that the impact of development on the appearance and character of the landscape is appropriately mitigated.
- 6.10 Under section 85(1) of the Countryside and Rights of Way Act 2000 there is a duty to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. Policy SP17 of the Local Plan advises that "*Great weight should be given to the conservation and enhancement of the Kent Downs Area of Outstanding Natural Beauty*".
- 6.11 The duty to conserve and enhance within the AONB is also relevant to proposals outside the boundary of the AONB which may have an impact on the statutory purposes of the AONB. Local Plan policy SS1 advises that the AONB 'and its setting' will be conserved and enhanced.
- 6.12 The Local Plan states that it is not necessary to formally define the setting of the Kent Downs AONB. As a guide Local Plan paragraph 4.106 advises that the "Open

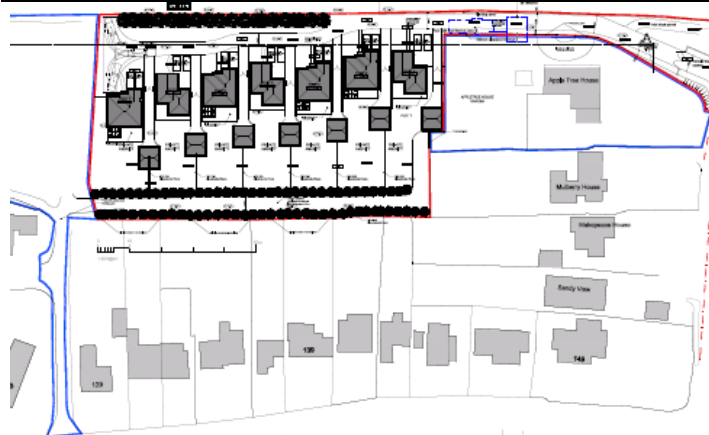
countryside to the immediate south of the AONB forms a large extent of the setting for this designation”.

- 6.13 The application site is not located in the Kent Downs Area of Outstanding Natural Beauty. The Maidstone Landscape Character Assessment March 2012 (LCA) and the Maidstone Landscape Capacity Study: Sensitivity Assessment January 2015 (LCS) both identify the application site as falling within the Bearsted Golf Course Landscape Area which contributes to the setting of the AONB. The LCS concluded that the landscape sensitivity of the area was high and that development should be limited to infilling within village boundaries.
- 6.14 The Local Plan sets out a number of factors that should be used to assess the potential impact of development in the AONB setting. These factors include “...the size of proposals, their distance, incompatibility with their surroundings...” In terms of distance the AONB is located 780 metres (0.4 miles) to the north of the application site, and on the opposite side of the M20 Motorway.
- 6.15 The application proposal is not considered incompatible with the site surroundings. The site forms part of the expansive and intensively managed domestic rear garden of Apple Tree House. The highly managed landscape of Bearsted Golf Course and the rear garden and tennis courts of Birling House (fronting Ware Street) are to the east. The remaining three sides are bordered by existing residential development in Ware Street, Hockers Lane and Popes Wood. In this context (and with reference to Local Plan paragraph 4.106) the location of the application site is not considered to be ‘open’ countryside and infilling development.
- 6.16 The application site enclosed on three sides has a secluded nature. With the screening provided by existing features on, and close to the site, and the backdrop of existing development the proposal would not have any wider landscape implications for the AONB or its setting. The proposal in addition also includes new landscaping.

Section drawing for previously refused application (16/506899/FULL)



Layout drawing for previously refused application (16/506899/FULL)



- 6.17 In relation to the size of the proposals. As can be seen by the section and layout drawings above, the previous proposal (16/506899/FULL) was for 7 houses in a

tight linear layout parallel to the existing line of properties in Hockers Lane. The rise in ground level towards Apple Tree House is evident on the right hand side (south) of the section drawing. It is also highlighted that this layout includes houses at the highest part of the site at the rear boundary of Apple Tree House.

- 6.18 The layout of the current proposal is shown in the image below. As well as the reduction from 7 to 5 houses, the orientation of the proposed properties has been changed so the properties face north and south. The changes to the layout have allowed the properties to have a more spacious appearance with substantially more tree planting both within the site and around the site boundaries.
- 6.19 The proposed tree planting on the east side of the site will be in addition to the existing trees on this part of the site and on the adjacent golf course. There is also existing vegetation along the western site boundary and additional landscaping is proposed that would provide further screening of the new houses.
- 6.20 As noted in the tree section below, as a direct impact of the development the proposal involves the loss of one tree at the site entrance. With the ground levels within the site lower than surrounding neighbouring development any adverse impact resulting from the development will be reduced.



- 6.21 The proposal would not extend development beyond the existing built form that is on three sides of the site. The application site is entirely set behind the existing houses fronting Hockers Lane and Ware Street and is without a street frontage.
- 6.22 For the above reasons, it is concluded that the proposal would not cause material harm to the character and appearance of the surrounding area or the setting to the AONB. It would comply with policies SP17 of the adopted Local Plan and the AONB management plan which amongst other things, require development to not result in significant harm to the character and appearance of the area.

Potential impact on the character and appearance of the local area

- 6.23 Local Plan policy DM1 states that development must "Respond positively to, and where possible enhance, the local, natural character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage". Development will be expected to incorporate a high quality, modern

design approach and to make use of vernacular materials where appropriate. Policy DM30 of the Local Plan seeks to achieve high quality design in all development in the countryside. It emphasises the need for the design, siting, materials including mass and scale to maintain and possibly enhance local distinctiveness.

- 6.24 There is a considerable variety in local building designs with the existing properties in the local area designed to include chalet bungalows and some traditional two storey buildings. Whilst the proposed development would not replicate the existing local character, it would provide high quality design that utilises architectural styles, fenestration and form of roof configuration that is in keeping with the visual character of the area. The development would assimilate well in the local area.
- 6.25 For the above reasons, it is concluded that the proposal would not cause material harm to the character and appearance of the surrounding area. It would comply with policies SP17, DM1 and DM30 of the adopted Local Plan which amongst other things, require development to respond positively to, and where possible enhance the local character of an area, to sensitively incorporate natural features and to not result in significant harm to the character and appearance of the area.
- 6.26 The application site consists of residential garden land located in the countryside. Local Plan policy DM5 (Development on Brownfield Land) is not relevant in this case as the policy applies, either to previously developed land (brownfield land) in Maidstone urban area, rural service centres and larger villages; or exceptionally, the residential redevelopment of brownfield sites in the countryside "...which are not residential gardens". Policy DM11 (Residential Garden Land) is also not relevant as it applies "Within the defined boundaries of the urban area, rural service centres and larger villages..."

Neighbour amenity

- 6.27 Local Plan policy DM1 states that development must "Respect the amenities of occupiers of neighbouring properties and uses by ensuring that development does not result in, or is exposed to, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion, and that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties".
- 6.28 In terms of loss of privacy, overlooking, daylight and sunlight the 9 properties along Hockers Lane are to the west of the site. The proposed properties are oriented to face away from these properties that have rear gardens around 30 metres in length.
- 6.29 Apple Tree House and the neighbouring detached property called Mulberry House are to the south of the site. To the north of the site, are two detached dwellings called Elmview and 127 Hockers Lane and the Popes Wood development.
- 6.30 The Popes Wood development consists of 5 detached properties arranged as a homestead located to the rear of 123 Hockers Lane. It is considered that there is sufficient separation distance to ensure that the amenities of the occupiers of these properties are protected in relation to privacy, overlooking, daylight and sunlight.

Standard of accommodation

- 6.31 Local Plan policy DM1 and paragraph 127 of the NPPF states that proposals will be permitted where they create high quality design and provide adequate residential amenities for future occupiers of the development by ensuring that development is not exposed to, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion.

- 6.32 The proposed dwelling on plot 1 has a pitched roof, front gable features, together with rear, side and front balcony. The ground floor would accommodate an entrance hall, open planned kitchen dinner, family area, lounge, utility room and an integrated garage/boots room. There would be five bedrooms at first floor with en-suit facilities and a family bathroom.
- 6.33 Plot 2 shows a detached dwelling with an integral double garage with pitched roof. The ridge of the garage projection is set significantly below the ridge of the main roof. The ground floor includes an entrance hall, open planned kitchen dinner/family area, study, lounge cloak room, a detached double garage and an orangery. There would be five bedrooms at first floor, two with en-suite facilities and a family bathroom.
- 6.34 The detached dwellings on plot 3,4 and 5 are shown to have identical design with pitched roof and front gable features that are set lower than the ridge of main pitched roof. The floor plans show the front gabled projections accommodating an integral garage and boot area. The plan shows all three ground floors accommodating a hall, lounge, kitchen and family area. Two of the five bedrooms provided at first floor would have en-suite facilities.
- 6.35 The submission also indicates the extent of curtilage for each proposed dwelling including hardstanding parking areas at the front of the houses. The depth of the outdoor amenity area provided for all five dwellings would range between 16 to 26 metres, and their width would range between 19 to 27 metres respectively.
- 6.36 The proposed accommodation provides a good standard of residential accommodation with adequate internal space for the intended function of individual rooms. The submitted plans show that the accommodation is provided with sufficient daylight, sunlight and outlook for future occupiers. The accommodation is provided with an external amenity area to the rear of the dwellings with suitable sunlight and privacy.

Transport, parking, access and highway safety.

Access and servicing

- 6.37 Local Plan policy DM 1 states that proposals will be permitted, where they can safely accommodate the associated vehicular and pedestrian movement on the local highway network and through the site access.
- 6.38 The proposal will use the existing vehicle access from Hockers Lane. The existing access has been assessed in relation to its anticipated level of use, its width, driver sight lines and the future servicing of the accommodation and is considered suitable. A planning condition is recommended seeking details of bin storage and collection points.

Car parking

- 6.39 Local Plan policy DM 23 states that the car parking for residential development will take into account the type, size and mix of dwellings and the need for visitor parking. Parking shall secure an efficient and attractive layout of development whilst ensuring the appropriate provision of integrated vehicle parking. Car parking standards are set out at Local Plan Appendix B.
- 6.40 In relation to the categories in Appendix B, the application site is classed as suburban or suburban edge/ village/ rural. The standards require a minimum of 2 off street car parking spaces excluding garages and 0.2 spaces per unit for visitor parking. All of the proposed houses are provided with 2 off street car parking spaces with additional garages and there is sufficient on street space to accommodate the visitor space.

- 6.41 A planning condition is recommended seeking the provision of an electric vehicle charging point for each of the proposed new houses.

Cycle parking

- 6.42 Local Plan policy DM 23 states that cycle parking facilities on new developments will be of an appropriate design and sited in a convenient, safe, secure and sheltered location. A planning condition is recommended seeking details of cycle parking as part of the completed residential units.

Transport and traffic

- 6.43 Local Plan DM23 states that new developments should ensure that proposals incorporate electric vehicle charging infrastructure. Planning conditions are recommended seeking the provision of a minimum of two electric vehicle charging points.

- 6.44 A planning condition is recommended requesting the submission of measures to promote sustainable travel choices by future occupiers of the accommodation. This could include information given to new occupiers, including public transport timetables.

- 6.45 The vehicle trips generated by the proposal can be safely accommodated on the road network with harm to highway safety. Paragraph 109 of the revised NPPF (2019) state that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. After considering

the nature and scale of the development, neither of these two circumstances apply in this case.

Ecology and biodiversity, trees and landscape

- 6.46 Local Plan policy DM1 states that proposals should create high quality design and respect the topography and respond to the location of the site and sensitively incorporate natural features such as trees, hedges and ponds worthy of retention within the site.

- 6.47 Local Plan policy DM3 states: *"To enable Maidstone borough to retain a high quality of living and to be able to respond to the effects of climate change, developers will ensure that new development protects and enhances the natural environment ...where appropriate development proposals will be expected to appraise the value of the borough's natural environment through the provision of...an ecological evaluation of development sites...to take full account of the biodiversity present, including the potential for the retention and provision of native plant species"*.

- 6.48 An 'Extended Phase I Habitat and Habitat Suitability Index Survey' and a Bat Emergence Survey have been submitted in support of the current planning application. The Bat Emergence Survey found *"...that bat activity, which included commuting and foraging activity of six bat species within the site, was considered to be 'Moderate'. Recorded predominantly along the tree line on the eastern site boundary and the back garden of the main house, the level of activity and species diversity recorded is considered sufficient to indicate an important commuting route for bats. As such it is recommended that this tree line is retained and protected during the works. As noted in the previous Extended Phase I Habitat Survey report (Greenspace Ecological Solutions Ltd. 2016) the trees should be protected in accordance with the British Standard; Trees in relation to design, demolition and construction (BS 58376-2012)"*.

- 6.49 In relation to enhancements, the survey report found that *"As the site has been identified as suitable to support foraging bats, opportunities to include effective*

biodiversity enhancements exist within the development and in accordance with the requirements of the NPPF it is suggested that the installation of bat boxes on the elevations of the new building and/or within mature trees along the site

boundaries would be most appropriate". In response to these findings planning conditions are recommended seeking ecological enhancements including bat boxes and a wildlife friendly planting as part of a landscape scheme. The appraisal found no evidence or potential for any other protected species on the site which is a managed rear garden. The appraisal advised that, other than the bat survey, no further surveys are required.

- 6.50 A tree survey of the site identified arboricultural work that would be required in the interests of good management and in the absence of the current planning application. This work was for the removal of trees that were potentially dangerous or that had a very limited safe lifespan. These trees were T11 Silver Birch (Crown dying), T44 Holly (Weak stem union. Asymmetric crown), T49 Elm (Dutch Elm Disease present) and T51 Elm (Virtually dead. Dutch Elm Disease).
- 6.51 With the centre of the garden currently open, the proposed development only involves the loss of one silver birch tree that forms a group of three trees adjacent to the northern site boundary. The removal of the single tree is required to widen the existing access. The tree was found to be of moderate quality and value.
- 6.52 The loss of the tree to be removed and its status has been considered and the benefits of the overall development are considered to outweigh the loss of this tree. Also weighing in favour of the development is a landscape scheme also sought through a planning condition that seeks replacement and a net increase in trees in different areas of the site. Other conditions seek to ensure that the long term health of retained trees on the site are not adversely impacted by the proposed construction works. The Council's tree officer has considered the proposal and has no objection subject to the planning conditions that have been outlined below.

Other Matters

- 6.53 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.
- 6.54 The application site is located within a Minerals Safeguarding Area however the land lost to this development is considered to be insignificant as to the wider objectives of this zone.

PUBLIC SECTOR EQUALITY DUTY

- 6.55 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 proposed new residential development is acceptable in terms of design and appearance, and there are no unacceptable impacts on the character, appearance and visual amenity of the locality generally.
- 7.02 Despite its location in the countryside, the development is within close enough proximity of the Maidstone Urban Area and the services found within, and it is not in an isolated location.

- 7.03 The proposals have been found to be acceptable in relation to parking and highway safety
- 7.04 The proposal is in line with the requirements of policy SS1, SP1, SP17, SP19, DM1, DM12 and DM30 of the adopted Maidstone Borough Local Plan (2017).

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 development hereby permitted shall be carried out in accordance with the following approved plans: 3163 - 004A Elevations and cross sections, 3163 - 005 Rev A Cross sections, 3163 - 008A Plot 1 elevations and floor plans, 3163 - 013 Proposed Street Scenes, 3163 - 014 Sections, 3163-10 REV A plots 3-5 elevations and floor plans, 3163 - 007D Location Plan, 3163 - 009B Plot 2 elevations and floor plans, 3163 - 011A Site Plan, 3163 - 012 B Block plan, 3163 - 015 B Block plan layout, Bat Emergence Survey, Extended phase 1 habitat survey
Reason: For the avoidance of doubt and in the interests of proper planning.
- 3) No development shall take place until a construction management plan has been submitted to and approved in writing by the Local Planning Authority: The construction management plan shall be in place prior to work commencing, followed for the duration of the works and shall include the following (a) Routing of construction and delivery vehicles to / from site (b) Parking and turning areas for construction and delivery vehicles and site personnel (c) Timing of deliveries (d) Temporary traffic management / signage (e) Provision of measures to prevent the discharge of surface water onto the adjacent access road and highway during construction works.
Reason 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 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) No development shall take place until details of any works within the root protection areas of retained trees have been submitted to and approved in writing by the local planning authority. The details shall include arrangements for the formation of the new vehicular access using a no dig method and the specification of the porous surface material for the access. Development shall only proceed in accordance with the approved details with the approved surface material retained for the lifetime of the development.

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

- 6) The development hereby approved shall not commence above slab level until details of all external materials (including wearing surfaces for the roads, turning and parking areas, have been 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 visual amenity.
- 7) 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 with the details including gaps at ground level to allow the passage of wildlife and the development shall be carried out in accordance with the approved details before the first occupation of the relevant dwellings and maintained thereafter;
Reason: To ensure a satisfactory appearance to the development, to safeguard the enjoyment of their properties by existing and prospective occupiers and in the interests of wildlife.
- 8) The development hereby approved shall not commence above slab level until, details of satisfactory facilities for the storage of refuse on the site have been submitted to and approved in writing by the local planning authority and the approved facilities shall be provided before the first occupation of the building and maintained thereafter.
Reason: No such details have been submitted and in the interest of amenity.
- 9) The development hereby approved shall not commence above slab level until, details of cycle storage facilities have been submitted to and approved in writing by the local planning authority and the approved facilities shall be provided before the first occupation of the building and maintained thereafter.
Reason: To promote sustainable travel choices.
- 10) The development hereby approved shall not commence above slab level until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall 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 and include a planting specification, a programme of implementation and a [5] year management plan and shall include suitable trees for the replacement of those that are due to be removed (with an advanced nursery stock specimen) and wildlife-friendly planting.
Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.
- 11) 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 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.
- 12) The dwellings hereby permitted shall not be occupied until sustainable surface water drainage works have been implemented in accordance with details that have previously been submitted to and approved in writing by the local planning authority. The submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, including any requirement for the provision of a balancing pond and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation in relation to the development; and,
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker, or any other arrangements to secure the operation of the scheme throughout its lifetime.
Reason: In the interests of pollution and flood prevention pursuant to the National Planning Policy Framework 2019.
- 13) No surface water shall discharge onto the adjacent access road and highway.
Reason: In the interests of highway safety.
- 14) The dwellings hereby permitted shall not be occupied until crime prevention measures are in place that are in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority, with the approved measures retained for the lifetime of the development.
Reason: In the interests of amenity.
- 15) The dwellings hereby permitted shall not be occupied until measures to encourage sustainable travel choices by future occupiers have been submitted to and approved in writing by the Local Planning Authority (such as a welcome pack providing public transport information), the measures shall be in place prior to first occupation and maintained for the lifetime of the development.

Reason: In the interests of sustainable travel and pollution prevention.
- 16) Each individual dwelling hereby approved shall not be occupied until a minimum of one electric vehicle charging point has been installed on the given building for the use of the occupier 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 the NPPF.
- 17) The dwellings hereby permitted shall not be occupied until the associated parking/turning areas shown on the approved plans have been completed and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them.
Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.
- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Classes A, B, C and E shall be carried out without the permission of the local planning authority.
Reason: To safeguard the character and appearance of the development and the enjoyment of their properties by existing and prospective occupiers.
- 19) 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 and set out how the lighting meets the Bat Conservation Trust guidelines. 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 wildlife.

- 20) Prior to the end of the first planting season following occupation of the approved development ecological enhancements shall be in place (including installation of bat boxes on the elevations of the new building and/or within mature trees along the site boundaries) that are in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority with the measures retained for the lifetime of the development
Reason: In the interest of ecology and biodiversity.

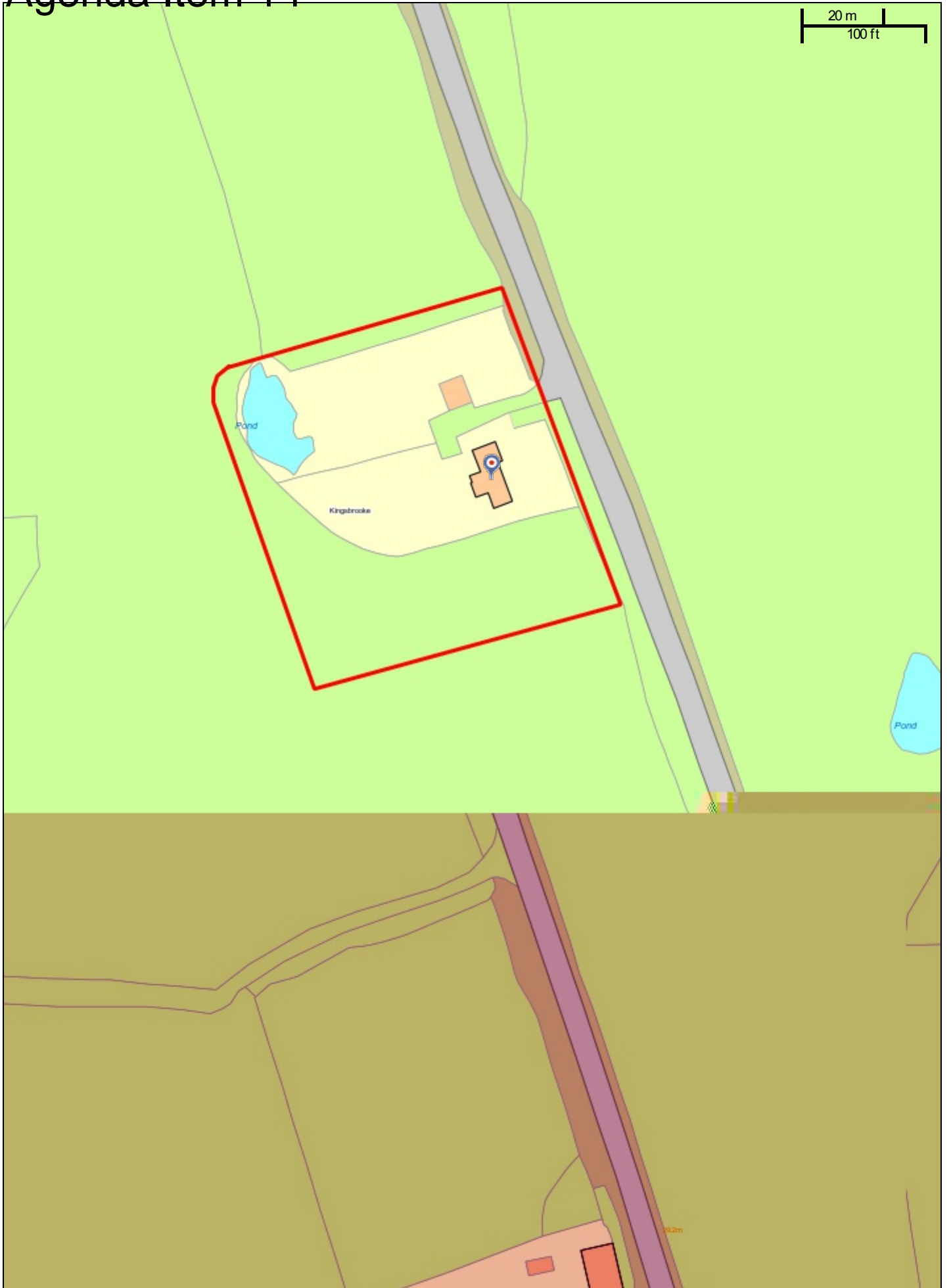
INFORMATIVES

- 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.
- 2) The applicant is advised to comply with the Mid Kent Environmental Code of development Practice.
- 3) 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: Tony Ryan

Agenda Item 14



20 m
100 ft

Pond

Kingsbrooke

Pond



19/503584/FULL Kingsbrooke, Cranbrook Road, Staplehurst, Tonbridge, Kent

Scale: 1:1250

Printed on: 16/3/2020 at 13:10 PM by JoannaW

130



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REFERENCE NO - 19/503584/FULL		
APPLICATION PROPOSAL Creation of alternative access across existing drainage ditch with improved drainage.		
ADDRESS Kingsbrooke, Cranbrook Road, Staplehurst, Tonbridge, Kent, TN12 0EU		
RECOMMENDATION Grant planning permission subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal would not be visually harmful in this countryside location and would not have a detrimental impact upon highway safety.		
REASON FOR REFERRAL TO COMMITTEE Contrary to the views of the Parish Council that are set out in the consultation section.		
WARD Staplehurst	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Mr Joe Spirito AGENT Mr Anthony Turner
TARGET DECISION DATE 31/05/2020 (EOT)		PUBLICITY EXPIRY DATE 22/10/2019

MAIN REPORT

1.0 BACKGROUND

- 1.01 This application was deferred at the Committee meeting on 23 January 2020 for the following reasons:
- Members seek the submission of 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.
- 1.02 The original Committee report is attached as an appendix.

2.0 ADDITIONAL INFORMATION SUPPLIED

- 2.01 Following the deferral, the applicant has provided an amended block plan showing the relocation of the proposed access. The applicant has also provided the following justification for the proposal:

"The existing entrance to this dwelling area has a steep incline which reduces take off from a stationary position onto the highway it also has poor drainage which allows flood water to drain from public highway onto the domestic curtilage, creating a floodwater pond at the house entrance. A new access point placed approximately 15m to the north having a shallower gradient and flat raised take off point would give an improved sight line and better traction onto the class A highway whilst improved drainage would protect the dwelling area from flood water from the highway".

2. PROPOSAL

- 2.01 The application seeks the creation of alternative access across existing drainage ditch with improved drainage also provided to the existing retained vehicle access.

3. POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan 2017: SP17 – Countryside, DM1 – Principles of good design and DM30 – Design principles in the countryside
- The National Planning Policy Framework (NPPF): Section 12 – Achieving well-designed places and Section 15 – Conserving and enhancing the natural environment.
- Staplehurst Neighbourhood Plan 2016 Policy PW2 states “Proposals for new development in the countryside beyond the extended village envelope will be assessed in terms of the potential impact of the development upon the visual setting and landscape features of the site and its surroundings, the potential impact upon the biodiversity of the area and other relevant planning considerations such as the impact of traffic and noise.”

4. CONSULTATIONS

Staplehurst Parish Council (Additional comments 29/04/2020)

- 4.01 Councillors stated that their recommendation remained unchanged because the reason why MBC Planning Committee had deferred consideration of the application on 23/01/20 had not been addressed.
- 4.02 Councillors noted that the only new published document was Block Plan Revision 3. They commented that they would expect to be reconsulted when the requested report became available, when they would also wish to see an explanation of how the drainage ditch would be affected by the proposed new entrance.
- 4.03 Given the stated comments about the shortcomings of the existing entrance, if eventually a decision were made to approve the application, Councillors requested that a condition be applied to close off the old entrance and restore the tree line.

KCC Highways

- 4.04 No objection subject to conditions. No further comments to make following additional consultation.

KCC Flood and Water Management (Lead Local Flood Authority)

- 4.05 No objection subject to conditions. No further comments to make following additional consultation.

MBC Tree Officer (Additional comments received on 20/05/2020)

- 4.06 No objection subject to conditions. The applicant has now submitted a revised block plan 1628/080f Rev 3, dated 12/03/2020 which shows the new access position moved 7.5m south as suggested, so the proposal is now far more likely to be sufficiently clear of the Root Protection Areas of the Poplar trees that the proposal is probably acceptable in arboricultural terms. I use the word ‘probably’ because the plans submitted do not appear to be a fully accurate representation of the site. The application is not supported by any arboricultural consideration of the tree stock present and does not even plot the tree stock present on the plans – there is some indicative tree cover shown but this is incomplete and inaccurate.

- 4.07 My assessment of the site during the visit suggests that the proposal will result in the loss of a Willow on the road frontage, but that is in very poor condition and should probably be felled regardless of the proposal. There are also some dead tree stems present that would need to be removed and moving the access to the south will also probably encroach on a line of young conifers. I raise no objection to the removal of any of these trees on arboricultural grounds, and it would be possible to secure some replacement planting by condition should you be minded to permit the proposal.
- 4.08 The line of five Poplar trees have some amenity value as a group due to their size. However, I did note during inspection that the two westernmost trees (furthest from the road) have significant main stem defects (old wounds, damage and decay) that suggest that they have a limited safe useful life expectancy of less than 10 years. The tree closest to the road also has a historic stem wound, but I do not consider that it is structurally significant at this time.
- 4.09 It is therefore important that the proposal, if permitted, does not result in unnecessary damage to the three easternmost trees. I therefore request a pre-commencement condition requiring a basic arboricultural report, prepared in accordance with the recommendations of BS5837, to be submitted and approved, comprising of an Arboricultural Amenity Assessment that accurately plots the tree stock present in relation to the proposal and showing the RPAs of all of the trees, and a Arboricultural Method Statement that details how any conflicts with the trees will be overcome (e.g. through the use of no-dig construction if necessary) and how the trees will be protected from accidental damage during construction works. The condition should require compliance with the approved details.

Southern Water

- 4.10 No objection. No further comments to make following additional consultation.

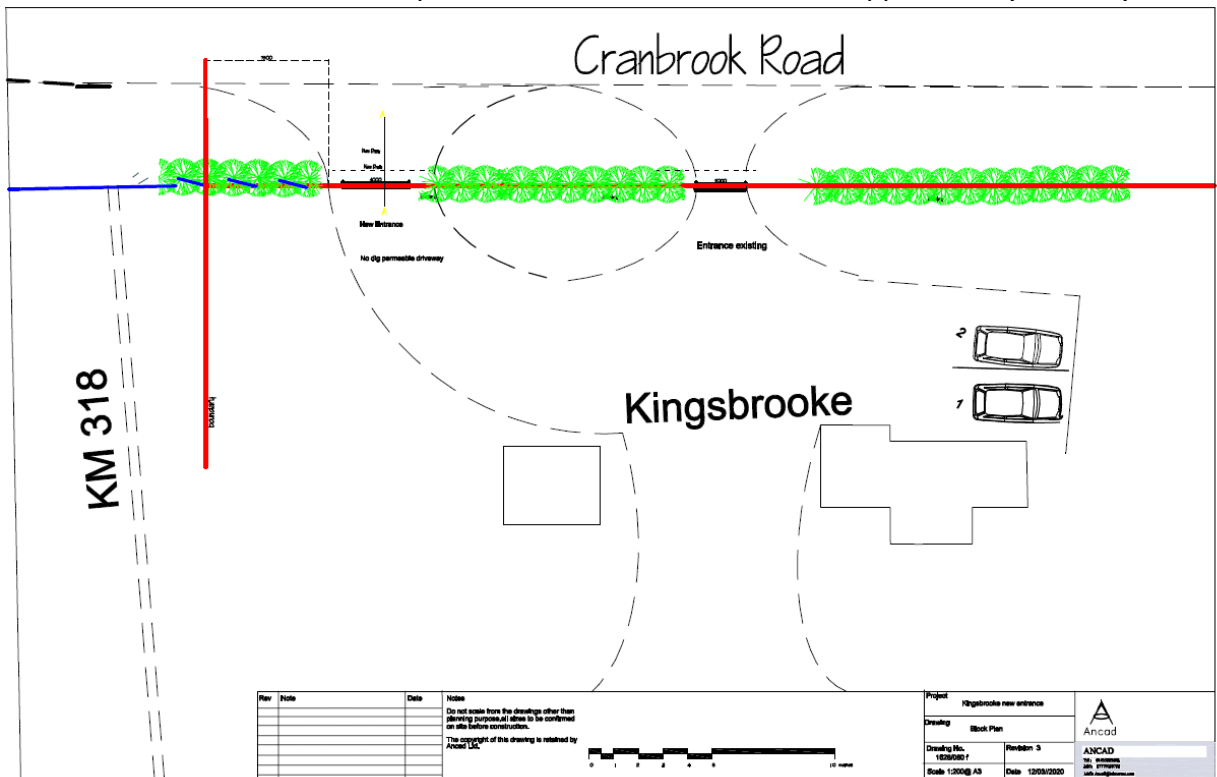
KCC Public Rights of Way officer

- 4.11 No objection with reference to standing advice. No further comments to make following additional consultation.

5. APPRAISAL
Main Issues

- 5.01 The reason for deferral at the committee meeting on the 23 January was:
- Members seek the submission of 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.
- 5.02 Following the deferral of a decision on the planning application, the applicant has submitted an amended block plan (1628/080 F 3). The amended plan shows the proposed new access relocated 7.5 metres to the south from the original proposal. This is in line with the advice from the Council's tree officer.
- 5.03 The amended block plan is provided below (NB as the text is small the annotation on the left hand driveway on the plan states top to bottom 'new drain', 'new drain', 'new entrance', 'no dig permeable driveway', the right hand annotation says 'existing entrance').

Extract from the site location plan submitted with the current application (Revised)



- 5.04 As outlined, the revision includes the relocation of the access 7.5 metres south of the original proposed location. The impact of the revised proposal on existing trees has been assessed by the Council’s tree officer and this has included a site visit. The assessment by the tree officer consists of two parts, the removal of trees and the potential impact on other retained trees.
- 5.05 The tree officer found that the proposal would result in the loss of a Willow on the site frontage that is currently in poor condition, the removal of some dead tree stems and probable encroachment on to a line of young conifers.
- 5.06 In relation to potential impact on retained trees, a line of five Poplar trees were assessed by the tree officer during the site visit. The tree officer found that *“...the two westernmost trees (furthest from the road) have significant main stem defects (old wounds, damage and decay) that suggest that they have a limited safe useful life expectancy of less than 10 years. The tree closest to the road also has a historic stem wound, but I do not consider that it is structurally significant at this time”*.
- 5.07 The tree officer raises no arboricultural objection to the loss of the trees outlined with the recommendation that planning conditions seek suitable replacement planting, an Arboricultural Amenity Assessment and an Arboricultural Method Statement.

Other matters

- 5.08 The Parish Council have stated that insufficient information has been submitted in relation to trees and drainage. The submitted proposal has been considered twice by KCC Flood and Water Management (Lead Local Flood Authority) and Southern Water

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and both have raised no objection to the level of information on drainage or the proposal generally.

5.09 As set out above, the tree officer has considered the impact of the proposal on trees. Whilst commenting on the quality of the submission, the tree officer, who also considered the application twice, is satisfied that there are no arboricultural grounds to object to the planning application.

5.10 With the submitted plans showing the retention of the existing vehicle access and with no arboricultural, drainage or highway issues, a condition to require the blocking of the access (as requested by the Parish Council) is considered unreasonable and would fail to meet the legal tests for a condition.

Conclusion

5.01 Following the submission of revised drawings and on the basis of comments received the proposed new access is acceptable in terms of design and appearance, and there are no unacceptable impacts on the character, appearance and visual amenity of the locality generally. It is considered that the development is in keeping with local and national planning policies and is recommended for approval.

6. RECOMMENDATION

Grant 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 permitted shall be carried out in accordance with the following approved plans/documents:

Householder Application for planning permission
1628/080 F Rev 3 Block Plan
1628/080 F Rev 2 Section AA and Elevations
1628/080 F Rev 2 Site Location Plan

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

- 3) Notwithstanding the details submitted, no gate shall be installed until full details of the height, design, positioning, materials and colour of the gate have been submitted to and approved in writing by, the local planning authority and the development shall thereafter be undertaken in accordance with the approved details. Gates must be set back a minimum of 6m from the edge of the carriageway;

Reason: In order to preserve the character and appearance of the countryside and in the interests of highway safety.

- 4) The access hereby permitted shall not be used until full details of the visibility splays which can be achieved and the gradient of the driveway hereby permitted have been

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submitted to and approved in writing by, the local planning authority. The development shall thereafter be undertaken in accordance with the approved details and the approved visibility splays shall be provided free from obstruction above 1 m above the level of the centre of the driveway measured at a point 2 m back from the edge of the carriageway prior to the first use of the access hereby permitted and subsequently maintained as such. The gradient of the access must be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter;

Reason: In the interests of highway safety.

- 5) Prior to the commencement of development a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall accurately plot the tree stock present in relation to the proposal and show the RPAs of all trees. The scheme shall also detail 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 landscaping shall be provided in accordance with the agreed programme of implementation.

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 commencement of development an Arboricultural Amenity and Method Statement that details how any conflicts with the trees will be overcome (e.g. through the use of no-dig construction if necessary) and how the trees will be protected from accidental damage during construction works. The condition should require compliance with the approved details.

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

- 7) All existing trees and hedges on, and immediately adjoining, the site, shall be retained. All trees and hedges shall be protected from damage in accordance with the current edition of BS5837. Any trees or hedges removed, damaged or pruned such that their long term amenity value has been adversely affected shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions to mitigate the loss as agreed in writing with 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

Case officer: William Fletcher

Appendix 1: Report to the Planning Committee on the 23 January 2020

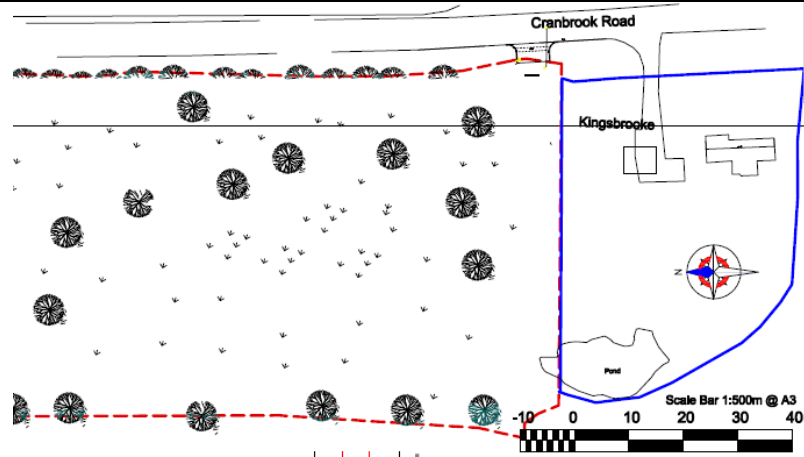
REFERENCE NO - 19/503584/FULL

APPLICATION PROPOSAL Creation of alternative access across existing drainage ditch with improved drainage.		
ADDRESS Kingsbrooke, Cranbrook Road, Staplehurst, Tonbridge, Kent, TN12 0EU		
RECOMMENDATION Grant planning permission subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal would not be visually harmful in this countryside location and would not have a detrimental impact upon highway safety.		
REASON FOR REFERRAL TO COMMITTEE Contrary to the views of the Parish Council that are set out in the consultation section.		
WARD Staplehurst	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Mr Joe Spirito AGENT Mr Anthony Turner
TARGET DECISION DATE 31/01/2020		PUBLICITY EXPIRY DATE 22/10/2019

Relevant Planning History

- 19/502753/LAWPRO - Lawful Development Certificate (Proposed) for creation of a new access across existing drainage ditch with improved surface drainage. – Refused on the 20 June 2019 as planning permission is required for the creation of an access onto a Classified Road and as the land is outside the residential curtilage of Kingsbrooke.

Extract from the site location plan submitted with 19/502753/LAWPRO



Appendix 1: Report to the Planning Committee on the 23 January 2020

MAIN REPORT

1 DESCRIPTION OF SITE

- 6.01 The large timber clad detached property called Kingsbrooke is located on the southern side of Cranbrook Road.
- 6.02 The front boundary of the property is marked by fir trees and is set back from the carriageway behind a grass verge. The property is currently accessed by a single bridge over a drainage ditch running parallel to the road. The property benefits from a freestanding garage building located to the north of the main property. There is a drop in ground level towards the property from the road with a pond located to the west (rear) of the garage building. Footpath KM318 runs from Cranbrook Road 14 metres to the north of the garage, around the pond and off to the west of the site
- 6.03 For the purposes of the Maidstone Local Plan, the proposal site is within the designated countryside.

7. PROPOSAL

- 7.01 The application seeks the creation of alternative access across existing drainage ditch with improved drainage also provided to the existing retained vehicle access.
- 7.02 The applicant has provided the following justification for the current application: *"The existing entrance to this dwelling area has a steep incline which reduces take off from a stationary position onto the highway it also has poor drainage which allows flood water to drain from public highway onto the domestic curtilage, creating a floodwater pond at the house entrance. A new access point placed approximately 15m to the north having a shallower gradient and flat raised take off point would give an improved sight line and better traction onto the class A highway whilst improved drainage would protect the dwelling area from flood water from the highway".*

8. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017:

SP17 – Countryside

DM1 – Principles of good design

DM30 – Design principles in the countryside

The National Planning Policy Framework (NPPF):

Section 12 – Achieving well-designed places

Section 15 – Conserving and enhancing the natural environment

9. LOCAL REPRESENTATIONS

Local Residents:

- 9.01 No representations were received from the seven neighbouring properties consulted.

10. CONSULTATIONS

Staplehurst Parish Council

- 10.01 Raise objection and recommend refusal for the following reasons:

- Unlike the drawings for 19/502753 the current drawings do not show residential and agricultural boundary parts of the site; the positions of other features and buildings were also different;

Appendix 1: Report to the Planning Committee on the 23 January 2020

The proposed access was onto agricultural land, separated by a ditch from the residential area;

- Councillors considered that vehicles would have to cross KM318 to reach the residential property from the proposed new access; (The footpath runs along the northern boundary of the application site and would be 5m to the north of the access)
- A second entrance would not improve surface water drainage at the current one a suitable drainage channel across the current entrance would be more appropriate;
- Two entrances so close together onto a busy A-road would increase the risk level.
- No evidence that the erection of the single storey lean-to extension to the rear elevation, the outbuilding in the north of the site, and the close boarded fence to the highway had been regularised.

KCC Highways

10.02 No objection subject to conditions requiring the following:-

- Gates to open away from the highway and to be set back a minimum of 6 metres from the edge of the carriageway.
- Gradient of the access to be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

KCC Flood and Water Management (Lead Local Flood Authority)

10.03 No objection but highlight that the new crossing and associated works may require land drainage consent.

10.04 The applicant is advised that any feature capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse'. The applicant is advised to contact KCC Flood and Water Management prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function.

10.05 Any works that have the potential to affect the watercourse or ditch's ability to convey water will require formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact flood@kent.gov.uk for further information.

MBC Landscape

10.06 No objection to the loss of the individual trees in this location but would want to see a clear proposal on what trees would have to be removed because they would be destabilised or unlikely to survive, with suitable replacement planting tree proposals to mitigate their loss, in the interests of ongoing tree cover in the borough.

Southern Water

10.07 No objection.

KCC Public Rights of Way officer

10.08 No objection with reference to standing advice.

**11. APPRAISAL
Main Issues**

11.01 The key issues for consideration relate to:

Appendix 1: Report to the Planning Committee on the 23 January 2020

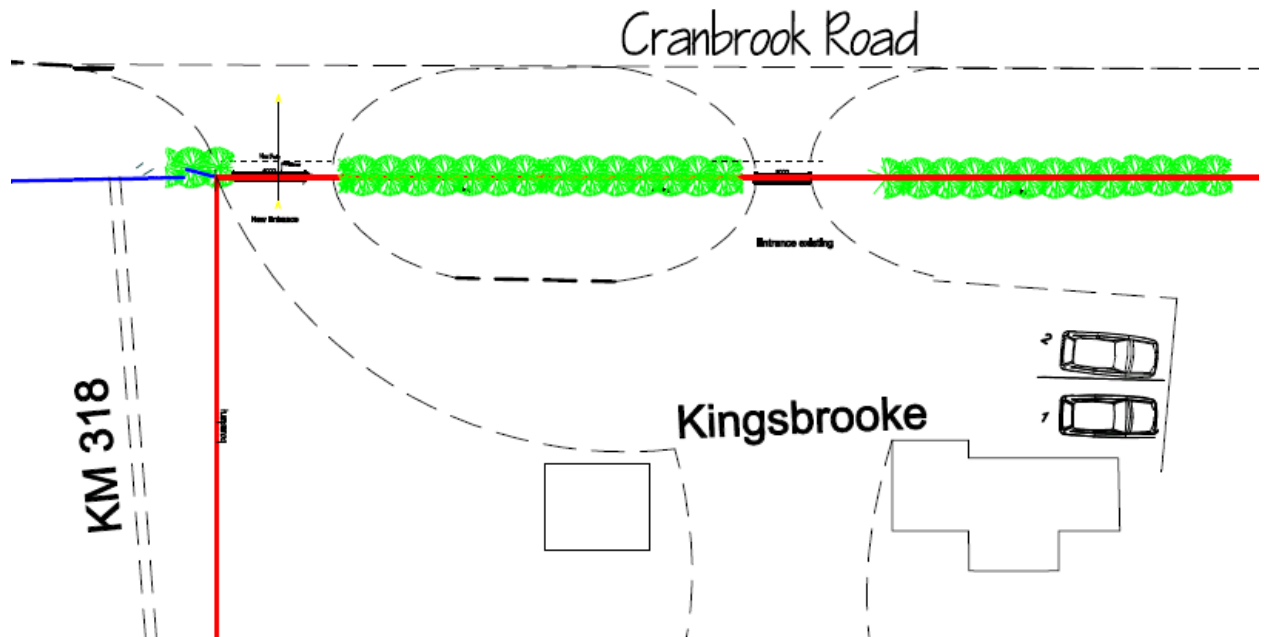
25 June 2020

- Design / impact on character of area
- Highways issues

11.02 The current planning application follows on from a recently refused application for a Lawful Development Certificate (19/502753/LAWPRO). The Lawful Development Certificate was not issued for two reasons, the proposed access was on to a classified road and the access was not associated with a residential curtilage.

11.03 Whilst planning permission is still required for the proposed access as it is on to a classified road, it is highlighted that the access has now been relocated closer to the main property and garage. The proposed access is now also within the residential curtilage of the application property.

Extract from the site location plan submitted with the current application



Design / impact on character of area

11.04 Policy SP17 states that development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area.

11.05 In terms of design the creation of the access which plans and the submitted application form indicate would be 4m wide would not involve the removal of any trees or other important or valuable vegetation. It is considered that additional landscaping secured by a planning condition would mitigate any negative visual impact from the new access.

Appendix 1: Report to the Planning Committee on the 23 January 2020

- 11.06 The submitted plans indicate that the proposed entrance gate would be of a similar design to the existing gate. A planning condition is recommended seeking precise details of the proposed new entrance gate.
- 11.07 In summary the proposed new access with a suitable landscape condition is acceptable in relation to visual impact. The development is acceptable in terms of its design and the proposal is acceptable in relation to detrimental impact upon the character and appearance of the countryside.

Highways issues

- 11.08 Policy DM1 states that development must "Safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access;"
- 11.09 Policy DM30 continues "Proposals must not result in unacceptable traffic levels on nearby roads; unsympathetic change to the character of a rural lane which is of landscape, amenity, nature conservation, or historic or archaeological important or the erosion of roadside verges;"
- 11.10 The section of Cranbrook Road opposite the application site is a straight road approximately 220m to the north is the first bend with approximately 450m till a curve to the south this section has a speed limit of 50m and is not served by any street lighting. The access itself is set back 6.1m from the highway itself.
- 11.11 Comments have been received suggesting the two accesses to the property would be too close together, however when considering that both accesses serve the same property it is not considered that there would be any conflict between them. Traffic movements associated with the access points are also likely to be very low and as such it is not considered there would be any danger on account of the proximity of the two accesses.
- 11.12 Public Right of Way KM318 runs alongside the access 5m to the north at its closest points. The footpath is outside the residential curtilage of the dwelling and again traffic movements associated with the proposed access are likely to be low and as such it is not considered there would be any significant danger to users of the footpath as a result of the access.
- 11.13 In terms of justification for the access additional clarification was sought and the agent acting on behalf of the applicant replied with the following on 14/01/2020; *"The existing entrance to this dwelling area has a steep incline which reduces take off from a stationary position onto the highway it also has poor drainage which allows flood water to drain from public highway onto the domestic curtilage, creating a floodwater pond at the house entrance. A new access point placed approximately 15m to the north having a shallower gradient and relatively flat raised take off point would give an improved elevated sight line and better traction onto the class A highway, whilst improved lateral camber on the bridge section enabling drainage to the ditch would protect the dwelling area from flood water from the highway: see Drawing No.1628/080f section A-A"*

Appendix 1: Report to the Planning Committee on the 23 January 2020

- 11.14 It is not considered that the drainage works themselves are of such an extent that permission would be required. As detailed above the additional access above is not considered to have an overly adverse impact upon the character and appearance of the area and after assessing all material considerations the proposal is acceptable in relation to the impact on highways and will not result in harm to highway safety.

Other matters

- 11.15 The Parish Council have referred to the erection of the single storey lean-to extension to the rear elevation of the application property, the outbuilding in the north of the site, and the close boarded fence to the highway and whether these benefit from planning permission. This query has been passed to the Council's Planning Enforcement Team for separate investigation as this has no bearing on the consideration of the current planning application.

Conclusion

- 11.16 The proposal is acceptable in relation to the potential impact on Cranbrook Road and highway safety, the new access would not appear visually harmful within its countryside setting. The proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations. A recommendation of approval of the application is therefore made on this basis.

12. RECOMMENDATION

Grant Permission subject to the following conditions

- 8) 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.

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

Householder Application for planning permission
1628/080 F Rev 2 Block Plan
1628/080 F Rev 2 Section AA and Elevations
1628/080 F Rev 2 Site Location Plan

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

- 10) Notwithstanding the details submitted, no gate shall be installed until full details of the height, design, positioning, materials and colour of the gate have been submitted to and approved in writing by, the local planning authority and the development shall thereafter be undertaken in accordance with the approved details. Gates must be set back a minimum of 6m from the edge of the carriageway;

Appendix 1: Report to the Planning Committee on the 23 January 2020

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Reason: In order to preserve the character and appearance of the countryside and in the interests of highway safety.

- 11) The access hereby permitted shall not be used until full details of the visibility splays which can be achieved and the gradient of the driveway hereby permitted have been submitted to and approved in writing by, the local planning authority. The development shall thereafter be undertaken in accordance with the approved details and the approved visibility splays shall be provided free from obstruction above 1 m above the level of the centre of the driveway measured at a point 2 m back from the edge of the carriageway prior to the first use of the access hereby permitted and subsequently maintained as such. The gradient of the access must be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter;

Reason: In the interests of highway safety.

- 12) Prior to the commencement of development a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall 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 highlight the loss of any trees and to set out suitable replacements. The landscaping shall be provided in accordance with the agreed programme of implementation.

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

- 13) All existing trees and hedges on, and immediately adjoining, the site, shall be retained. All trees and hedges shall be protected from damage in accordance with the current edition of BS5837. Any trees or hedges removed, damaged or pruned such that their long term amenity value has been adversely affected shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions to mitigate the loss as agreed in writing with 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

Case officer: William Fletcher

Agenda Item 15



20/501604/FULL - Maidstone Cemetery, Sutton Road, Maidstone, Kent, ME15 9AF

Scale: 1:1250

Printed on: 10/6/2020 at 9:23 AM by JoannaW

REPORT SUMMARY

REFERENCE NO - 20/501604/FULL			
APPLICATION PROPOSAL Erection of a staff mess hut building.			
ADDRESS Maidstone Cemetery Sutton Road Maidstone Kent ME15 9AF			
RECOMMENDATION – APPROVE SUBJECT TO CONDITIONS			
SUMMARY OF REASONS FOR RECOMMENDATION – APPROVE SUBJECT TO CONDITIONS			
<ul style="list-style-type: none"> The development causes no harm and permission is therefore recommended subject to conditions. 			
REASON FOR REFERRAL TO COMMITTEE The applicant is Maidstone Borough Council			
WARD Shepway North	PARISH/TOWN COUNCIL	APPLICANT Maidstone Borough Council AGENT S.I.Chartered Bldg Surveyors	
DECISION DUE DATE 01/07/20	PUBLICITY EXPIRY DATE 13/05/20	OFFICER SITE VISIT DATE 22/04/20	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
18/505651/DEMR EQ	Prior notification for demolition of vacant cemetery lodge house.	Prior Approval Granted	29/11/2018

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 Maidstone Cemetery is located in the urban area of Maidstone, located to the west of Sutton Road, close to the junction with Loose Road.
- 1.02 The application site is on the now demolished former staff lodge to the north of the cemetery and is currently an open parcel of land. The adjacent boundaries to the application area include trees and dense hedgerows. At the site entrance, there is a Grade II listed building which was granted planning permission in 2019 for conversion to 1 dwelling.

2.0 PROPOSAL

2.01 Planning is sought for a staff facilities building to provide welfare facilities for staff at Maidstone Cemetery. It would be of rectangular shaped footprint measuring 12.68m by 4.33m, with a dual pitched roof with an eaves height of 2.5m and a ridge height of 3.8m. The building would be finished in Istock Multi Red Brickwork with Markley Slate roof tiles. An entrance door would be located on the east side to the existing car park.

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): DM1, DM3, DM8
- National Planning Policy Framework (NPPF)

4.0 LOCAL REPRESENTATIONS

4.01 **Local Residents:** 1 neighbour comment on the following summarised grounds:

- Previous two storey building that occupied the site could be seen from Loose Road, have checks been made to see if this proposed building would be visible
- Visibility of the proposed building from the north
- Access to the cemetery is in need of repair
- Existing storage units on site and if these could be relocated behind the proposed staff mess.

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 **KCC Archaeology:** No objection, but request pre commencement condition relating to archaeological field evaluation.

6.0 APPRAISAL

6.01 The principle of a staff facilities building within Maidstone Cemetery is acceptable and the main considerations are design/appearance and residential amenity.

6.02 The building is simple in its design and appearance, being a single storey building with a dual pitched roof. The building would be screened from Sutton Road by existing boundary treatments and landscaping around the boundary of the site. The building would be visible from within Maidstone Cemetery itself, but uses appropriate materials for the elevations with red brickwork and slate roof tiles. For these reasons the design and siting are acceptable and the proposal would not have any harmful impact upon the area and is considered to be in accordance with policy DM1 of the Local Plan. No details of external lighting have been provided, but these details could be secured by planning condition to be in accordance with policy DM8.

6.03 There are landscaped areas surrounding the site forming the cemetery, although the building location is currently rough ground on the site of the previously demolished staff lodge. The adjacent boundaries include trees & dense hedgerows

that will remain as is currently. It is not considered that any additional landscaping is necessary as the proposal is a single storey small building and the site is generally screened from viewpoints outside of the cemetery.

- 6.04 The site is on the former previously demolished lodge house and it is not considered the proposal would result in harm to any protected species. In accordance with policy DM3 of the Local Plan, details of bird and bat boxes within the fabric of the building have been provided as part of the application detail and considered to be acceptable, subject to a condition ensuring compliance with these approved details.
- 6.05 The nearest residential properties are some 21m to the north and at this distance, with the single storey building proposed and with the landscape boundary between, there would not be any harmful impacts upon amenity in terms or outlook, privacy, or noise.
- 6.06 The proposal would not result in the loss of any parking spaces, and it is not considered that the proposal would result in need for additional parking spaces at the site.
- 6.07 KCC Archaeology has requested a pre commencement archaeology condition, however as the location of the proposal is on the location of the now demolished staff lodge it is not considered necessary to require an archaeology condition.

7.0 Conclusion

- 7.01 For the reasons outlined above the proposal is considered to be acceptable as it would cause no visual harm to the local area, no harm to residential amenity and is in accordance with the Development Plan. Permission is therefore recommended.

8.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS to include

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

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

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

040/19/02 Rev B

3. No external lighting shall be installed on the building hereby permitted without the prior written consent of the local planning authority.

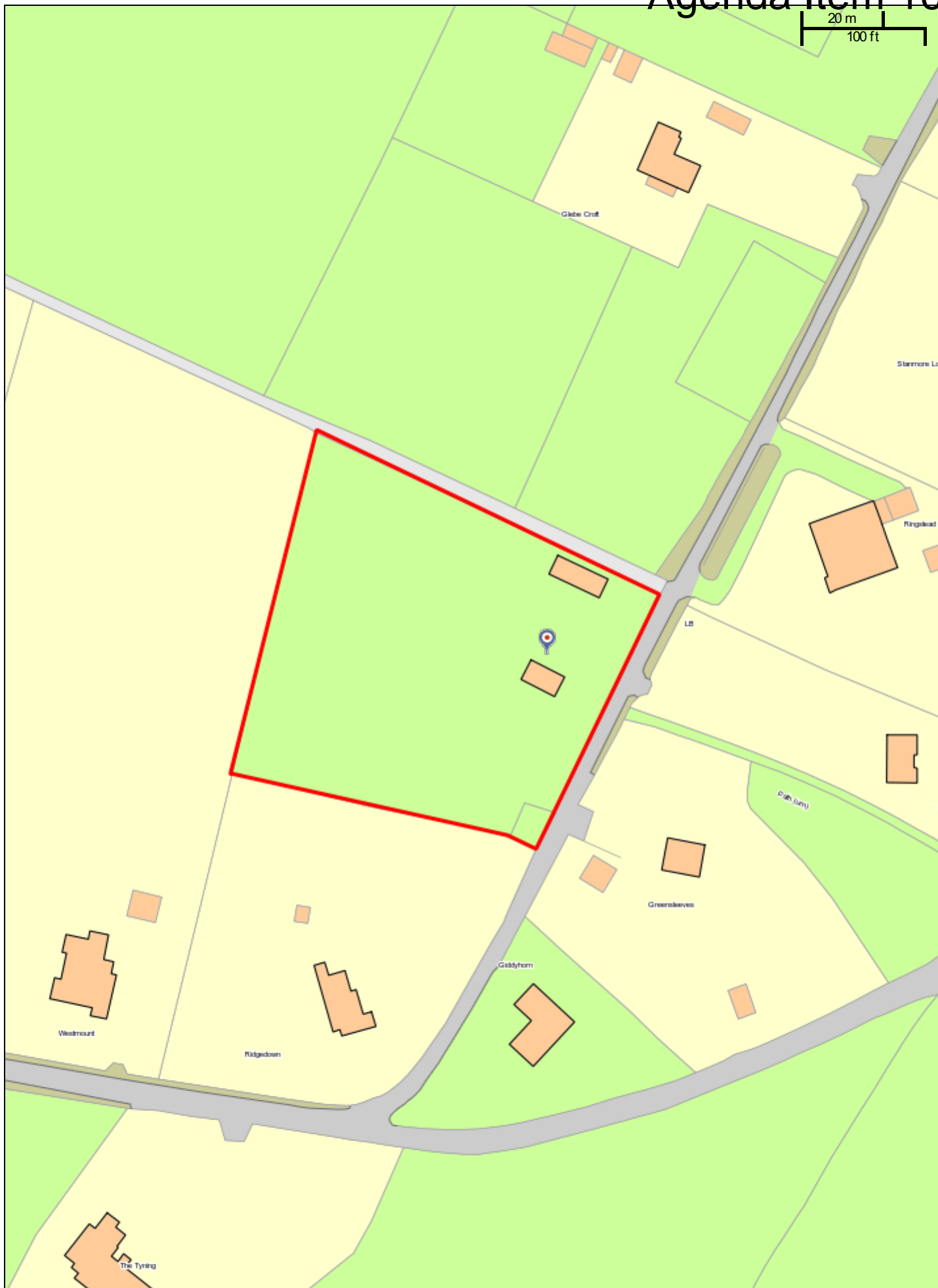
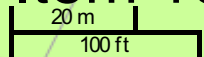
Reason: In the interests of visual amenity

4. The ecological enhancement measures shall be implemented in accordance with the approved details as shown on drawing no. 040/019/02 Rev B unless the local planning authority gives the written consent to any variation.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

Case Officer: Adam Reynolds

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



20/500780/FULL - The Mellows, Marley Road, Harrietsham, Maidstone, Kent

Scale: 1:1250

Printed on: 16/6/2020 at 9:55 AM by JoannaW



REFERENCE NO - 20/500780/FULL		
APPLICATION PROPOSAL Retention of dwelling with alterations (Part Retrospective).		
ADDRESS The Mellows Marley Road Harrietsham Maidstone Kent ME17 1BS		
RECOMMENDATION Grant Planning Permission subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The dwelling is located in an unsustainable location and even with the proposed revisions would result in harm to the character and appearance of the AONB contrary to the adopted Local Plan and the NPPF. In contrast the personal circumstances of the applicant are material to the assessment. The dwelling provides for the significant medical and health needs of the applicant's son and the provision of adaptable accommodation is supported by the Local Plan and the NPPF. In contrast the personal circumstances of the applicant are material to the assessment. The dwelling provides for the significant medical and health needs of the applicant's son and the provision of adaptable accommodation is supported by the Local Plan and the NPPF. The application includes alterations to the constructed building to reduce the bulk and massing of the roof. When the identified harm is weighed against the benefits of the scheme to the applicant; the balance of considerations lies in favour of granting planning permission.		
REASON FOR REFERRAL TO COMMITTEE The Parish Council have requested that the application is referred to the planning committee for the reasons outlined at paragraph 4.02.		
WARD Harrietsham And Lenham	PARISH/TOWN COUNCIL Harrietsham	APPLICANT Mrs Bridget Cash AGENT Mr Alex Bateman
TARGET DECISION DATE 02. 07. 2020 (EOT)		PUBLICITY EXPIRY DATE 26.03.2020

Relevant planning history

- **88/1428** - Construction of two detached houses. Refused on 07.12.1988. (Appeal dismissed) (Land R/O Ridgedown Marley Road Harrietsham)
- **93/0814** - Erection of bungalow. Refused on 21.07.1993. (Land Between 'Ridgedown' & 'Glebe Croft' Marley Road, Harrietsham)
- **06/0471** - Use of land for the stationing of 2 no. chalet mobile homes; nursery; erection of stable block for agricultural use. Refused on 02.05.2006. The development was refused as it was assessed that the development would represent unjustified and unacceptable intrusion into the countryside at this sensitive location and the means of access was provided with inadequate visibility splay.

- **06/1508** - Retrospective application for the stationing of two mobile homes for occupation by two traveller families, erection of polytunnels, retention of stable building and access road/hardstanding, drainage works and entrance gates. Refused on 19.09.2006 as it was assessed that the development would represent unacceptable intrusion into the countryside at the sensitive location. As such it was contrary to Policy EN3 of the Kent & Medway Structure Plan 2006 which protects inter-alia, land free from urban intrusion and seeks to safeguard and enhance landscape character and assets. The development causes harm to the character and appearance of the site and the surrounding area in general. Additionally, the means of access consisted of inadequate visibility splays which would give rise to highway safety.
- **09/1510** - Retrospective planning permission for change of use of land for residence by a gypsy family including stationing of one mobile home, one touring caravan, use of former stable building as ancillary to mobile home and associated works including fencing and hardstanding (re-submission of MA/09/0851). Approved on 29.04.2010.(no restriction on the location of the caravan on the site)
- **12/1518** - Application for the removal of conditions 1 and 2 of permission MA/09/1510 (Retrospective planning permission for change of use of land for residence by a gypsy family including stationing of one mobile home, one touring caravan, use of former stable building as ancillary to mobile home and associated works including fencing and hardstanding) to allow a permanent permission as shown on plan date stamped 20 August 2012. Approved on 27.06.2013.
- **14/504218/FULL** - Additional mobile home and day room and demolition of former piggeries. Approved on 05.08.2015. (no restriction on the location of the caravan on the site)
- **17/504435/FULL** - Erection of a dayroom. Approved on 12.02.2018.
- **19/501777/FULL** - (Chestfields (part of The Mellows) Marley Road) Part retrospective application for the siting of 2no. additional mobile homes and erection of 1no. dayroom on the existing Gypsy & Traveller site. Refused on 10.06.2019. The application was refused as the proposal, by reason of the loss of vegetation and intensification of the site with additional mobile homes and a dayroom, would result in a significant detrimental impact on the Kent Downs Area of Outstanding Natural Beauty and the countryside generally, contrary to Policies SP17. DM15, DM30 of the Maidstone Local Plan 2017 and the NPPF.
- **19/502352/FULL** - Retention of a dayroom, retention of re-sited mobile home, and the demolition of utility block. Refused on 25.07.2019. The application was refused as the dayroom, by virtue of its scale and design would result in adverse harm to the character and appearance of the countryside which falls within the Kent Downs AONB, and it would not be ancillary accommodation to serve the occupants on the site.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The site is located outside of any settlement boundary in the countryside and within the Kent Downs Area of Outstanding Natural Beauty. The nearest settlement is Harrietsham, located some 200 metres (as the crow flies) to the south west of the site.
- 1.02 The site is approximately 0.8ha, situated immediately to the west of Marley Road and to the south of a public right of way (KH291), which borders the site along the northern boundary. The site is bounded by fences and trees across the boundary of the site. The site currently comprises a mixture of hardstanding, grass, and a utility

room and a caravan, which it is assumed are both used as the means of shelter and living.

- 1.03 The dwelling that this planning application relates to is centred in the middle of the site, it is a single storey dwelling with a substantial gable ended roof and a chimney. The dwelling is in the position of a previously approved mobile home. The utility room which currently exists on the site was approved under application 14/504218/FULL, in August 2015.
- 1.04 The site is not in a conservation area and there are no listed buildings affecting the site. The site located in flood zone 1.

2. PROPOSAL

- 2.01 This is a part retrospective planning application which seeks to retain the partially completed brick dwelling that has been constructed on this established Gypsy and Traveller site. Alterations are proposed to the roof to make it a double-valley roof and to remove the front gabled porch. The proposal also includes the provision of extensive landscaping to the front and rear of the building.
- 2.02 The new dwelling is intended to accommodate the applicant and the health and medical needs of her adult son who has a number of severe and debilitating medical conditions. The site also includes two static caravans (occupied by the applicant's daughters and their families). The applicant and her son are not able to travel and the purpose of the current proposal to cater for the needs of the applicant's son which cannot be met in a caravan.
- 2.03 In order to understand the proposal and reasons underlying the submission of a retrospective application, it is important to understand the history of the site. The site has an extensive planning and enforcement history.
- 2.04 This application is particularly associated with the approved applications ref. 14/504218/FULL (Additional mobile home and day room and demolition of former piggeries - approved on 05.08.2015) and application ref. 17/504435/FULL (Erection of a dayroom - approved on 12.02.2018).
- 2.05 Under planning permission 14/504218/FULL, the proposed site layout plan showed a utility room/stables timber situated along the northern boundary of The Mellows, close to the public track which crosses along the northern boundary of the site. A residential caravan and a touring caravan pitch were located just to the south of the utility room and a dilapidated piggery within the southern part of the site (known as Chestfields, but forming part of The Mellows site, and partially bounded by a low rise brick wall).
- 2.06 Under this planning application (14/504218/FULL) a dayroom was proposed on the north-eastern boundary of the site, close to the fencing on Marley Road, a residential caravan was proposed within the Chestfields portion of the site. This is shown on figure 1 provided below.
- 2.07 According to the block plan of application ref.17/504435/FULL, there was a day room already existing on the north/west area of the site, and a dayroom was proposed on the position where the proposed residential caravan of application ref. 14/504218/FULL was (please see figure 1) The caravan was relocated close to the location of the piggery. The plan shown in figure 2 below shows what was approved under ref. 17/504435/FULL, in February 2018.
- 2.08 The elevation plans (of approved application ref. 17/504435/FULL) of the proposed dayroom showed a single storey pitched building of dimensions 7.38m X 16.92m (which provides a floorspace of around 125sqm), with sliding doors and one window

on both rear and front elevations. The approved elevation drawing is shown in figure 5 below.

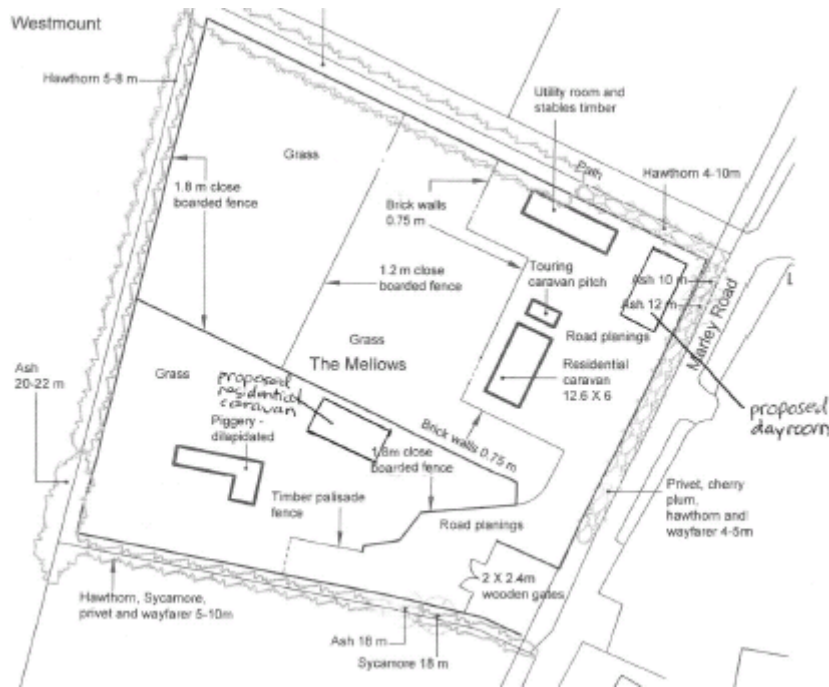


Figure 1: Proposed Site Layout Plan of ref. 14/504218/FULL Additional mobile home and day room and demolition of former piggeries. (approved)

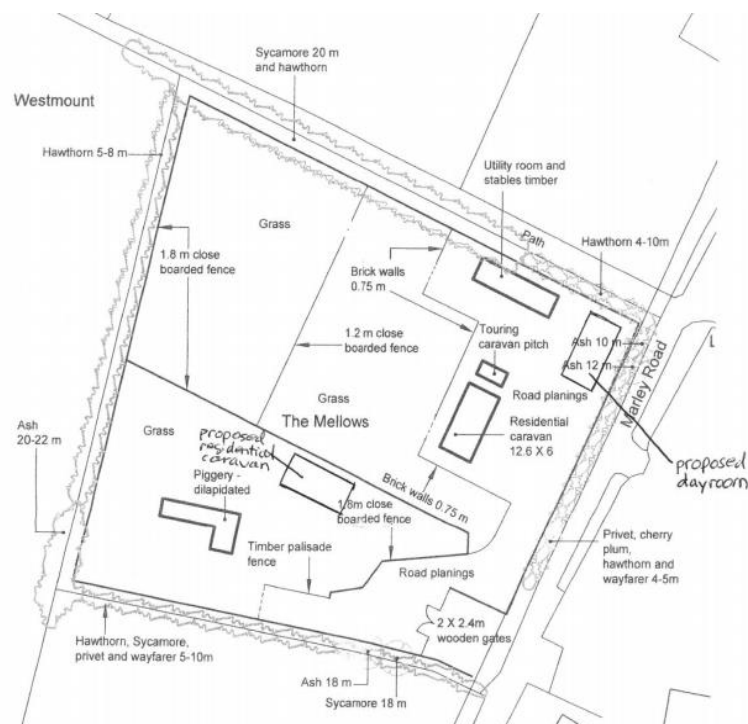


Figure 2: Block Plan of ref. 17/504435/FULL Erection of a day room (approved – total of two statics, two dayrooms, utility room/stables and a touring caravan)

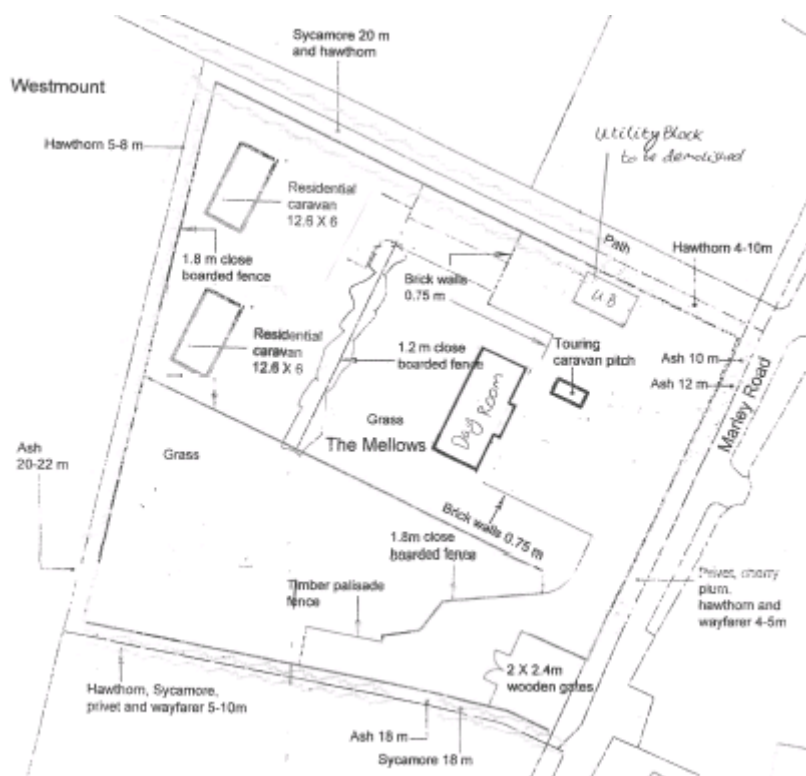


Figure 3: Block Plan of application 19/502352/FULL Retention of a dayroom, retention of re-sited mobile home, and the demolition of utility block. (Refused)

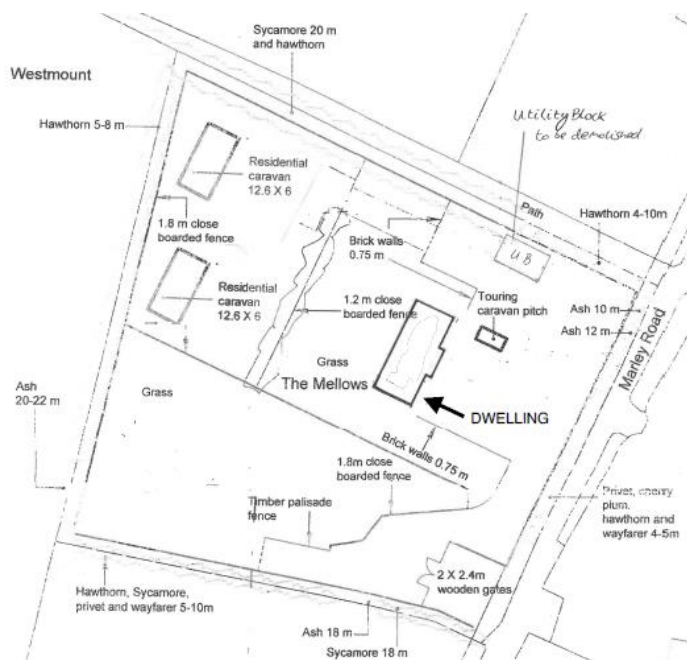


Figure 4: Block Plan submitted with the current application. (Retention of dwelling with alterations (Part Retrospective)

- 2.09 Application 19/501777/FULL was for the siting of 2no. additional mobile homes and erection of 1no. dayroom on an existing Gypsy & Traveller site was refused due the loss of vegetation and intensification of the use on the site with 2 additional mobile homes and a dayroom and the detrimental harm impact on the Kent Down AONB and the countryside generally.
- 2.10 A retrospective application was submitted (ref. 19/502352/FULL) seeking permission for the retention of the dayroom, retention of re-sited mobile home, and the demolition of the utility block.

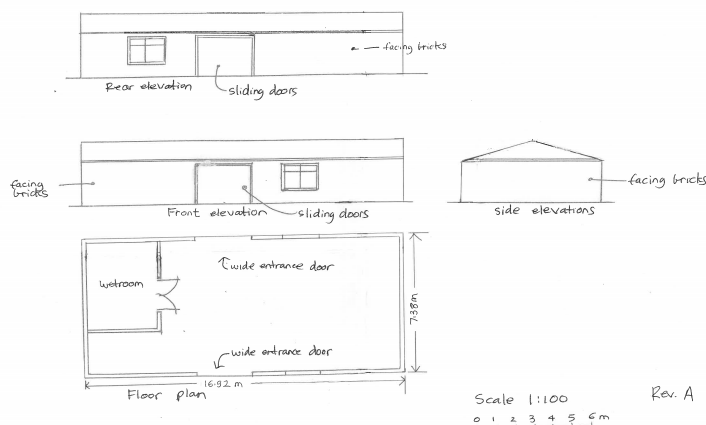


Figure 5: Proposed Plans and Elevations of application ref. 17/504435/FULL

- 2.11 The dayroom which was permitted under application ref. 17/504435/FULL, was sited on the Chestfields site, on the southern side of the low rise brick boundary. However, the dayroom was relocated within the central area of the site and was constructed at a considerably larger scale and form. The delegated report stated: *"The submitted plans for the dayroom and the agent's covering letter, do not reflect what is on the site and despite requesting accurate plans from the agent, these have not been submitted in time. In summary, the details contradict each other and do not correctly show the roof design, height, fenestration details as built; and the footprint of the building on site is noticeably larger."*
- 2.12 In June 2019, a part retrospective application which considered only the Chestfields site and part of The Mellows (ref.19/501777/FULL) for the siting of 2no. additional mobile homes and erection of 1no. dayroom on existing Gypsy & Traveller site. was refused. The application was refused as the proposal, by reason of the loss of vegetation and intensification of the site with additional mobile homes and a dayroom, would result in a significant detrimental impact on the Kent Downs Area of Outstanding Natural Beauty and the countryside generally, contrary to Policies SP17, DM15, DM30 of the Maidstone Local Plan 2017 and the NPPF.
- 2.13 The application under 19/502352/FULL for the retention of a dayroom, retention of re-sited mobile home, and the demolition of utility block was refused on the 25.07.2019. The application was refused as the dayroom, by virtue of its scale and design would result in adverse harm to the character and appearance of the countryside which falls within the Kent Downs AONB, and it would not be ancillary accommodation to serve the occupants on the site.
- 2.14 The current proposal seeks the retention of the building (that was originally applied for as a dayroom) for use as a dwelling which has been constructed departing from

the approved dayroom which had a smaller footprint. The applicant has stated that the larger building is required to meet the health and medical needs of the applicant's adult son.

- 2.15 The application does not include changes to the footprint of the building but does include alterations to the constructed building namely:
- The removal of the front gabled porch
 - Modification of the roof to make it a double-valley roof to reduce roof volume
 - The planting of landscaping to both the front and rear of the building,

3. POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan 2017: Policy SS1, SP17, DM1, DM3, DM15 and DM30.
- Supplementary Planning Documents: Kent Downs Area of Outstanding Natural Beauty Management Plan 2014-2019 (Second Revision April 2014). Maidstone Landscape Character Assessment (2013), Landscape Capacity Study (2015).
- National Planning Policy Framework (NPPF): Chapters 2, 4, 12 and 15.
- National Planning Practice Guidance (NPPG)

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 No representations have been received from local residents.

Harrietsham Parish Council

- 4.02 Objection, wish the application to be refused and for the application to be reported to committee if officers are minded to refuse permission.
- 4.03 This property is situated within the AONB and the dayroom is clearly visible in the surrounding area. The day room is actually a 2 storey brick built chalet style house.
- 4.04 The conditions that have been attached to previous applications state that 'The occupation of the site shall be carried out by Ms Bridget Cash and her daughter Ms Eileen Purcell along with resident dependents and when the site ceases to be occupied by either Ms Cash or Ms Purcell, the use of the site as a Gypsy site shall cease and all the caravan, mobile homes and associated buildings removed and any hard surfaced areas broken up and the resulting materials, together with walls, fencing and equipment in association with the use brought onto the land shall be removed and the land restored to its former condition (Ref: 14/504218).'
- 4.05 Having a bricked built large property, with the necessary foundations, will be much more difficult to demolition and reinstate.
- 4.06 The Parish Council would request that a site visit takes place before the Planning Officer makes a decision on this application as the plans do not show the extent to how many buildings/out buildings are already included on this site. As the Parish Council wish for the application to be refused, we would ask that the applicant be asked to remove this and any other erected building from the site, with the site being returned to its original condition.

(Officer comment: further discussions have taken place on the revisions that have been made to the proposal and the timing of the works to the building and the removal of the utility building. The Parish Council have stated that they will remove the committee call in if the timescale for the works to be completed was reduced to 12 months from a decision).

5. CONSULTATIONS

5.1 None undertaken

6. APPRAISAL

Main Issues

6.01 The key issues for consideration involve assessment of the harm caused by the existing building (and any mitigation by the proposed building alterations) and whether the applicant's personal circumstances outweigh this harm. The report is set out as follows:

- Sustainability of the location,
- Impact on the Kent Downs AONB and on the Countryside
- Applicant's personal circumstances
- Residential amenity

Sustainability of the location

6.02 Local Plan policy SS1 states "An expanded Maidstone urban area will be the principal focus for development in the borough". The five designated rural service centres including Harrietsham will be the secondary focus for housing development with the emphasis on maintaining and enhancing their role and the provision of services to meet the needs of the local community.

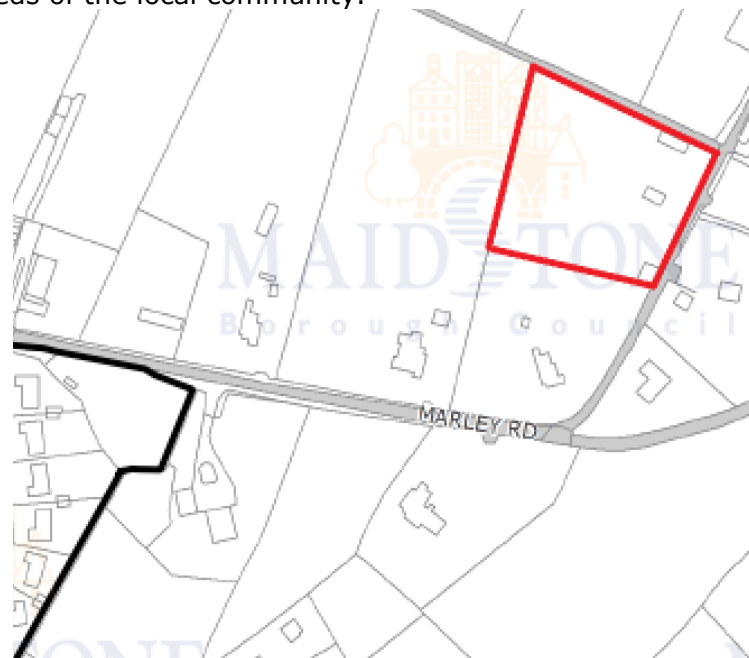


Figure 6 Relationship of the application site (red outline) to the Harrietsham Rural Service Centre (bold black line)

6.03 At paragraph 4.19 the Local Plan advises that rural service centres have constraints to development. All the rural service centres sit within landscape which is in good condition and has high landscape sensitivity. The location of Lenham and Harrietsham within the setting of the Kent Downs Area of Outstanding Natural Beauty makes this an area sensitive to change.

6.04 Whilst the boundary of the Harrietsham Rural Service Centre is relatively close to the application site (310 metre distance along Marley Road – 200 metres as the crow flies) all of the route is narrow, unlit with no pedestrian pavement or grass verge. The nearest bus stops are on Ashford Road that would require walking along the same roads for 12-14 minutes.

- 6.05 The application site, for the reasons that are outlined above, is not considered to be in a sustainable location and occupiers of the dwelling would be reliant on the private motor vehicle for their daily needs contrary to policy SS1 of the Local Plan and NPPF guidance.

Impact on the Kent Downs AONB and on the countryside

- 6.06 Under section 85(1) of the Countryside and Rights of Way Act 2000 there is a duty in decision making to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. Paragraph 172 of the NPPF and Local Plan policy SP17 both advise that 'great weight' should be given to the conservation and enhancement of the Kent Downs Area of Outstanding Natural Beauty.
- 6.07 The Kent Downs Area of Natural Beauty Management Plan states "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. 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."
- 6.08 Policy SP17 also states that development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area. Policy DM1 advises that development must respect the topography and respond to the location of the site. Particular attention should be paid in rural and semi-rural areas where the retention and addition of native vegetation appropriate to local landscape character around the site boundaries should be used as positive tool to help assimilate development in a manner which reflects and respects the local and natural character of the area.



Figure 7 View looking north along Marley Road with the application site on the left hand side.

- 6.09 Policy DM30 of the Local Plan seeks to achieve high quality design in all development in the countryside. It emphasises the need for mass and scale to maintain and where relevant enhance local distinctiveness including landscape

features. The policy requires that the impact of development on the appearance and character of the landscape is appropriately mitigated. Extensions or alterations should be of a scale which relates sympathetically to the existing building and the rural area. respect local building styles and materials; have no significant adverse impact on the form, appearance or setting of the building, and would respect the architectural and historic integrity of any adjoining building or group of buildings of which it forms part.

- 6.10 The application site is located with the Kent Downs AONB. In addition to the Local Plan policies outlined above, the site is within the Gault Clay Vale Landscape Area (16) within the Council's Maidstone Landscape Character Assessment (amended 2013); and the Harrietsham to Lenham Vale Landscape Area (16) within the borough's Landscape Capacity Study (2015).
- 6.11 The Landscape Character Assessment advises that in the Harrietsham to Lenham Vale Landscape Area proposals should amongst other things "Conserve the mosaic field pattern and hedgerow boundaries and restore further traditional boundaries where practicable".
- 6.12 Whilst the site is more visible from the adjacent public right of way, it is agreed that the site benefits from some existing landscape screening along the road (submitted planning statement page 29). Contrary to the submitted planning statement the key issue is not whether the site and development is visible. NPPF advice regarding AONBs is clear that it is the *intrinsic* character, landscape and scenic beauty that should be protected. This assessment of harm to intrinsic character is largely independent of what roadside or other public views are available and relate to protection of the nature of the land in itself.
- 6.13 The subject building is large, measuring 18.1 metres by 11 metres (footprint of 199 square metres), with the existing building measuring 6.5 metres to the roof ridge and 2.2 metres to the roof eaves. As noted above that whilst the building is visible in public views with greater visibility when trees are not in leaf, the visibility of the development is not the main consideration. It is considered that the building causes harm to the intrinsic character and appearance of the Kent Downs Area of Outstanding Natural Beauty.
- 6.14 It is concluded that the existing building due to scale and design, results in adverse harm to the character and appearance of the countryside hereabouts that falls within the Kent Downs Area of Outstanding Natural Beauty, contrary to policies SP17, DM1, and DM30 of Maidstone Local Plan. (2017) and the National Planning Policy Framework (2019).

Proposed building alterations, personal circumstances and gypsy status.

- 6.15 The planning definition of 'Gypsies and Travellers' has been amended to exclude those who have ceased to travel permanently. The revised definition (Annex 1 of the PPTS) is as follows: "*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such*".
- 6.16 Whilst the permanent brick subject building is on an established Gypsy and Traveller site, the current application does not involve Gypsy and Traveller accommodation with the applicant (due to carer responsibilities) and her son (health and medical needs) not travelling permanently and as a result of not meeting the planning definition of 'Gypsies and Travellers'. In this context policy DM15 does not apply to the assessment of the current planning application.

- 6.17 Notwithstanding, the fact that this is not Gypsy and Traveller accommodation there is a need for the accommodation to be on this site due to the wider family support network with the applicants two daughters and their families living on the site. These two static caravans occupied by the two daughters were approved under applications 09/1510 and 14/504218/full. With no planning conditions attached to these permissions restricting the siting of the caravans on the site, the relocation of these two caravans on the site (see change between fig 2 and 3) would not require permission.
- 6.18 Town and Country Planning Act 1990 Section 70(2) provides that when determining planning applications, the LPA shall have regard to: the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 6.19 As concluded above, it is found that the existing building is contrary to Local Plan policies and the NPPF in relation to the unsustainable location of the site and the harm to the *intrinsic* character of the protected landscape of the Kent Downs Area of Outstanding Natural Beauty. It then needs to be considered whether there are other material planning considerations that would justify a decision other than the refusal of planning permission.



Figure 8: The front elevation of the existing building

- 6.20 Whilst an applicant's personal circumstances are rarely a material planning consideration, an exception to this rule is in circumstances where they are clearly relevant, and this includes the provision of facilities for someone with a physical disability. The personal circumstances of the applicant's son are material considerations in relation to this planning application (as set out in the Part 2 exempt report) and weigh in favour of granting planning permission.
- 6.21 The provision of specialist accommodation is also supported by the Local Plan and the NPPF. Local Plan policy SP19 seeks the delivery of sustainable mixed communities across new housing developments and within existing housing areas throughout the borough. The council will work with partners to support the provision of specialist and supported housing for disabled and vulnerable people. Paragraph 61 of the NPPF states that "...the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families,

travellers, people who rent their homes and people wishing to commission or build their own homes).

- 6.22 The submitted Planning Statement advises that "Externally, the building currently includes a gable element which results in a bulky roof arrangement. However, as per the proposed plans, the intention is to remove this gable and create a simple pitched roof to reduce overall bulk and mass of the building."
- 6.23 Following discussions with the applicant and whilst the applicant was not prepared to reduce the footprint of the building, further alterations have been secured to the existing building. This alteration will remove the existing expansive barn hip roof and replace it with a double valley roof as shown below, the footprint of the building and the ridge height will not change. The applicant has also confirmed that the proposal involves "...extensive landscaping to both the front and rear of the building..." and a planning condition is recommended seeking the landscaping and the building changes and the removal of a utility block (see fig 4) .

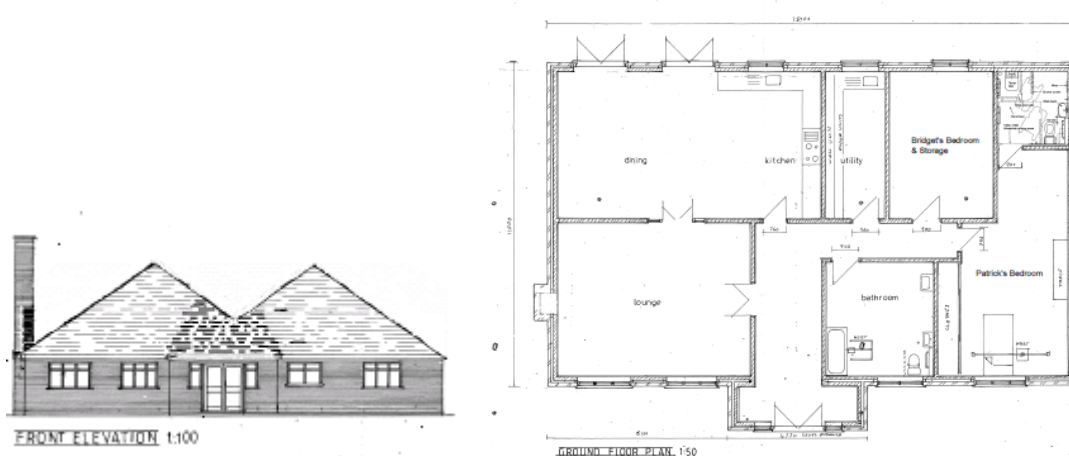


Figure 9 The front elevation of the building with proposed works completed.

Residential Amenity

- 6.24 The constructed dwelling is larger than the approved dayroom, in terms of all matters from footprint, scale, massing to form. It is stated in the Planning Statement that the development would result in two bedrooms, one for the applicant and one for her son with a fitted hoist, there will be a bathroom, lounge, kitchen/diner and utility to support the family. The proposed floor plan shows a large combined kitchen/dining room, a large lounge, a bedroom (with storage) for the applicant, bathroom, utility room and a bedroom for her son with a wet room.
- 6.25 It is stated that on page 34 of the submitted Planning Statement that the use of the site remains unchanged, and will be occupied only by the applicant and her son, and the proposals will include the demolition of the utility room as this will no longer be required. It is clear that the dwelling will be used by the applicant and her son, and this will be secured through a planning condition.
- 6.26 The dwelling is located a significant distance from neighbouring residential properties, and as such, would not result in harm to the visual or residential amenities of neighbouring occupiers.

Other Matters

- 6.27 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.
- 6.28 Recommended condition 3 below provides a timescale for the proposed works to take place. These works include the removal of the existing front gable, alterations to form a double pitch roof and the demolition of the utility building on the site. The condition requires the works to the existing building to take place within 18 months of an approval decision. The 12 month period requested by the Parish Council is considered to short for the nature of the works proposed. The applicant has said that the kitchen in the utility building will continue to be used post occupation of the new dwelling until the funds are available for a new kitchen. In response to this condition 3 requires the demolition of the utility building 6 months after first occupation of the new dwelling.

PUBLIC SECTOR EQUALITY DUTY

- 6.29 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.
- 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.

7. CONCLUSION

- 7.01 The dwelling is located in an unsustainable location and even with the proposed revisions would result in harm to the character and appearance of the AONB contrary to the adopted Local Plan and the NPPF.
- 7.02 In contrast the personal circumstances of the applicant are material to the assessment. The dwelling provides for the significant medical and health needs of the applicant's son and the provision of adaptable accommodation is supported by the Local Plan and the NPPF. In contrast the personal circumstances of the applicant are material to the assessment. The dwelling provides for the significant medical and health needs of the applicant's son and the provision of adaptable accommodation is supported by the Local Plan and the NPPF. The application includes alterations to the constructed building to reduce the bulk and massing of the roof.
- 7.03 When the identified harm is weighed against the benefits of the scheme to the applicant; the balance of considerations lies in favour of granting planning permission.

8. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following planning conditions:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) No development shall take place other than in accordance with the following approved plans:
- Drawing title: Ordnance Survey (Site location plan)
 - Drawing title: Proposed Floor Plan, Elevations and Section – ref. 62-19 1-1 Rev. D (dated May 2020)
 - Drawing title: Site Layout – Rev. A
- Reason: In the interests of proper planning and to ensure the quality of the development is maintained.
- 3) The use hereby permitted shall cease and the building demolished with all structures, equipment and materials brought onto the land for the purposes of such use and the construction of the building shall be removed and the land restored to its condition before the development took place within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
- (i) within 3 months of the date of this decision a Site Delivery Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include a timetable for implementation including completion of the development not longer than a period of 18 months from the approval date and shall include full details and a timetable for the implementation of:
- the internal layout of the site;
 - the removal of the existing utility building not later than 6 months after first occupation of the altered building and the submission of the audit trail evidencing the removal and disposal of the resulting spoil, rubble and building materials by licensed waste carrier;
 - the extent of retained hardstanding and parking;
 - the means of foul and surface water drainage of the site;
 - proposed and existing external lighting on the boundary of, and within the site;
 - a soft landscaping scheme, including new tree and hedgerow planting including details of species, plant sizes and proposed numbers and densities;
 - measures to enhance biodiversity at the site;
- (ii) within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
- (iv) the approved Scheme shall have been carried out and completed in accordance with the approved timetable and thereafter maintained and retained as approved.
- Reason: To ensure the visual amenity, character and appearance of the countryside location which forms part of the designated Kent North Downs AONB.
- 4) The soft landscaping scheme submitted in compliance with condition 3(i) shall be designed in accordance with the principles of the Council's landscape character guidance. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed.
- Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development
- 5) The approved landscaping shall be carried out in the planting season with the approved landscaping in place by the end of the first planting season following first occupation. (October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation 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: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 6) The external lighting details submitted in compliance with condition 3(i) 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 and set out how the lighting meets the Bat Conservation Trust guidelines. 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 wildlife.

- 7) The building hereby approved shall only be occupied by the applicant and her son. When the building ceases to be occupied by either the applicant or her son, the use shall cease, the building shall be demolished and the building and all associated hard surfaced areas broken up and the resulting materials, together with associated building materials, fencing and equipment in association with the use brought onto the land shall be removed and the land restored to its former condition.

Reason: The site is in an area where a new dwelling is not normally permitted and an exception has been made to reflect the personal need of the applicant and her son; and to safeguard the character and appearance of the countryside and the Kent Downs AONB.

- 8) Notwithstanding the provisions 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 development within Schedule 2, Part 1, Classes A, B, C, D, E or F shall be carried out without the permission of the local planning authority.

Reason: To safeguard the character and appearance of the development and the enjoyment of their properties by existing and prospective occupiers.

- (9) The means of foul and surface water drainage details submitted in compliance with condition 3(i) shall include details of the method of sealing the septic tank, size of individual cess pits and/or septic tanks and/or other treatment systems, the precise location of plant on the site plus any other relevant information such as where each system will discharge to. The scheme of foul drainage shall be fully implemented in accordance with the details approved within 2 months of the date of approval in writing and shall be maintained in a functioning condition thereafter;

Reason: In the interest of local amenity and to prevent pollution of the environment.

INFORMATIVES

- 1) 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

Case Officer Nasrin Sayyed

REPORT SUMMARY

REFERENCE NO - 20/501035/HEDGE			
APPLICATION PROPOSAL Hedgerow removal notice -To establish access and working area for southern water sewer connection for a development.			
ADDRESS Land South Of Marden Rd - Staplehurst Marden Road Staplehurst Kent TN12 0PE			
RECOMMENDATION Raise no objection			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL In the absence of compelling evidence to the contrary, the hedgerow to which this notification relates is not considered "important" and the Local Planning Authority must raise no objection to the proposal.			
REASON FOR REFERRAL TO COMMITTEE The application has been called in by Councillor John Perry on the following grounds: "This application may seem innocuous but I consider there are other concerns leading off from this application, particularly concerning drainage and I wish this application to be considered by the Planning Committee before a final decision is made. So therefore I request that this application is called in for consideration by the Planning Committee."			
WARD Staplehurst	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Southern Water AGENT Clancy Docwra	
DECISION DUE DATE 03/07/20	PUBLICITY EXPIRY DATE 30/03/20	OFFICER SITE VISIT DATE 25/03/2020	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
	None relevant		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The hedge is adjacent to the northern boundary of a large field fronting Marden Road. The length of the frontage is approximately 160m.
- 1.02 The proposal site is two sections of this hedgerow, one section of approximately 24m length at the western end (parallel to the road) and one of approximately 30m length at the eastern end (perpendicular to the road) as shown outlined in red on the submitted hedgerow removal plan.
- 1.03 The hedge does not appear to have been subject to recent management as a stockproof hedge and as such now resembles a line of small trees of up to approximately 10m in height. Tree species noted as present in the entire length of the hedge during the case officer site visit include Ash, Hawthorn, Blackthorn, Willow, Goat Willow, and Cherry.

2.0 PROPOSAL

- 2.01 The proposal is to remove the two sections of hedgerow to enable temporary access to the site, situated to the south side of Marden Road, for the installation and connection of a box culvert storage tank by Southern Water. The hedgerow will be reinstated following the works as set out in the report below.
- 2.02 The proposal indicates that the box culvert storage tank will be connected to an existing storm water sewer from the Hen and Duckhurst development on the north side of Marden Road, and the existing sewer to the south side of Marden Road.
- 2.03 Note that the proposal for consideration is the hedgerow removal only. The associated drainage works which the hedgerow removal will enable do not require planning permission or notification.

3.0 SUMMARY INFORMATION

- 3.01 The proposal in front of the Council is a 'Hedgerow Removal Notice' under the Hedgerow Regulations 1997 ('the regulations'). It is considered that the hedge is subject to the regulations, being a hedgerow growing in, or adjacent to, any common land, protected land, or land used for agriculture, forestry or the breeding or keeping of horses, ponies or donkeys, and having a continuous length of, or exceeding, 20 metres.
- 3.02 For the purposes of section 97 (hedgerows) of the Environment Act 1995 and the regulations, a hedgerow is "important" if it, or the hedgerow of which it is a stretch,—
(a) has existed for 30 years or more; **and**
(b) satisfies at least one of the criteria listed in Part II of Schedule 1.
- 3.03 The Local Planning Authority may either raise no objection to the Hedgerow Removal Notice, or give notice that the work must not be carried out by issuing a 'Hedgerow Retention Notice'. A Hedgerow Retention Notice must be issued within six weeks of receiving a hedgerow Removal Notice, or within such longer period as may be agreed between the person who gave the notice and the authority. In this case, the applicant has agreed to an extension of time to allow for the proposal to be considered by the Planning Committee.
- 3.04 A Hedgerow Retention Notice may not be issued for a hedgerow that is not "important".
- 3.05 The Local Planning Authority should issue a Hedgerow Retention Notice for a hedgerow that is considered important "unless satisfied, having regard in particular to the reasons given for its proposed removal in the hedgerow removal notice, that there are circumstances which justify the hedgerow's removal."
- 3.06 The regulations allow certain Permitted Work to a hedgerow to which the regulations apply if it is required in certain circumstances. In this case, it was suggested to the applicant that, in their capacity as a Statutory Undertaker, that one of the Permitted Work categories may apply.

The applicant did not think that any of the categories fully applied in this case and therefore proceeded with the submission of a Hedgerow Removal Notice.

4.0 PLANNING CONSTRAINTS

None relevant

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) 2019
The Hedgerow Regulations 1997

6.0 LOCAL REPRESENTATIONS

6.01 Four objections to the proposal were received from local residents raising the following issues:

- The hedgerow is more than 30 years old
- The development will create noise and disturbance in addition to that suffered from the Dickens Gate development.
- Incorrect plans submitted that do not show the new roundabout or Dickens Gate development.
- Lack of clarity about which development the proposals are intended to serve (outline proposals for Hen and Duckhurst development showed the sewage for the site going north, not to the southwest, as the Marden Road system was already over-subscribed))
- Concern that sewerage will be discharged into the old pipes which take the connections from the Marden Road bungalows that already have spillages in bathrooms and from drain covers?
- Concern that the proposal is to serve a development that does not yet have planning permission.
- The land entry route access in purple is not shown on the submitted Land Entry plan.
- The application does not detail landscaping after the work has been done.
- Harm to the bio-diversity of the area and the rural aspect of the existing residences
- The site plans seem to show the take-over of the end of the track which leads to private residences.
- Lack of details and clarity of purpose
- If this work is essential, why cannot it be accomplished a few metres further south, thus avoiding the necessity of removing any of the hedge?
- The local community that are most affected by this application not been notified by MBC
- The proposals have not been notified in connection with the Hen and Duckhurst planning applications 14/502010 and 17/506306
- The application should state that it is connected to Hen and Duckhurst rather than say it is for a development.
- There has been no application to carry out the work that is suggested within the application?
- Dismal failure of the applicants and MBC for any suggestion of a feasible answer to the Condition 18 of 14/5021010, and 17/506306.
- Lack of details about whether the box storage tank would be above ground or below,
- The storage tank being placed on ground that is not connected to the development in question.
- Storm water is being pumped uphill when the natural fall would be to the north.
- Storm water being taken south westerly into a sewage system that is already overloaded.
- Why does storm water need to be into a sewage system when with natural fall and ditches available if they were maintained could carry such water.

- Is the proposal to have a huge 140-metre-long tank of sewage being stored along the Marden Road?
- Marden Road has suffered failures in the sewage system for a long time and this is yet another ridiculous suggestion to overcome a situation that the planning dept have got into. Instead of forcing the developers to create a new network to the sewage works, they are allowing further problems for the original residents who have suffered for over 10 years.
- Rather worrying that a vague note 'for a development' is sufficient to warrant removal of two of our hedgerows.
- An ecological survey has not been completed
- Residents have not been advised of the proposed removal of these hedgerows
- This was not included in the Marden Road development plan

7.0 CONSULTATIONS

7.01 KCC Biodiversity Officer

No ecological information has been submitted with this application. The hedgerow removal application only requires us to consider if a hedgerow can be considered as 'important'; our comments are detailed below.

Important Hedgerow

To qualify as 'important', a hedgerow must be at least 30 years old and meet at least one of the following eight criteria listed in Part II of Schedule 1 of the Hedgerow Regulations 1997. These identify hedgerows of particular archaeological, historical, wildlife and landscape value and include:

1. The hedgerow marks the boundary of a historic parish or township existing before 1850.
2. The hedgerow incorporates an archaeological feature.
3. The hedgerow is a part of or associated with an archaeological site.
4. The hedgerow marks the boundary of or is associated with a pre-1600 AD estate or manor.
5. The hedgerow forms an integral part of or is associated with a field system pre-dating the Enclosures Act.
6. The hedgerow contains a listed species. These have to be listed the Wildlife and Countryside Act 1981 either in Part I of Schedule 1 (birds protected by special penalties), or Schedule 5 (other animals) or Schedule 8 (plants). In addition, species listed in certain red data books qualify. Unfortunately, the list of birds was published in 1990, and does not include species such as song thrush and linnets, whose numbers have declined more recently.
- 7. The hedgerow includes, on average, in a 30 metre length one of: a) at least 7 woody shrub and tree species listed in the regulations. b) at least 6 woody species and has at least 3 associated features. c) at least 6 woody species including a black-poplar tree, large-leaved lime, small-leaved lime or wild service tree.**
8. The hedgerow runs alongside a bridleway, footpath, road used as a public path or a byway open to all traffic, and includes at least four woody species, on average, in a 30 metre length and has at least two associated features.

The hedgerow was clearly established in 1990 and would appear to present 1960 (according to the aerial imagery) making it over 30 years old. As the hedgerow also meets other criteria, such as containing at least 7 woody shrubs (extrapolated from

the imagery available to us), it can be considered 'important' under the Hedgerow Regulations Act 1997.

Other comments:

Although no ecological information was submitted, it is our opinion that there is capacity for protected species, such as reptiles, dormice and breeding birds to be utilising the hedgerow habitat (having good connectivity with areas to the south). Although a hedgerow removal application does not entail our advice regarding any potential mitigation/compensation measures, we strongly recommend that protected species/loss of biodiversity is considered regarding any removal of hedgerow at this site.

7.02 Staplehurst Parish Council:

"Councillors expressed concern about the lack of clarity in the submitted plans: 'the new development' mentioned in the application should be specifically identified: the plans were not accurate or up to date and should show the new roundabout on Marden Road; the proposed culvert suggested management of surface water, yet the application discussed storage of sewerage; no mention was made of post-works reinstatement of the landscape. They sought satisfactory answers to these points before determination of the application."

8.0 BACKGROUND PAPERS AND PLANS

Include existing plans

9.0 APPRAISAL

Criteria for "Importance"

9.01 The hedgerow is considered to be more than 30 years old, on the basis of the Google Earth aerial photo record, in which an established hedge has been present in this location since at least December 1990, being visible again in aerial photos dated 2003, 2006, 2007, 2008, 2011, 2013, 2014, 2015 and 2018. The aerial photo dated 1960 also shows a hedgerow present, but there are no records between this and the December 1990 photograph. It is therefore considered that the hedgerow meets the first criteria for potential "importance".

9.02 The criteria for determining whether a hedgerow is important are set out in detail in Part II of Schedule 1 of the regulations. These are summarised in the Biodiversity Officer's comments. In this case, no evidence has been found to indicate that the criteria numbered 1-6 and 8 apply to this hedgerow. The Biodiversity Officer suggests in his comments that criteria 7 applies, as the hedgerow contains more than 7 woody species. However, the case officer sought further clarification to confirm that the hedgerow was considered "important" on the basis of criteria 7 only and to ask if that conclusion had been reached as the result of a site visit. It was confirmed that the Biodiversity Officer's comments were not made following a site visit and the following further commentary was received:

"I don't believe it does meet any other criteria if it doesn't have 7 woody shrubs/trees and, therefore, wouldn't be 'important'. However, from the imagery available to me (which is not high quality), I can see hawthorn/blackthorn, bramble and 1-2 tree species. Therefore, I assumed that if I could make out 3-4 species, there is probably is at least 7 woody shrubs/trees present."

The case officer confirmed the presence of Ash, Hawthorn, Blackthorn, Willow, Goat Willow, and Cherry during the site visit. The Biodiversity Officer notes Bramble as a woody species, but this is not one of the woody species listed in Schedule 3 of the regulations and cannot therefore be counted. No additional species were specifically noted by the Biodiversity to confirm that more than 6 species from Schedule 3 are present.

It is therefore considered that on the basis of the available evidence that the hedgerow does not meet the criteria for importance. The regulations clearly state that a Hedgerow Retention Notice may not be issued for a hedgerow that is not “important”.

Response to objections

- 9.03 The objections largely relate to the issues surrounding the proposed Southern Water scheme. In considering this Hedgerow Removal Notice, the exact nature of the scheme only becomes relevant if the Council considers that the hedgerow is “important” and that it needs to be determined whether, “having regard in particular to the reasons given for its proposed removal in the hedgerow removal notice, that there are circumstances which justify the hedgerow’s removal.”.

To this end, the case officer sought further details on the Southern Water scheme from the applicant and received the following response, which is reproduced below for Member’s information:

The Hen and Duckhurst scheme relates to the proposed development on Hen and Duckhurst Farm, Staplehurst, Kent, connecting to the existing local foul network. The proposed development lies in the Staplehurst (STAP) catchment.

The developer, Fortridge Consulting Ltd., is proposing to construct mixed use development of up to 250 new homes and associated public open spaces. Flows will be discharging into the existing foul network. The same development is also referred to as the Marden Road development in the Staplehurst Drainage Area Plan (DAP). This development is one of three main proposed development areas in the Staplehurst WwTW catchment.

The scope of work is a large below ground storage tank of dimensions 1500mmW x 1200mmH x 141mL providing 254m³ of storage with a flap valve at the downstream end, connecting to Marden Road WPS.

This solution has been modelled and designed to cause no detriment downstream. The planning start date is end of May 2020 and end date March 2021.

The business need of the proposed works is to serve the new Hen & Duckhurst development. However, there will be betterments on the properties adjacent to the new development site due to the large capacity of the storage tank. This however, will not solve the entire flooding issue that local residents have at the moment. A separate growth scheme is being carried out by SW separately to solve the capacity in the current buildings.

Southern Water has a team of ecologists who will assess the development and ensure that all work is undertaken in accordance with the law and best practice to achieve no net loss in biodiversity. Also, it is Southern Water’s standard practice to reinstate all land to pre-commencement conditions, so would fully expect our

Contractors to replace the hedgerow upon completion. I am not aware of any technical reason why they wouldn't do this.

Please see below for Southern Water's proposed approach to the proposed hedgerow removal:

Carry out a Hedgerow Regulations Assessment of the hedgerow noting protected species or woody species under Schedule 3 of the Hedgerow Regulations 1997. The exact approach to hedgerow removal and reinstatement will be confirmed following the Hedgerow Regulations Assessment.

If the hedgerow is determined to be an 'important' hedgerow during the Hedgerow Regulations Assessment then the aim will be to reinstate an 'important' hedgerow either by replanting using woody species which are at least 30 years of age, or by reinstating current hedgerow sections to the same location following works, with suitable storage of these sections during works to allow continued survival and growth. If the hedgerow is not determined to be an 'important' hedgerow then the hedgerow will be replanted with any native woody species listed on the Hedgerow Regulations 1997 which are currently present in the hedgerow, and additional woody species may also be planted such as blackthorn, hawthorn, holly, field maple, as well as possibly dogwood and gorse to enhance the biodiversity of the hedgerow.

Vegetation removal works would be undertaken in accordance with any required ecological mitigation which will be outlined in the Preliminary Ecological Appraisal report.

Where reinstatement of existing hedgerow sections is not required, then any removed hedgerow sections will be chipped and logged to be used for reinstatement post works. The topsoil / detritus will be stripped back and retained on site for re-use. After carrying out the works the topsoil / detritus will be reinstated, using some of the chippings to bulk up the ground and creating log piles for invertebrate use.

Note the woody species proposed for replanting are native, provide berries thus supporting biodiversity. These also act as good intruder hedges maintaining security between / across the hedgerow – they can also grow well in shade / partial shade conditions and don't need particularly wet soils.

Replanting will be completed in accordance with a planting plan which includes the native, woody species which are to be planted as well as information on how these species will be planted (following BS8545) and maintained for growth.

Options for protecting the reinstated hedgerow will be reviewed such as the use of long term fencing such as post and rail (adjacent to the road) to act as a deterrent to foot traffic across the newly replanted area.

Clancy's will contract to their vegetation specialist a two year maintenance programme / or seek agreement with the council for a two year maintenance programme to facilitate successful re-establishment.

The Local Planning Authority cannot require further information, such as Ecological Surveys to be submitted in support of a Hedgerow Removal Notice. Neither do the regulations require the person submitting a Hedgerow Removal Notice to provide reasons for the proposed hedgerow removal, although it may be in their interests to do so if a hedgerow is likely to be "important" and the reasons are circumstances which justify the hedgerow's removal.

10.0 CONCLUSION

- 10.01 In the absence of compelling evidence to the contrary, the hedgerow to which this notification relates is not considered “important” and the Local Planning Authority must raise no objection to the proposal.

The details of the Southern Water Scheme itself are not able to be considered in the determination of a Hedgerow Removal Notice and only become relevant if the Local Planning Authority deem the hedgerow to be “important” but are considering not issuing a Hedgerow Retention Notice on the grounds of the necessity of the scheme being circumstances which justify the hedgerow’s removal.

11.0 RECOMMENDATION – Raise no objection:

CONDITIONS

None

INFORMATIVES

(1) The Council's decision does not override the need to obtain the landowner's consent for works on land which you do not own.

(2) Works to hedgerows could result in disturbance to wild animals, plants and important wildlife sites protected by law. Therefore, the works hereby permitted should be carried out in a manner and at such times to avoid disturbance. Further advice can be sought from Natural England and/or Kent Wildlife Trust.

Case Officer: Nick Gallavin

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



19/500765/OUT - Gibraltar Farm, Ham Lane, Gillingham, Kent

Scale: 1:5000

Printed on: 16/6/2020 at 9:35 AM by JoannaW

REFERENCE NO - (A) 19/500765/OUT (B) 19/501988/ADJ		
APPLICATION PROPOSAL (A) Outline Application (with all matters reserved except access) for the erection of up to 450 market and affordable dwellings, children's nursery and supporting retail space up to 85sqm, with provision of main access to Ham Lane; estate roads; cycle and pedestrian routes; residential and community open space and landscaping; new junction for Lidsing Road/Hempstead Road and realignment and widening of Lidsing Road. Off site related highway works to Westfield Sole Road, Shawstead Road, Hempstead Road, Chapel Lane, Hempstead Valley Drive, Hoath Way roundabout, Hoath Way and M2 Junction 4. (B) Adjoining Authority Consultation from Medway Council - Outline application with some matters reserved (appearance, landscaping, layout, scale) for construction of up to 450 market and affordable dwellings; nursery and supporting retail space up to 85sqm, with provision of access; estate roads; cycle and pedestrian routes; off site highway improvements; residential and community open space and landscaping		
ADDRESS Gibraltar Farm Ham Lane Hempstead Gillingham Kent ME7 3JJ		
RECOMMENDATION Application Permitted subject to s106 Agreement		
SUMMARY OF REASONS FOR RECOMMENDATION This is a cross boundary planning application of which a small area of 1.7ha (comprising 6% of the overall site area) is in MBC district. There is an extant planning permission granted by Medway Council for construction of up to 450 market and affordable dwellings. The key difference between that development approved and the current joint applications is the matter of 'Access'. It cannot be presumed that Medway Council will approve their duplicate cross boundary application MC/19/0336. However, should they do so, the impacts of the access onto the Maidstone BC highway network have been considered and judged by the Local Highway Authority to be acceptable. 7.03 Taking account of NPPF paragraph 109, KCC (H&T) do not object to the overall development proposal in terms of unacceptable impact on highway safety, nor the residual cumulative impacts on the road network being severe. However, the early timing of off-site highway capacity improvements is key to this stance. A s106 contribution of £100,000 should be secured for the villages of Boxley and Bredhurst to mitigate any residual impact and similarly, proposals for enhanced or diverted bus services must be secured by Medway Council for consistency with the earlier outline planning permission at Gibraltar Farm. There is proposed to be mitigation to visual impact and landscape harm in the form of advance planting of tree screening. Adequate information has been provided to demonstrate no direct harm to ecology interests in the Borough and there is scope for enhancement.		
REASON FOR REFERRAL TO COMMITTEE The Recommendation is contrary to the views of Bredhurst PC and Boxley PC and Ward Councillor Hinder.		
WARD Boxley	PARISH/TOWN COUNCIL Boxley	APPLICANT F D Attwood & Partners AGENT Hume Planning Consultancy Ltd
TARGET DECISION DATE 31/01/20		PUBLICITY EXPIRY DATE 12/07/19

Relevant Planning History

15/508776/ADJ

Adjoining Authority Consultation from Medway Council - Outline application with some matters reserved (appearance, landscaping, layout and scale) for the construction of up to 450 market and affordable dwellings with associated access, estate roads and residential open space (MC/14/2395).
Allowed on Appeal 06.03.17

18/501039/ADJ

Adjoining Authority Consultation from Medway Council - Outline application with some matters reserved (appearance, landscaping, layout, scale) for construction of up to 450 market and affordable dwellings with associated access, estate roads and residential open space (MC/18/0556)
Approved 29.09.18

MAIN REPORT

1. DESCRIPTION OF SITE (A & B)

- 1.01 The application site is agricultural land 27 ha in size but the vast majority lies in Medway. A small part (approx 1.5 ha) lies in the Borough of Maidstone.
- 1.02 The main part of the site lies immediately adjacent to Lordswood. The site is situated to the south of the Capstone Valley. To the east, separated by agricultural land, is further residential development in Hempstead/Wigmore. The site is therefore relatively close to areas with existing services, employment, transportation links and community facilities.
- 1.03 The application site within the MBC area is 800m as the crow flies from the AONB which lies south of the M2 Motorway.
- 1.04 Further east along Ham Lane and on its northern side, is the Elm Court Industrial Estate. The south eastern boundary of the proposed residential parcel follows the administrative boundary between Maidstone Borough Council (MBC) and Medway Council (MC) which is across open arable fields.
- 1.05 Some of the eastern end Ham Lane is within MBC and comprises a single track lane with mature hedgerows on its northern side and an arable field with a low field margin bund with tall ruderal species on its southern side.
- 1.06 Most of the existing line of Lidsing Road is not in Maidstone Borough until south of the junction with Hempstead Road. On its eastern side is a mown grass verge, then meadow grass and then a mature hedgerow. This is a "Roadside Nature Reserve". On its western side is an arable field with a low field margin bund with tall ruderal species.
- 1.07 Only the very end of Hempstead Road junction is within MBC area. On its north-western side is a tall mature hedgerow and on its south-eastern side is an arable field with a low field margin bund with tall ruderal species.
- 1.08 There are no existing street lights in the vicinity of the works in MBC and the speed limit of Lidsing Road is unrestricted (ie 60mph).
- 1.09 The topography of the area is that site slopes down from south-west to the north-east. The highest part of the Site is located at approximately 131m AOD in the south-west corner of the Site. Ham Lane is between 113m and 115m AOD. The lowest level is 104m AOD at Gibraltar Farm (the lowest point on the Site).
- 1.10 The levels on the boundary with MBC range from 131m OD at the west to 115m OD at Lidsing Road to the east, ie dropping 16m over a distance of 900m. This boundary has no demarcation, being across an arable field.

2. PROPOSAL (A & B)

- 2.01 **Application A** is an outline application to MBC because part of the site lies in our administrative district. **Application B** is the consultation from Medway Council on the same application for the major part which lies in its area. The developer needs planning permission from both Local Planning Authorities.
- 2.02 The scheme is effectively a revision of MC/18/0556 which was permitted by Medway with a legal agreement for affordable housing and contributions towards, inter alia, Education; Open Space; bus services, health and Community facilities.
- 2.03 The current application has been submitted in outline form with only means of access being for consideration at this time. The application proposes a development of up to 450 dwellings of 2-5 bed houses and 1-bed and 2-bed apartments with 25% intended as being affordable. It includes new strategic woodland planting intended to contain the development and create a consolidated edge to the new housing, along the site's northern (Ham Lane) and eastern (open field) boundaries.
- 2.04 The density would be approx. 35 dwellings per hectare, occupying 13.01 hectares (32.15 acres) – circa 50% of the application site's area. There is indicated to be a small shop and a children's nursery.
- 2.05 The illustrative masterplan shows that on the SE edge which aligns on the Borough boundary, there will be an advance planted screen of trees/woodland indicated to be 15m wide (mix of field maple, sycamore, hornbeam, hazel, hawthorn, beech, small leaved lime).
- 2.06 The proposed development's main impact on Maidstone Borough arises from the main vehicular access. In the 2 previous outline planning permissions, access was to the NE towards North Dane Way spur road in Medway with only an emergency access to Ham Lane. Hence none of the access works in the previous schemes directly impacted on land within the Borough of Maidstone.
- 2.07 It is understood that Medway Council, as landowner, was not agreeable to some of its land being purchased by the developer to provide access, preventing the implementation of those other planning permissions. The decision by MC has resulted in the applicant proposing this alternative, being the provision of a primary access point to the SE, via Ham Lane leading to Lidsing Road. This has resulted in the scheme now requiring engineering (highway) development in the Borough of Maidstone, specifically, to allow for the re-configuration/re-alignment of 2 junctions: Ham Lane/Capstone Road and Lidsing Road/Hempstead Road. Also there needs to be an extension of the existing 40mph speed restriction, to allow for the provision of suitable visibility splays from the new junctions.
- 2.08 The eastern most section of Ham Lane will be "stopped up" for a distance of 100m and a new access road from Ham Lane will run approx 50m parallel to Lidsing Road (also in MBC's area) before turning to a new T-junction. Within the MBC area, Lidsing Road will be realigned by up to 20m to create a straight alignment from the current curve in the road (the original line of Lidsing Road lies in Medway and would be "stopped up"). The new section of Lidsing Road will be wide enough to allow for waiting lanes plus a traffic refuge island with an uncontrolled and unlit crossing for pedestrians and cyclists.
- 2.09 The new junction to Lidsing Road will be approx. 45m NW from a new reconfigured junction with Hempstead Road. The reconfiguration of that junction involves a small southwards extension to Hempstead Road and the formal widening of the "give way" to 2 lanes for left and right egressing traffic.

- 2.10 There is also to be a separate cycleway/footway arising along the line of a Byway RC29 in Lordswood that will cross the new section of Lidsing Road midway between the new junction and the reconfigured junction to Hempstead Road. This will then run on the north side of the realigned Lidsing Road and terminate 25m along Hempstead Road. It will also cross Hempstead Road via the traffic island. It is understood that the continuation of the footway/cycleway towards the facilities of Hempstead would be provided by Medway Council as far as it is able to and the developer is to fund this by contributions.
- 2.11 On his land near Westfield Sole Road (which is in MBC district), the applicant will provide 3 laybys to improve vehicle passing. This route leads towards Walderslade and thereafter to M2 Junction 3 (which is in KCC's administrative area, being in Tonbridge and Malling Borough). This will require the removal of a limited amount of hedgerow. These works will need separate planning permission and safety audit.
- 2.12 In Medway, further road engineering works aimed at increasing highway capacity are proposed at Hempstead Valley Drive/Chapel Lane; Hoath Way/Sharsted Way Roundabout and at Junction 4 of the M2 (2 full lane widths turning northbound into Hoath way). Hempstead Road is indicated to be traffic calmed with 5 "Give Way" deflections for shuttling of traffic, intended to encourage traffic to use Chapel Lane and thence Hempstead Valley Drive.
- 2.13 An initial element of the proposal was to also to reprioritise the junction of Lidsing Road with Forge Lane which included the straightening a section of Lidsing Road. This has been deleted from the application since it was originally submitted.
- 2.14 The traffic analysis from the applicant's consultant states that the junction capacity improvements proposed along the route between the site and Junction 4 are to encourage use of that route, ie the assumption is that most traffic to and from the proposed development will use Hempstead Road via Hempstead rather than use Lidsing Road via Bredhurst and/or Boxley. That is, the off site highway works in Medway reduce congestion and therefore there is less incentive to travel via inappropriate routes (rat runs).
- 2.15 The submission includes a number of supporting reports, some of which have been updated during the course of the application and in response to consultee concerns. In particular relevant to MBC interests, there has been supplementary information on trees, transport and Ecology.
- 2.16 The Framework Travel Plan is based on information to residents to discourage private vehicle use, encouraging walking and cycling, car share database; introductory 4 weeks of free travel on Arriva within Medway; voucher for a local cycle retailer.
- 2.17 The applicant states that there will be negligible traffic impact beyond the intended traffic flows via Hempstead but has offered £100,000 to fund traffic calming measures or similar enhancements in the villages of Boxley and Bredhurst.

3. POLICY AND OTHER CONSIDERATIONS (A & B)

Maidstone Borough Local Plan 2017 SP17; ID1; DM3; DM6; DM8; DM21; DM30;
Kent Minerals and Waste Local Plan 2016 N/A
Supplementary Planning Documents Air Quality
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

- 3.01 Members are advised that there is currently a lack of a 5 year housing supply in Medway which means that para 11 (d) the NPPF applies: policies in that district that restrict the supply of housing (ie countryside restraint policies) should be viewed

together and an overall judgement made whether the policies as a whole are out of date.

4. LOCAL REPRESENTATIONS (A)

4.01 Medway Liberal Democrats have responded with the following summarised concerns:

- the impacts on rural roads in the Bredhurst and Boxley area is likely to be greater than those presented in the assessments made to date
- scarce provision for public transport so will increase car use to access secondary education, health care and employment
- congestion at junctions 3 and 4 of the M2
- reduced access to open spaces for exercise and other recreation
- noise and air quality impacts
- noise and air quality impacts to
- construction traffic

Local Residents:

4.02 156 objections received from local residents in both MBC and Medway raising the following (summarised) issues:

- Access should be off North Dane Way, do not want local roads altered
- Loss of woodland/countryside heritage/green lung of Capstone Valley- area of local landscape importance
- Affects setting of AONB
- objective is developer profit
- only 25% affordable (statutory minimum)
- over stretched schools/libraries/nurseries/Community facilities/Leisure/Police/GP Surgeries/dentists and local hospitals/youth facilities
- Nursery site inadequate
- Water and Wastewater services inadequate.
- air quality
- traffic gridlock and pollution
- remote so will require a higher percentage of people to travel by car
- traffic calming measures proposed are unworkable
- redevelopment of Hempstead Valley Shopping will put an increasing burden on the road system
- Surrounding road infrastructure is inadequate, narrow and with poor visibility and no lighting or footpath provision
- passing places in wrong location
- unclear impact on Public Rights Of Way
- rat runs via Bredhurst and Boxley which will be at a standstill, harming residential amenity rights to quiet enjoyment of their homes.

- The traffic analysis does not provide an accurate representation of the severe traffic issues around this area.
- local Bus and train services and station car parks are inadequate
- harm to wildlife
- harm to water catchment area; surface water problems - flash floods resulting in sinkholes
- Inadequate local employment
- Reduces property values
- noise, light pollution
- Housing targets are not realistic and cannot be met
- Wrong type of housing proposed
- diminish the community feel of both Hempstead and Lordswood.
- street lighting on the surrounding roads
- loss of prime agricultural land which cannot be replaced
- Brexit will mean more farm land is needed.
- Not enough gas supply locally
- Will increase risk of flooding in Capstone Valley
- schools are not within walking distance
- other more suitable brownfield sites in Medway/Maidstone
- less freely accessed open space
- statutory objection from Sport England over concerns with open space
- Coronavirus pandemic has proven that we need open space and countryside for horticultural needs and exercise and personal well-being and mental health
- Not enough GPs to deal with the extra population.

Issues of developer profit and reduced property value are not material planning considerations and therefore cannot be taken into account in the determination of this application. The other matters relevant to the part of the site in MBC's area raised by neighbours and other objectors are discussed in the detailed assessment below.

5. CONSULTATIONS (A)

- 5.01 (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)

Medway Council

- 5.02 No response to date.

Boxley PC

- 5.03 Concerned for the health and safety of other road users and the impact on the local highway infrastructure on Lidsing Road, Forge Lane, Westfield Sole Road, Yelsted Lane, Harp Farm Road and also the M2 junctions 3 and 4.
- 5.04 Will create a fast route via Boxley Village and Walderslade for access to junction 3 of the M2 which is already operating beyond design capacity.

- 5.05 The proposal to improve and realign Lidsing Road would attract additional vehicle movements along what will suddenly return back to poorly maintained narrow country lanes creating safety issues and congestion.
- 5.06 In a survey (November 2018) Boxley Village recorded an average 52,391 vehicular movements per week, the single road through the village is unclassified and any additional traffic would have a severe and direct impact on the residential properties that line the road as it is a linear village.
- 5.07 Additional comments:
- Reiterates previous objections
 - Applicant recognises that there are traffic issues on Westfield Sole Road; the whole road will need improving for it to be safe; will be congestion, crashes and potentially personal injuries. Safety Audit needed before a decision is made.
 - unknown route for HGVs

Bredhurst PC

- 5.08 Strongly object: the proposed traffic management scheme is not accurate and does not account for the amounts of traffic which will pass through Bredhurst village; which passes by a local primary school. Noise and pollution in the area and major impact on local stables and horses. The local roads are unable to support the potential usage of 450 more households. With Bredhurst being in an AONB, development to these country lanes should be limited in order to protect the nature rural village. The proposed straightening of Lidsing Road allows users to speed to a greater extent than is already present.

Highways England

- 5.09 Several sets of comments have been made by Highways England including holding objections made in regard of M2 Junction 4. Following extensive discussion with traffic consultants employed by the applicant, the final comments of HE are:
- In regard of potential impact on the safe and efficient operation of the M2 and A2, Highways England have now reached a point of agreement where we can consider the impacts on safety, reliability and/or operation to be acceptable subject to conditions on: Construction Management Plan; scheme of phasing; Travel Plan; minimum 15% affordable dwellings; Prior to the occupation of 200 dwellings on the site hereby permitted, the improvement works at M2 Junction 4 shall be completed and opened in full to traffic.

KCC (Highways and Transportation)

- 5.10 The TA is predominantly focused on how the new proposals differ from those previously granted planning consent in terms of access arrangement and highway network impact.
- 5.11 The eastern end of Ham Lane falls within Kent County Council (KCC) jurisdiction. The applicant has proposed to modify Ham Lane and realign the eastern part of the road, including the junction with Capstone Road, southwards along Lidsing Road. The 6m carriageway width and reduction in the speed limit to 30mph, which will require a Traffic Regulation Order, is consistent with the Kent Design Guide for a 'local distributor road' serving 300+ houses. A 100m section of the existing Ham Lane will be made redundant and is proposed to be stopped up.

- 5.12 The proposed new configuration of the Ham Lane/Lidsing Road and Lidsing Road/Hempstead Road junctions as a staggered crossroads includes modifications to Lidsing Road that fall within KCC jurisdiction.
- 5.13 The proposals incorporate the widening and realignment of Lidsing Road to accommodate the provision of new dedicated right turn lanes at both junctions. An extension of the 40mph speed limit is also proposed at the new staggered crossroads with 4.5m x 120m visibility splays in both directions. These represent an improvement when compared against the existing situation at the Ham Lane/Capstone Road junction. The reduced speed limit will be beneficial to the forward visibility of oncoming and turning vehicles at the Lidsing Road/Hempstead Road junction. A Stage 1 Road Safety Audit has identified no issues of concern.
- 5.14 The applicants' justification for the inclusion of right turn lanes is evident from the peak period traffic forecasts and the inclusion of right turn lanes also reduces the potential for conflicts to arise when a vehicle waiting to turn right inhibits through flows of traffic. The works falling within KCC jurisdiction, including the Traffic Regulation Order necessary for the speed limit reduction, should be secured via a Section 278 Agreement.
- 5.15 Sustainable Travel Walking and Cycling: The site is well placed in relation to several key facilities: Shopping Centres, Lordswood Leisure Centre and primary schools. The proposed footway/cycleway link to Lordswood/Walderslade via North Dane Way is unchanged from the extant scheme.
- 5.16 The site is not currently well connected to Hempstead, Wigmore and Park Wood, due to the absence of footways on Ham Lane, Lidsing Road and the southern part of Hempstead Road. A new footway/cycleway route connecting with Hempstead Road partly falls within KCC jurisdiction via an uncontrolled refuge island crossing. In the Stage 1 Road Safety Audit a toucan crossing on Lidsing Road was considered rather than the uncontrolled form of crossing now proposed. However, the uncontrolled crossing with pedestrian refuge island also passed the safety audit.
- 5.17 It is understood that the route is not proposed to include lighting. This will reduce its attractiveness during periods of darkness. The termination point of the route on Hempstead Road lies within Medway Council jurisdiction which need to comment on the highway safety implications associated with onward journeys.
- 5.18 A Section 106 should secure enhanced or diverted bus services as per permission MC/14/2395.
- 5.19 The TA indicates the proposed development will generate 223 vehicle trips in the AM peak hour and 221 vehicle trips in the PM peak hour. During the AM peak, 81% of trips have been assumed to use routes within Medway; the remainder involve routes on the KCC network, with 10% shown to route via Westfield Sole Road and 5% via Lidsing Road. The pattern in the PM peak is similar, with 12% using Westfield Sole Road and 5% using Lidsing Road. The assessment of traffic impact has been founded on turning count and queuing surveys undertaken in October 2018.
- 5.20 The modelling indicates that the reconfigured staggered crossroads arrangement will operate satisfactorily during both peak periods. The applicant has proposed a series of capacity improvements encompassing J4 and Hoath Way/Sharsted Way roundabouts, as well as the Hempstead Valley Drive/Chapel Lane priority junction. These are essential in encouraging access to the motorway network via J4 and preventing worsening delays at J3. Highways England has recommended completion of the J4 improvement prior to the occupation of 200 dwellings so there is a concern that this delay could influence the propensity for traffic to route via J3.

- 5.21 The TA reaffirms nearby minor roads are expected to experience modest traffic increases. It would be appropriate for a S106 contribution equivalent to the estimated cost of the withdrawn Forge Lane Junction works to be secured, for the purposes of funding measures that will deter through traffic movement and improve highway safety in the communities of Bredhurst and Boxley.
- 5.22 The mitigation of the impact of additional traffic movements on Westfield Sole Road through 3 three formal passing places are supported in principle, if a safety audit raises no substantive issues.
- 5.23 The timing of delivery of the off-site highway works in Medway are of critical importance to deter re-routing via Bredhurst. It is essential that the Hoath Way/Sharsted Way junction capacity improvement is delivered prior to occupation and in advance of any traffic calming on Hempstead Road.
- 5.24 KCC Highways raise no objection to this planning application subject to conditions and a Travel Plan monitoring fee (£1,422).

KCC Archaeology

- 5.25 The site is situated as it is at the head of a dry valley leading towards the Brook and in turn into the River Medway so potential for occupation and activity, particularly in the later prehistoric and Romano-British periods. Archaeological works would be necessary by condition.
- 5.26 Revised Comments: The archaeological works will include a phased programme of archaeological works including fieldwork (evaluation and possibly excavation work and/or watching brief), post excavation and publication and interpretation works. In addition, the archaeological work needs to be agreed and implemented prior to development commencing.

KCC (Flood and Water Management)

- 5.27 Within the Kent district, surface water from the engineering development will simply shed to the surrounding open land and infiltrate to ground.

Forestry Commission:

- 5.28 Refer to joint standing advice produced with Natural England (last updated 5 November 2018) on ancient woodland, ancient trees and veteran trees. The Forestry Commission encourages local authorities to consider the inclusion of green infrastructure (including trees and woodland) in and around new development; and the use of locally sourced wood in construction.

Environment Agency

- 5.29 The site is within a Source Protection Zone (SPZ) of a principal aquifer. Only shallow design for SuDS should be permitted. Suggest conditions on contamination and no infiltration of surface water drainage into the ground other than with the express written consent. Investigations have been undertaken in a principal aquifer and appear to have left gravel filled boreholes to 20m depth, these should be fully decommissioned.

Parks and Open Space

- 5.30 The majority of this site lies within Medway, therefore no comment.

KCC (Economic Development)

- 5.31 The majority of this application site falls within Medway Unitary Authority area. This development proposal of 450 homes will have significant impact upon local infrastructure. We would request Maidstone Council ensure Medway Council provide proper mitigation prior to determining the application.

Southern Water Services

- 5.32 Any works within highway/access road will need to be agreed and approved by SW to protect public apparatus. Southern Water can provide foul sewage disposal to service the proposed development.

KCC (Ecology)

- 5.33 Site important for foraging and roosting bats; breeding populations of dormouse; Stag Beetle; Breeding/possible breeding birds. The site is adjacent to/within areas of Ancient Woodland, Local Wildlife Site and Roadside Nature Reserves.
- 5.34 Likely to be a negative impact from the construction/operational phase of the development eg dust, noise and recreational pressure. The NE standing advice details that the AW buffer should be at least 15m.
- 5.35 Roadside Nature Reserve (RNR): Clarification needed if there will be a loss to enable a cycle/footpath to be created – the works will result in the loss of an area of chalk grassland which is a scarce resource within Kent. Need additional information clarifying how they are going to mitigate for any loss of the grassland habitat.
- 5.36 A significant increase in lighting can have a negative impact on bats (and other species). Prior to determination we require information to be provided if there is an intention to fell the trees with roosting potential as part of this development. The additional information will enable us to consider if there is a need for emergence surveys to be carried out as part of this planning application.
- 5.37 Needs an outline site wide ecological mitigation strategy to cover risks from domestic cats; maintaining Stag Beetle population; to ensure that birds can continue to utilise the site, skylark breeding habitat. A site wide ecological management plan (including the woodland areas) should be produced for the lifetime of the development. More can be done within the built area of the proposed development for ecological enhancements.
- 5.38 Revised Comments: Construction works will impact the RNR and measures will have to be included within the construction management plan to ensure those impacts are minimised - suggest that the measures are agreed by an ecologist and engineer to ensure that they are implementable. I'd also suggest that a condition is included requiring report to be submitted providing the following on completion of the works: Survey of the site following construction work by an ecologist: Details of any remedial measures required; Details of when those works will be carried out.

KCC (PROW)

- 5.39 The proposed development would impact on PROW network that is within the remit of KCC. The proposed 'Pedestrian/Cycle Links' would be valuable but need to secure appropriate funding or mechanism for likely future maintenance.
- 5.40 Pedestrian and cycle routes should be overlooked within open and welcoming environments. Planting should be kept to an absolute minimum to ensure there are clear lines of view from properties and publicly accessible open spaces, to the paths in the area.
- 5.41 No impact on Public Footpath KH34: the applicant is including an access gap where the Definitive Alignment of Public Footpath KH34 connects with the proposed development site. Impact on BOAT KH41: The site layout should be revised so that the route indicated on the plans reflects the Definitive Alignment of this PROW.

Kent Police

- 5.42 Welcome a discussion with the applicant/agent about site specific designing out crime.

6. APPRAISAL (A & B)

Main Issues

6.01 The key issues for consideration relate to:

- Impact on the Countryside/Landscape
- Highways and Traffic
- Ecology

Impact on the Countryside/Landscape

- 6.02 Policy SP17 of the MBLP requires development proposals in the countryside to not harm the character and appearance of the area. Proposals should not have a significant adverse impact on the settings of the Kent Downs Area of Outstanding Natural Beauty. Policy DM30 goes into detail that, outside of the settlement boundaries, proposals should create high quality design.
- 6.03 There will be 2 forms of visual impact: one is the residential parcel within Medway and the second is the engineering work within MBC's area for the changed highway network.
- 6.04 On the first impact, the indicative siting and style of the houses and related development will be expected to be similar to the 2 previous planning permissions including the one allowed at appeal. These establish the principle of the built form of the buildings and their geographical extent. Both the extant planning permission and the current application have a similar width tree buffer screen to the shared boundary. There is inevitably a slight gap in the screening at the NE corner due to that now forming the main access. However, that is not considered to measurably worsen the overall visual impact of the housing units as viewed from the Maidstone District.
- 6.05 The landscape character of the MBC part of the application site (Bredhurst and Stockbury Downs) is assessed in the Maidstone Landscape Capacity Study: Sensitivity Assessment (2015) as being of moderate sensitivity to development with scope for change with certain constraints. The area is part of the green wedge between Maidstone and the Medway Towns, and the setting of the AONB. Extensive or significantly visually intrusive development would be inappropriate.
- 6.06 The proposed junction/road improvements impact on intensively farmed arable fields with no trees or hedgerows affected. From a landscape point of view, these proposals are incompatible with the key characteristic of predominantly narrow lanes.
- 6.07 Since the majority of trees and hedgerow species are broadleaved and the arable crops are seasonal, the area appears more open in the winter. Development of this area would harm the landscape and erode the green wedge and the buffer to the existing built development. Thus extensive landscape screening would be needed to mitigate the harm, ideally to give the outward impression of an extension of the rural character of the landscape using native woodland and hedgerow species.
- 6.08 The submitted Landscape and Visual Impact Assessment (LVIA) is mainly the same one as used for the previous applications on the site, dating from 2014 with one extra viewpoint (Hempstead Road) in an addendum to reflect the different extent of the engineering development for the proposed new access. The LVIA states that the Medway part of the site falls within the southern part of 'North Downs', "*rolling open plateau landscape*" with; scattered villages and hamlets; exposed intensively cropped large arable/fields with sparse hedgerow pattern and limited sheltered belt and scattered small woodlands.

- 6.09 Looking northwest from Lidsing Road near the junction with Forge Lane: in the medium term, the maturation of the proposed woodland planting belt would provide some screening of the housing development. However, the new access would extend the urbanising effect of the development on lower ground to the right of the view but the LVIA states that new planting along the new access route would serve to largely screen this new road corridor. As such, overall, the medium-term effect is stated to be a moderate adverse effect.
- 6.10 Looking from Forge Lane where it bridges over the M20: this is where road users approaching from Maidstone Borough will first see the proposed development in their view. In the medium term, the extent of change will fall to Minor/Negligible for the same reasons as given above.
- 6.11 Looking from Hempstead Road: in the short term, the visual impact will be very high. However, with the significant strategic woodland planting proposals the medium term, the level of effect is stated in the LVIA to fall to moderate adverse.
- 6.12 It is clear that the engineering works to change the road layout and increase the capacity of the junctions will harm rural character. It is inevitable that new highways have to meet safety audits and thus modern criteria for lane widths, visibility splays, separate footway/cycles ways etc. In addition, because the proposed new access would serve 450 dwellings, a waiting lane is deemed necessary hence significantly increasing the overall width. Similarly, as the rationale of the scheme is to facilitate the use of Hempstead Road as the main route in and out of the development, this junction also needs a waiting lane based on engineering standards as free flowing non-turning traffic is safer.
- 6.13 There have been some changes to the scheme to reduce the overall urbanising extent of the works, being deletion of a footway approx. 35m on the north side of Lidsing Road and one of 65m on the south side of Lidsing Road, which were concluded to be unnecessary as neither reflected realistic desire lines of pedestrian or cyclists. The toucan crossing originally proposed has also been replaced by an uncontrolled crossing.
- 6.14 There will be scope for enhanced planting of redundant sections of Lidsing Road but it is still unquestionably harmful to rural character as a contrast to the current layout of rural lanes. However, the overall area affected is relatively small and KCC (H&T) does advise that it provides some overall safety benefits, not least by improving the visibility from Hempstead Road. On balance, it is not considered that the impact on the countryside is harmful enough to refuse planning permission.
- 6.15 In terms of the realignment of Ham Lane to make this a 2 lane new main access, this will be intrusive visually and harmful to the character of the rural locality. However, there is proposed to be mitigation in the form of tree screening along the outside edge of the new road and also the enclosed field that is currently intensively farmed for arable is shown to be planted with trees. It is considered that these acceptably mitigate the access but conditions should be imposed requiring there to be advance planting as far as practicable.
- 6.16 The conflict with SP17 is outweighed by the highway safety benefits arising. The scheme does not impact on the setting of the AONB which is south of the M2.

Highways and Traffic

- 6.17 Policy DM21 of the MBLP Development proposals must demonstrate that the impacts of trips generated to and from the development are mitigated to prevent severe residual impacts, including delivering mitigation measures ahead of the development being occupied. They must also provide a satisfactory Transport Assessment and a satisfactory Travel Plan. Proposals for major development should include adequate provision for public transport secured through legal agreements.

- 6.18 The TA states that 5% of development traffic will head south via Lidsing Road and Boxley Village which (based on TRICS data) equates to 8 additional southbound vehicles heading south in the AM peak and 7 returning in the PM peak.
- 6.19 The TA concludes that 3% of development traffic will head north-east via Bredhurst. This equates to 5 additional southbound vehicle movements in the AM peak and 4 returning in the PM peak.
- 6.20 The assessment of the broad traffic distribution from the application site derived from the 2011 Census journey to work data from Lordswood and typical journey times derived from online mapping tools were used to estimate car movements on the roads leading to Boxley and Bredhurst. (There was no provision of data on existing traffic levels through those villages)
- 6.21 However, the figures have not been disputed by KCC to a degree that would result in an objection to the overall development proposal in terms of impact on the highway network in MBC. The NPPF paragraph 109 is clear that development should not be refused on highway grounds unless there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
- 6.22 In response to KCC's concerns about the HE acceptance of a delay in Junction 4 improvements to 200 unit occupation, the applicant has responded that J4 and in particular the Hoath Way approach to it are not subject to congestion currently and therefore do not contribute to rat running locally. This situation is forecast to remain the case in the future. Mitigation proposed at M2 J4 is focused on safety implications of queuing on the westbound off-slip. The consultants state that a delay or omission of this mitigation would have no impact on KCC's road network as the off-slip at M2J4 does not have an alternative pragmatic route (rat-run) that utilises the KCC network.
- 6.23 However, a second condition is suggested which would focus on the Sharsted Way/Hoath Way junction improvement being completed early in the development programme in order to minimise the scope for increased rat-running as it is already congested.
- 6.24 With respect to the traffic calming point raised by KCC and the concerns expressed by Boxley and Bredhurst PCs, the applicant has consistently maintained that the impact of the development on local rural lanes does merit traffic calming as it is argued that there will be benefits on the Medway highway network, which will improve the attractiveness of those primary routes and reduce wider instances of rat running. Notwithstanding the above, the request for a contribution towards traffic calming/environmental mitigation is noted and a contribution of circa £100,000 is put forward by the applicant.
- 6.25 The case put forward by the applicant on the timing of Highway improvements is accepted. In term of Boxley and Bredhurst, these villages already have some traffic calming. However, there may be scope for additional elements or other improvements eg to the pedestrian environment, more 20mph roundels on the road, more 20mph repeater signs, at each end of the village or quiet tarmac throughout the village. It is therefore recommended that the s106 contribution of £100,000 be secured for these types of measures.
- 6.26 It is understood that the applicant has offered £212,133.32 (plus indexation for 1 year) towards the provision of a new bus service to serve the development or the extension of an existing service to serve the development. The details would be agreed between Medway Council and Arriva buses. This should include consultation with KCC's public transport officers.

- 6.27 The changes to Westfield Sole Road are formalising the points at which vehicles currently pass so it is doubtful that they would make the road more attractive as a short cut. The changes would require both a safety audit and a separate planning permission so these works would need to be "best endeavours" which would be interpreted as the seeking of planning permission if the safety audit can be met.
- 6.28 Other road improvements from the development in the Medway area include direct creation of extra road capacity plus a sizeable contribution towards the creation of a cycleway link along part of Hempstead Road and towards traffic calming on Hempstead Road.

Ecology

- 6.29 The initial concerns of the KCC Biodiversity Officer (the loss of the grassland habitat, bat roosting, site wide ecological mitigation strategy) were responded to by the applicant in the form of an Ecology Addendum Report and a Mitigation Strategy for the whole site, the latter indicating on a plan the extent of Ecological Protection Zones (EPZ).
- 6.30 In regard of Road Nature Reserve (an area of calcareous grassland located on the north eastern site boundary within Medway), the consultant advised that further design work has confirmed that there will be no impact from the pedestrian/cycle connection is now able to avoid this area. Nonetheless, new grassland habitats, including species-rich meadow flower and, where appropriate, calcareous grassland will be created in areas of currently arable habitat around the edges of the site. The agent then provided further clarification that the RNR was outside of the red line boundary of the application site, being the verge of the eastern side Lidsing Road, north of the junction with Hempstead Road.
- 6.31 Advice from a suitably qualified ecologist will be sought before the felling or removal of limbs from trees containing potential bat roosting features which will be retained and protected within the EPZs. At the detailed design stage, further surveys will inform the need for licencing. Enhancement in the form of six bat boxes and twenty bat roosting features are also proposed.
- 6.32 Other Enhancement/Mitigation will be in the form of Woodland Management Plans, new native woodland, retained linear woody habitats, new mixed native hedgerow planting, new tree planting; new grassland habitats, new wetland habitats within surface water attenuation features and detailed strategies for birds, bats, dormice and stag beetle.
- 6.33 Overall, it is concluded that there is no direct harm to ecology interests in the Borough and there is scope for enhancement. Policy DM3 of the MBLP is complied with.
- 6.34 However, the construction of the road improvements to Lidsing Road (which will be inevitable from formal kerbing/drainage etc) could impact on the Roadside Nature Reserve and Medway Council should be urged to take on board the advice of KCC Ecology to protect this area as far as practicable in the construction process.

Other Matters

- 6.35 The matter raised by KCC's PROW section can be the subject of informatives as the layout of the scheme is not yet defined and so the alignment issues can be resolved subsequently.
- 6.36 The external lighting strategy in the Ecological Mitigation Strategy states that a wildlife-sensitive lighting scheme should be devised to avoid or minimise light spill where development is located in close proximity to retained foraging habitats (particular regard to bats and dormice). Elsewhere, light spill is to be minimised, the

colour temperature will be a yellow tone; and sensitive timing of street lights etc. A condition is suggested to comply with policy DM8 of the MBLP.

- 6.37 The site is outside the Council's Air Quality Management Area but an air quality assessment monitoring on site is needed by condition to comply with policy DM6 of the MBLP.
- 6.38 In terms of policy ID1 of the MBLP, there are no implications on infrastructure in KCC's district. Previous schemes on the site have included s106 agreements secured by Medway Council covering contributions to, inter alia, Health, Community and Education Services within its area. It will be important that this is similar for this application.

PUBLIC SECTOR EQUALITY DUTY (A)

- 6.39 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

Application (A) 19/500765/OUT

- 7.01 This is a cross boundary planning application of which a small area of 1.7ha (comprising 6% of the overall site area) is in MBC district.
- 7.02 There is an extant planning permission granted by Medway Council for construction of up to 450 market and affordable dwellings. The key difference between that development approved and the current joint applications is the matter of 'Access'. It cannot be presumed that Medway Council will approve their duplicate cross boundary application MC/19/0336. However, should they do so, the impacts of the access onto the Maidstone BC highway network have been considered and judged by the Local Highway Authority to be acceptable.
- 7.03 Taking account of NPPF paragraph 109, KCC (H&T) do not object to the overall development proposal in terms of unacceptable impact on highway safety, nor the residual cumulative impacts on the road network being severe. However, the early timing of off-site highway capacity improvements is key to this stance. A s106 contribution of £100,000 should be secured for the villages of Boxley and Bredhurst to mitigate any residual impact and similarly, proposals for enhanced or diverted bus services must be secured by Medway Council for consistency with the earlier outline planning permission at Gibraltar Farm.
- 7.04 There is proposed to be mitigation to visual impact and landscape harm in the form of advance planting of tree screening.
- 7.05 Adequate information has been provided to demonstrate no direct harm to ecology interests in the Borough and there is scope for enhancement.

Application (B) 19/501988/ADJ

- 7.06 Medway Council should be advised that there are no objections subject to the matters being adequately addressed that reflect the representations of statutory consultees as far as they also apply to development proposed within Medway. This should include adequate developer contributions for infrastructure and health, community and educational services. There should be proposals for enhanced or diverted bus services for consistency with the earlier outline planning permission at Gibraltar Farm, with KCC officers being consulted.

- 7.07 Medway Council should be urged to take on board the advice of KCC Ecology, including measures to protect the Roadside Nature Reserve at Lidsing Road as far as practicable in the construction process.

8. RECOMMENDATION

Application (A) 19/500765/OUT

The Head of Planning and Development BE 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 of £100,000 towards environmental/traffic calming measures in the villages of Boxley and Bredhurst
- No construction traffic to use Westfield Sole Road or travel via the villages of Boxley or Bredhurst.
- Appropriate mechanism for funding of future maintenance of Pedestrian/Cycle Links
- Best Endeavours to secure the passing bays on Westfield Sole Road.
- Completion of a Stopping Up Order for the redundant section of Ham Lane
- Travel Plan monitoring fee to KCC of £1,422
- MBC s106 Monitoring Fee of £1500 for one obligation and £750 for each additional planning obligation

and the imposition of the conditions as set out below:

- 1) The development hereby approved shall not commence until approval of the following reserved matters relating to the access road and footway/cycleway within the Borough of Maidstone have been obtained in writing from the local planning authority:

(a) Landscaping

Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later;

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) There shall be no implementation of any of the highway works on drawing 18-015-002 rev N except in conjunction with the implementation of a planning permission granted under ref MC/19/0336 for the 450 unit residential development it is intended to serve.

Reason: The works are only justified by the necessity to access a significantly sized residential development.

- 3) Prior to the first occupation, the Proposed Site Access shall be completed and fully open for use in accordance with drawing 18-015-002 rev N and retained thereafter.
Reason: To provide satisfactory access.
- 4) The development hereby permitted shall not commence above slab level until a scheme for the permanent closure of the existing access of Ham Lane to vehicular traffic has been secured and approved by the local planning authority and the approved scheme shall be completed within 4 weeks of the new access being available for use;
Reason: In the interests of road safety
- 5) No dwelling shall be occupied until off site highway capacity improvements at Hoath Way/Sharsted Way and Hempstead Valley Drive/Chapel Lane have been completed and are open for use. These shall accord with the details hereby approved or any minor variation thereafter approved by the Local Planning Authority in consultation with KCC (Highways and Transportation). There shall be no traffic calming to Hempstead Road in advance of these works.
Reason: To ensure that traffic from the development is adequately mitigated from using inappropriate alternative routes in the Borough of Maidstone.
- 6) No dwelling shall be occupied until a full footway/cycleway link from the public highway at North Dane Way/Albemarle Road to the public highway at Hempstead Road has been completed in accordance with details that have been submitted and approved by the Local Planning Authority.
Reason: In the interests of sustainable access to local services.
- 7) No dwelling shall be occupied until a site-wide Travel Plan has been submitted to and approved by the Local Planning Authority and the Travel Plan shall be implemented as approved.
Reason: In the interests of sustainable development
- 8) No dwelling shall be commenced above slab level until advance planting of tree screening buffer of at least 20m in width along the boundary with the Borough of Maidstone has been carried out in accordance with details that have been submitted and approved by the Local Planning Authority.
Reason: To accord with the terms of the application and in the interests of rural visual amenity.
- 9) A landscape and ecological management plan (LEMP), including long term design objectives, management responsibilities and maintenance schedules for all landscaped and open areas shall be submitted to and approved in writing by the local planning authority prior to first occupation of any dwelling on the site. Landscape and ecological management shall be carried out in accordance with the approved plan unless the local planning authority gives written consent to any variation.
Reason: In the interests of biodiversity, landscape, visual impact and amenity of the area.
- 10) The development hereby approved within the Borough of Maidstone shall not commence until details of earthworks within the Borough have been submitted to and approved in writing by the local planning authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform.

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

- 11) No dwelling shall be commenced above slab level until a landscape scheme within the Borough of Maidstone designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall 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 10 year management plan. The landscape scheme shall specifically address the need to provide tree planting to screen the highway works within and visible from the Borough of Maidstone.

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

- 12) There shall be no occupation of any dwelling until all planting, seeding and turfing specified in the approved landscape details has been completed within the Borough of Maidstone. 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 unless the local planning authority gives written consent to any variation.

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

- 13) No development shall take place in Borough of Maidstone until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work relevant to the Borough in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority. The archaeological works should include a phased programme of archaeological works including fieldwork (evaluation and possibly excavation work and/or watching brief), post excavation and publication and interpretation works.

Reason: To ensure that features of archaeological interest are properly examined and recorded

- 14) No development above slab level shall commence until a report has been submitted to and approved by the Local Planning Authority detailing and, where possible, quantifying measures or offsetting schemes which will reduce the transport related air pollution of the development during construction and when in occupation. The developer should have regard to the DEFRA guidance from the document Low Emissions Strategy -using the planning system to reduce transport emissions January 2010.

Reason: In the interests of mitigation of Air Quality harm.

- 15) There shall be no lighting except in accordance with details that have been submitted to and approved by the Local Planning Authority. This scheme shall take note of and refer to the Institute of Lighting Engineers Guidance Notes for the

Reduction of Obtrusive Lighting, GN01, dated 2005 (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.

These details shall include a "wildlife sensitive lighting plan" for the site boundaries which shall:

- a) Identify those areas/features on site that are particularly sensitive for wildlife 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;
- b) 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.

All external lighting shall be installed in accordance with the specifications and locations set out in the plan and these shall be maintained thereafter as approved.

Reason: In the interests of rural amenity and ecology.

- 16) The site is located above a Principal Aquifer and within SPZ3. If during construction, evidence of potential contamination is encountered, works shall cease and

(a) the site shall be fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

(b) Upon completion of the building works, a closure report shall be submitted for approval in writing by the Local Planning Authority. The closure report shall include details of:

(i) sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.

(ii) post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: There is always the potential for unexpected contamination to be identified during development groundworks.

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

Reason: To protect the underlying groundwater from the risk of pollution and in accordance with the requirements of the National Planning Policy Framework

- 18) Prior to occupation, a detailed site wide ecological management plan should be produced and submitted to for approval of the LPA. It shall include

- Details of the habitats to be managed
- Details of the aims/objectives of the management
- Rolling 5 year management plan

- Dates of when the management plan will be reviewed and updated
- Details of who will be implementing the management.
- Details of on going monitoring

The plan must be implemented as approved.

Reason: In the interests of biodiversity.

- 19) There shall be no fencing, walling or other boundary treatments within the Borough of Maidstone except in accordance with details (that should include timetabling) which have been submitted to and approved in writing by the local planning authority. The boundary treatments shall be carried out in accordance with the approved details and timetable.

Reason: To ensure a satisfactory appearance to the development.

INFORMATIVES

- 1) It is noted that investigations have been undertaken and appear to have left gravel filled boreholes to 20m depth. These should be fully decommissioned in accordance with our current guidance as they pose a short cut route for any agricultural-derived contamination or any spillages from future construction activities.
- 2) The report mentions the possibility of using deep bore soakaways for the disposal of surface water. This is currently not acceptable at this site without further detailed consultation. Only a shallow design for SUDs should be permitted as the site is within an SPZ3.
- 3) The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice: excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution. Treated materials can be transferred between sites as part of a hub and cluster project. Some naturally occurring clean material can be transferred directly between sites.
- 4) Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. Developers should refer to the Position statement on the Definition of Waste: Development Industry Code of Practice and The Environmental regulations page on GOV.UK.
- 5) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.
- 6) The applicant should have regard to EA PPG6 pollution prevention guidance on construction sites in developing any detailed Construction Environmental management plans - <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>.
- 7) A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove

House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link
<https://beta.southernwater.co.uk/infrastructure-charges>

- 8) A formal application for connection to the water supply is required in order to service this development. Please contact Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk"
- 9) It is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk".
- 10) No furniture, fence, barrier or other structure may be erected on or across Public Rights of Way without the express consent of the Highway Authority. There must be no disturbance of the surface of the Public Rights of Way, or obstruction of its use, either during or following any approved development without the express consent of the Highway Authority. No hedging or shrubs should be planted within 1 metre of the edge of the Public Rights of Way. There is no consent or right to close or divert any Public Right of Way at any time without the express permission of the Highway Authority. No Traffic Regulation Orders will be granted by KCC for works that will permanently obstruct the route unless a diversion order has been made and confirmed. If the applicant needs to apply for a temporary traffic regulation order whilst works are undertaken, six weeks notice is needed to process this.
- 11) Any works within highway/access road will need to be agreed and approved by Southern Water Services to protect public apparatus
- 12) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site
- 13) KCC Highways require that the works falling within its jurisdiction, including the Traffic Regulation Order necessary for the speed limit reduction, are secured via a Section 278 Agreement.

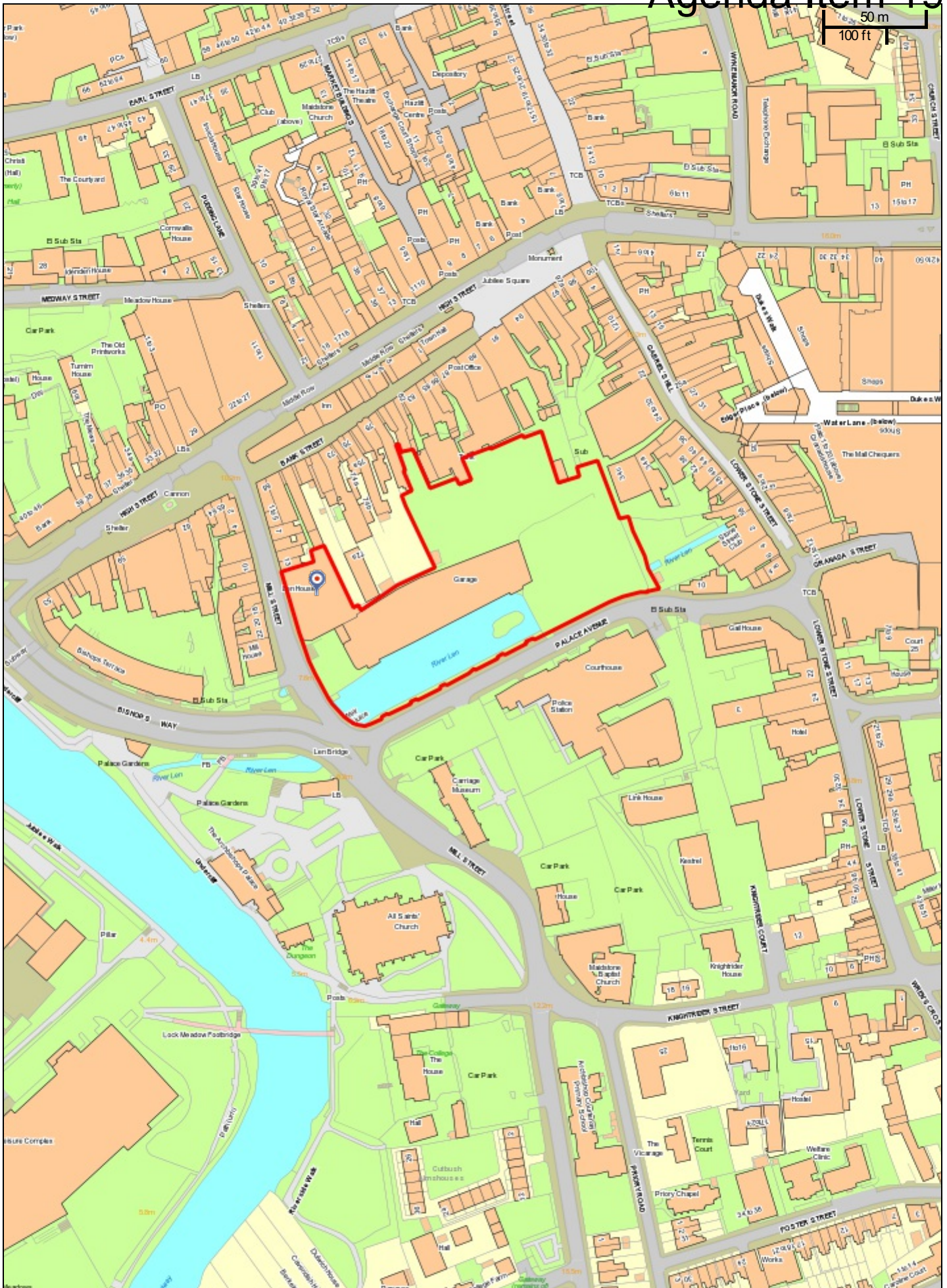
Application (B) 19/501988/ADJ

Medway Council is informed that NO OBJECTIONS be raised subject to consideration of the following matters:

- Provision of a financial contribution to improve local bus services commensurate with the extant planning permission with KCC (Highways and Transportation) being consulted on the measures.

- Securing full contributions towards necessary health, social, educational and community infrastructure so as not to impact on any NHS West Kent CCG or Kent County Council facilities
- Preparation and submission of a Construction Environmental Management Plan for approval in consultation with both Local Highway Authorities. It that should avoid construction traffic using Westfield Sole Road or routing via the villages of Boxley or Bredhurst. It should include provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction; Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction; Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction;
- Provision of measures to prevent the discharge of surface water onto the highway
- Continuation of the off site footway/cycleway along Hempstead Road which lies within Medway
- Compliance with the Site Wide Ecological Mitigation
- As per the advice of KCC Ecology, to protect Roadside Nature Reserve as far as practicable in the construction process.
- Advance planting of a tree buffer screen adjacent the Borough of Maidstone
- Ensure that finished floor levels of the dwellings are as low as practicable.
- Only shallow design for SuDS should be permitted and there should be no infiltration of surface water drainage into the ground other than with the express written consent of the local planning authority
- To safeguard the principal aquifer, there should be full decommissioning of any existing gravel filled boreholes
- No external lighting except in accordance with approved details that shall minimise light pollution and be sensitive to wildlife, including the colour temperature.
- Full compliance with the requested conditions of Highways England.
- The detailed site layout should allow for connections to the Definitive Alignments of KH34 and BOAT KH41 that lie within the Borough of Maidstone.

Case Officer: Marion Geary



20/501029/FULL & 20/501030/LBC - Len House, Mill Street, Maidstone, Kent, ME15 6YD

Scale: 1:2500

Printed on: 10/6/2020 at 9:42 AM by JoannaW

REPORT SUMMARY

Members should note that this report introduces two applications: (A) the application for planning permission and (B) the application for the associated listed building consent works.

REFERENCE Nos - (A) 20/501029/FULL and (B) 20/501030/LBC

APPLICATION PROPOSALS

- (A)** Restoration of Len House and associated new build works to provide a mixed-use development comprising: (i) Retention with alterations and change of use of Len House to provide 3,612 sqm (GIA) flexible commercial floorspace (A1/A2/A3/A4/A5/B1a/D1/D2) at ground floor, 18 No. residential apartments (C3) at first floor level, together with ancillary car parking. (ii) Erection of part rear first floor and two storey roof extension to provide 62 No. new residential apartments, with rooftop amenity space. (iii) Construction of two new buildings of up to 5-storeys to provide 79 No. residential apartments (C3) with amenity space. (iv) Provision of associated car parking, open space, earthworks including demolition of hardstanding and structures, and new boardwalk to north side, and re-utilisation existing vehicular access points from Mill Street and Palace Avenue.
- (B)** Listed Building Consent for restoration of Len House and associated new build works to provide a mixed-use development comprising: (i) Retention with alterations and change of use of Len House to provide 3,612 sqm (GIA) flexible commercial floorspace (A1/A2/A3/A4/A5/B1a/D1/D2) at ground floor, 18 No. residential apartments (C3) at first floor level, together with ancillary car parking. (ii) Erection of part rear first floor and two storey roof extension to provide 62 No. new residential apartments, with rooftop amenity space. (iii) new boardwalk to north side.

ADDRESS Former Rootes Site, Len House, Mill Street / Palace Avenue, Maidstone

RECOMMENDATION That (A) planning permission and (B) listed building consent be granted, subject to conditions.

SUMMARY OF REASONS FOR RECOMMENDATION

The scheme involves the refurbishment and extension of a significant heritage asset and redevelopment of under-utilised land within a prominent town centre location.

The site is not allocated for development within the Local Plan, but is one of five town centre sites that have been the subject of the preparation and adoption of an Opportunity Site Brief that has been approved by the Council's SPI Committee.

The proposals have been the subject of detailed pre-application discussions with Officers at MBC, KCC and Historic England.

This is considered to be a highly sustainable town centre location and, subject to detailed tests, an appropriate location for mixed-use development.

The proposed refurbishment works to the listed building are sensitive to its history and fabric and the proposed alterations and new build elements are of a high quality. Whilst some harm is identified in terms of, for example, the change of use from the building's original function and removing the original roof, such works are considered to be the

minimum necessary in order for a viable refurbishment scheme to be brought forward.

These impacts are considered to result in less than significant harm to the heritage asset, but are considered to be outweighed by the significant heritage benefits of bringing the building as a whole back into use in a manner that can be appreciated by the public and the benefits that this will offer in terms of enhancing the vitality and viability of the town centre. In addition, significant public benefits arise through the construction of a significant number of high quality new housing within a highly sustainable town centre location.

REASON FOR REFERRAL TO COMMITTEE

It is a significant town centre scheme that merits Committee consideration.

WARD High Street	APPLICANT Len House (Maidstone Ltd) Part Of Classicus Estates AGENT Esquire Developments
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DECISION DUE DATE 15/07/20	PUBLICITY EXPIRY DATE 07/03/2019	OFFICER SITE VISIT DATE Various
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RELEVANT PLANNING HISTORY:

The site has an extensive planning history relating mainly to commercial activities associated with its previous motor trade use, none of which is relevant to the present application.

MAIN REPORT

1.0 SITE DESCRIPTION

1.01 The application site comprises Len House, the former Rootes motor dealership, which is Grade II listed. The site is prominently located along one of the main traffic routes through the town centre and on the busy junction of Mill Street / Palace Avenue / Bishops Way. As a consequence Len House is a prominent feature within the local townscape. Having regard to the building’s scale, architectural quality and history, it is considered to be a highly significant building.



- 1.02 The site lies towards the southern side of Maidstone town centre's main commercial area, with frontages and access points to both the Mill Street and Palace Avenue frontages. The River Len is culverted under the eastern part of the site, with the Mill Pond defining the Palace Avenue setting of the main building, before re-joining the culvert into the Medway.



- 1.03 The application site, which includes the Mill Pond, represents a large single plot size for the town centre, comprising circa 1.38 hectares. The principal access into the building is from the lower end of Mill Street, where the original showroom, offices and vehicular entrance are sited. The existing building is broadly L-shaped with a shorter frontage to Mill Street and a long prominent frontage to Palace Avenue. To the east and rear of the building are large open areas of hard surfacing previously used for the storage and display of cars.
- 1.04 The site levels rise towards the northern boundary, where the site abuts the rear of established development along Bank Street. Properties in Bank Street principally comprise commercial units with some residential accommodation on upper floors or to the rear. To the east, the site adjoins areas to the rear of commercial properties within Gabriel's Hill, which have a generally low grade appearance and detract from the character and appearance of the surrounding area, including the conservation area. The relationship of the proposed development to existing neighbouring uses, both commercial and residential, is set out in Section 6.1 of the 'Appraisal' section below.
- 1.05 The site lies within the Maidstone Town Conservation Area. A significant number of other heritage assets, both listed buildings and scheduled monuments are located within the surrounding area including; The Archbishop's Palace (Grade 1 and a scheduled monument) and All Saints Church (Grade 1). The All Saints Conservation Area lies to the south west.

SITE HISTORY

- 1.06 A unique characteristic of the site is that until vacated in 2019, when the motor dealership relocated to a site outside of the town centre, it had been in continuous

use by the Rootes Group since the early 20th Century, with the recent motor trade operation being continuous since the building's construction in the late 1930's.

1.07 The site and surrounding area represent a significant element in the development of Maidstone. Located adjacent to the 14th Century river bridge (parts of which remain and are designated as a scheduled ancient monument), what is now Mill Street formed part of the early medieval grid development of the town centre, with long narrow Burbage plots extending south from Bank Street. These characteristic plots remain evident today when viewing the rear of the Bank Street properties. The Mill Pond, also of medieval origin was constructed to serve the corn mills adjacent to the application site.



1.08 By the mid to late 19th Century a tannery was built on the application site, covering the area now occupied by Len House itself. The tannery continued in operation until the First World War when it was acquired by the Rootes Group and converted into an engineering works. During WW1 the company repaired aircraft engines on behalf of the Government.

1.09 After WW1 the Rootes company manufactured vehicles at the site until relocating its manufacturing base out of the town in the 1930's. At this time Rootes commissioned *Howard and Souster* to design a new flagship dealership. The resulting building was built in three phases around the tannery, with the first phase comprising a showroom on the Mill Street frontage, phase 2 the main workshops fronting the Mill Pond, completed by the frontage and forecourt in 1941.

1.10 Designed in a streamline modernist style, key features of the new building that were typical of the architectural style and approach of the architects included:

- A simple restrained approach to the facades
- Application of clean smooth curves on corner features
- Long strips of metal windows
- Use of towers and neon lighting to emphasise branding



1.11 Having been in continuous use as a motor dealership, with the same functions of sales, repair, service, parts and administration, many of the building's internal spaces and functions have remained unchanged throughout its operation.

Showroom Fronting Mill Street



Main Workshops



1.12 Over its lifetime the building has been the subject of numerous unsympathetic alterations, including internal office divisions and a mezzanine, but in the main the principal large internal voids remain. One notable features, which remains intact today and contributes to the building's heritage significance, is the large scale concrete vehicular ramp that allows vehicles to move between the two large workshop floors.



2 THE PROPOSAL

- 2.01 The Applicant is understood to have acquired the building in 2019. Both prior to purchase and during the evolution of the scheme, a series of pre-application discussions have taken place between the applicant, MBC, KCC and Historic England, which have informed the design team's approach to the scheme, in both in terms of the works to the listed building and the scale and form of the new-build elements.
- 2.02 The proposals, whilst designed to present a single cohesive scheme, can be broken down into a number of elements:
- 2.03 Len House Ground Floor

Restoration and conversion into commercial uses comprising 2,612 sq.m.

The application seeks permission for a flexible range of uses within use classes A1/A2/A3/A4/A5/B1a/D1/D2, but importantly, the application seeks to limit uses within the main part of the building to classes A3/A4, principally food and drink.

The commercial spaces at ground floor will retain the principally open and defining characteristic of the existing building interior.

The former forecourt facing Mill Street is to be converted to an active food and/or beverage area that would take the form of a modern interpretation of the now lost petrol kiosk. The details of the new kiosk will be sought through a subsequent application, but the submission is accompanied by a series of illustrations to demonstrate how this could work.



This new area of public realm will connect to the remainder of the site to the east via a boardwalk that sits over the building's frontage to the Mill Pond. The boardwalk has been designed to be minimal in nature so as not to interrupt the building's visual / reflective relationship to the water body. The boardwalk will not only allow food and drink uses within the building to have a some external seating area, but also allow pedestrians to pass east – west away from the traffic intense environment of Palace Avenue.



2.04 Len House First Floor & Extensions

Together with a small rear infill extension of the Mill Street element, the first floor of the building will be converted to residential use, which, with a two level roof extension, will provide 62 residential apartments.

The first floor apartments fronting Palace Avenue will be set back behind winter gardens that will ensure that the existing character of the long unbroken string of windows is not interrupted by internal divisions.



The innovative retention of the vehicular ramp for its original function will provide access to residential parking within the deep internal floorplates of the building that would not suit residential or other commercial uses.

The new upper floors will have a lightweight appearance and have been set back a significant distance from the main building frontage and set down below the front parapet in order to minimise their overall visual impact.



2.05 New Build

The new build on the former parking areas will comprise two distinct elements. Fronting Palace Avenue will be a 4 storey building, the design of which represents a contemporary, but subordinate interpretation of Len House.



Members should note that following the submission of the application, the application has been amended for reasons of viability and deliverability to exclude the de-culverting of the River Len to the east of the site (as shown in image above), together with some minor remodelling of the massing of elements on the eastern part of the site to avoid sewer alignments. Whilst the de-culverting of the Len would have been welcomed, its exclusion does not undermine the overall design approach of the scheme and the priority is to secure a viable scheme of restoration for Len House.

The new build element to the rear of the site will possess a very different character that will respond to the town centre to the north. Pitched roofs and a vertical emphasis are informed by the character of the historic burbage plots. The buildings range from 2 to 5 storeys in height and utilise the site slope to create a varied roofscape, typical of the area immediately to the north. These residential units are set around a podium courtyard, beneath which is ground level car parking.



Building heights are modulated to reflect the organic character of the wider 'Town' conservation area, as well as allowing views of the historic building pattern to be achieved. Together with the upper elements being set in from the rear boundary, the a section is intentionally lowered in height elements to allow natural light into residential properties to the rear of Bank Street. In total the new build elements will provide 79 apartments.

2.06 The overall schedule of residential accommodation proposed is therefore:

Len House	New Build	Total
80	79	159

The unit mix, which reflects the site's central location, comprises:

1-bed - 42	2-bed - 108	3-bed - 9
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2.07 Car parking will be provided in the form of:

- 21 spaces within the first floor of Len House accessed via the existing Mill Street access
- 89 spaces below the new build element accessed off Palace Avenue
- 24 spaces for the commercial uses, also accessed off Palace Avenue

2.08 Residential parking is provided at a ratio of 70%, with 5% disabled parking.

2.09 168 cycle spaces will be provided for residents, a ratio of over 1 p/unit. Surface cycle parking will be provided for visitors to the commercial uses.

3.0 POLICY AND OTHER CONSIDERATIONS

3.01 The following Maidstone Borough Local Plan policies are considered to be relevant to this application:

- SS1 Spatial strategy
- SP1 Maidstone urban area
- SP4 Maidstone town centre
- SP18 Historic environment
- SP19 Housing mix
- SP20 Affordable housing
- SP21 Economic development
- SP23 Sustainable transport
- DM1 Design Quality
- DM2 Sustainable design
- DM4 Development affecting heritage assets
- DM5 Brownfield land
- DM6 Air quality
- DM12 Density
- DM16 Town centre uses
- DM19 Open space
- DM20 Community facilities
- DM21 Transport impacts
- DM23 Parking standards

3.02 Supplementary guidance is provided in the form of the Len House Planning Guidelines, which were approved by SPI in 2019 and published in January 2020. Whilst not formal SPG, they are a material planning consideration.

3.03 The National Planning Policy Framework (NPPF) introduces a number of relevant considerations, including:

- An overarching objective of delivering sustainable development (7-11)
- Weight on the local plan (47)
- Housing supply / meeting housing needs (59-76)
- Promoting sustainable transport (102+/108+)
- Parking standards (105-106)
- Effective use of land (117+)
- Density of development (122-123)
- Design Quality (124-132)
- Climate change (149+)
- Historic environment (184+)

National Planning Practice Guidance (NPPG) supplements the NPPF and relevant guidance is assessed below.

4.0 LOCAL REPRESENTATIONS

4.01 Representations have been received from 4 local residents occupying flats within a building in Bank Street, raising the following (summarised) issues

- Overshadowing and loss of natural light
- Potential loss of trees
- Increased traffic pollution / air quality impacts
- Inadequate parking
- Increased traffic impacts
- Impact on listed status of building
- Overbearing massing and density
- Increased flood risk
- Overlooking and loss of privacy
- The noise impact from entertainment venues on existing residents is unacceptable and it is not appropriate to build more in such close proximity
- The new buildings will also rebound noise from commercial premises increasing the existing impacts.

Non-planning consideration raised include:

- There are legal restrictions affecting building on the application site
- Construction impacts on night workers
- Loss of property value
- Loss of security
- Loss of outlook.

4.02 In addition, a number of representations have been received from owners / operators of commercial, mainly food/drink, establishments located adjacent to or nearby the site.

The operators that have expressed concerns are:

- The Bierkeller / Fever Bar complex has operated on their site since the 1970's and has capacity for 1,150 persons with a license to operate until 0200 daily. It employs a significant number of staff both directly and indirectly.
- Brenchley's has an active curtilage, with open areas serving food and drinks which is open to 0100 and lies immediately adjoining the site boundary close to the proposed dwellings.
- Harry's bar is open to 0200 and has an outside terrace with capacity for 150.
- Madisons in Gabriel's Hill has a rooftop bar and license to 0300.
- Banks Nightclub is open to 0300 on some nights and hosts both recorded and live music events and DJ's

Matters raised by these businesses focus upon:

- The introduction of new dwellings in close proximity to proposed residential dwellings may lead to increased complaints and threaten the viability of the business and their operating license.
- The NPPF seeks to avoid unreasonable restrictions being placed upon existing businesses – reference is made to the 'agent of change' principle – see 'Appraisal - 6.1' below.
- The Council need to have regard to whether the occupiers of the proposed new dwelling will experience adequate amenity.

- There is a need to assess whether occupiers of a heritage asset can be adequately mitigated from external noise.
- The NPPF recognises the role of bars and restaurants within town centre and their contribution to vitality.
- The loss of an established business could have material economic and social impacts.
- The submitted noise impact assessment is considered to be inadequate.
- Balconies should be removed from the proposed scheme as they are vulnerable to noise.
- Overlooking and / or overshadowing of the external areas by new residents could affect the enjoyment of patrons.
- There will be overlooking of the new homes and visa versa of the commercial outdoor areas leading to a respective loss of privacy.
- Inadequate parking within the development may lead to increased parking stress and together with increased traffic in the town centre could disrupt deliveries.
- The development will place increased pressure on local infrastructure.
- Bin storage areas are adjacent to the boundary and can involve staff emptying glass waste between 0200 and 0300.

4.03 These issues are considered in further detail within the Appraisal section below.

5.0 CONSULTATIONS

The following (summarised/extract) comments have been received, full copies of which can be viewed on the Council's website.

5.01 MBC Conservation Officer:

- The building and associated site occupies a large area within the Maidstone Town Centre Conservation Area, at the historic heart of the town. There are a large number of listed buildings to the north and east of the site primarily facing High Street, Bank Street, Gabriel's Hill and Lower Stone Street. The space north of the River Len was historically the burgage plots of the High Street/Bank Street properties, formed from the 12th century onwards.
- The site is close to the All Saints Conservation Area, and within the setting of the Archbishop's Palace (Grade I), Stables (GI and scheduled monument), Gatehouse (Grade II and SM), Dungeons (GII*), Len Bridge (GII and SM) and All Saints Church (GI), and was historically the site of mill buildings associated with the palace, of which the mill pond is a remnant. Along with the College these assets form a highly significant group of medieval buildings considered of national importance. The road system has degraded the physical connections with the site, but the visual relationship remains, with extensive inter-visibility.
- The Conservation Officer's assessment of impacts is incorporated in the following 'Appraisal' at 6.2.

5.02 **Historic England:**

- The building is most recognisable for its distinctive Art Deco design and prominent location
- Its significance can be broadly summarised in two ways. Firstly, it has architectural interest as a fine example of the Art Deco style, a bold movement which was characterised by streamlined forms and geometric designs and decoration. This is best expressed on its two principal elevations (Mill Street and the elevation addressing the mill pond). Evidence of its original interior e.g. the staircases, also contributes to its significance.
- Secondly, the building has historical value as a rare example of a commercial garage and show room from an early phase of motoring. The building's internal layout including large volume workshops and particularly the ramp for vehicular access to a first floor workshop illustrate its historic function and continued use for the motor industry and thus also make an important contribution to the significance of the building.
- In some areas later 20th century alterations have detracted from an appreciation of the significance of the building particularly where either evidence of internal decoration or the layout of the building has been changed.
- The entire site is within the Maidstone Town Centre conservation area which is principally significant as a good example of a medieval market town with an intact street pattern and a large number of medieval and post medieval buildings. Of note is the high survival of narrow burgage plots and early buildings on Bank Street (at the rear of the site) most of which are no more than three storeys and form the immediate setting of the grade II garage and showroom. While the grade II listed building contributes positively to the conservation area as it illustrates its later development, the wider site of largely undeveloped open ground used mainly for parking is a largely unattractive space and its contribution to the significance of the conservation is much more limited.
- Harm to the significance of the Former Rootes Garage will arise in several ways. Firstly, the significance of the grade II building is intimately connected to its continued use as a garage for which it was designed and converting it to a residential use would harm an understanding of this aspect of significance. The loss of its original roof, which was designed to provide overhead light for first floor workspaces, and thus alludes to the functional use of the building, also causes harm as does the loss of internal features which contribute to significance including a staircase. The proposed two storey roof top extension is also capable of causing harm to the architectural qualities and thus also to the significance of the building which relies on its simplicity of form and repetitive detailing, e.g. window size and pattern for architectural effect. We think the harm arises chiefly from the appearance of the two storey addition which because of its dark cladding detracts from an appreciation of the simplicity of the form and detailing, particularly on the principal elevation of the building.
- We acknowledge that the design of the proposed blocks of development responds to historic roof forms and references the historic streetscape, for example with repetitive gables. However, the scale and massing of the proposed development and especially that to the rear of the site is inevitably greater in bulk and height than some of the surrounding historic townscape

and this has the potential to cause harm to the significance of the conservation area, depending on how the development and historic townscape are appreciated together in key views.

- We think great effort has been made to avoid or minimise harm to heritage significance, most notably in the retention and use of the car ramp for the use it was designed for. Harm to an appreciation of some large open volumes, e.g. the ground floor workshop, has been minimised by uses which require large open volumes. However, it may be worth exploring whether harm to the building's architectural qualities could be minimised by using a lighter coloured cladding for the rooftop extension in order to help reduce the visual impact of the extension.
- Historic England recommends that your Council should consider whether the harm to the architectural qualities of the grade II listed building is capable of being minimised by amending the cladding or perhaps the modulation of the rooftop extension to help you decide whether NPPF requirements to avoid or minimise harm and justify remaining harm are met.

5.03 **Kent County Council Archaeology:**

(Officer Note: in response to the following comments the applicant has since submitted an updated archaeological assessment that seeks addresses the points raised. Any further responses from the consultee will be reported within a UU.)

- The Archbishops Palace and Church are considered to have been the core of the Early Medieval settlement. There is high potential for associated remains, such as Early Medieval structural, industrial and trading activity remains, to survive in the surrounding area, including on the development site itself.
- The development site has been subject to several phases of Post Medieval use, including Tannery and the prestigious car sales complex itself. Len House is situated over much of this activity but there are other areas within the site, particularly to the north east, which may contain early Post Medieval remains. The southern part of the site is still occupied by the mill pond. This mill pond may have Medieval origins, serving a medieval mill complex, but much of the current asset is Post Medieval or later. Part of the mill pond is visible but the eastern part and associated water channels are buried beneath the current surface.
- There is potential for this site to contain significant remains associated with the Scheduled Monuments of Medieval and earlier date. As such this proposed development may have a major impact on significant heritage assets and the assessment of heritage needs to be very robust and comprehensive, to ensure informed decisions are made and there is appropriate and proportionate consideration of the heritage of the site and the town itself.
- I recommend that the assessment of heritage and archaeology needs to be far more detailed. Both heritage reports need to be revised and, in accordance with paragraph 189, NPPF, I recommend some preliminary fieldwork would be extremely helpful to clarify potential for as yet unknown significant archaeology, including modern structural remains associated directly with Len House.
- I recommend that prior to determination of this application, further more detailed heritage assessment would be appropriate.

5.04 Kent County Council Highways:

- The residual difference between trips generated by the existing (prior) use and the proposed uses presented in the Transport Statement represent a robust forecast of the potential vehicle trip impact of this proposal.
- The proposals are projected to generate a net reduction in terms of trip generation in the AM peak. Potential PM peak net vehicle trip impact is varied between the potential scenarios. These impacts range from a net reduction of 8 trips in the PM peak up to an increase of 56 trips. . However, it is concluded that the additional 56 vehicle movements this proposed development would add to the network in the PM peak, under the “worst case scenario”, would represent a low increase that is likely to fall within the day-to-day variations in traffic using this road.
- It cannot be reasonably concluded that the impact of the proposal would be severe or significant in terms of vehicle trip generation.
- In terms of the primary Palace Avenue access, due to the minimal net trip generation of this proposal, the availability of suitable visibility lines and vehicle tracking and the collision record, it can be concluded that the proposal for this access junction would not have any significant impact on highway safety.
- In terms of the Mill Street access in the context of a likely reduction in vehicle movements at this junction compared to the existing use, the proposal for this junction is not considered to represent any potential significant negative highway impacts.
- Due to the nature of the site and the surrounding roads, where there is very limited opportunity to park without residents permits (which residents of this site would not qualify for), it is not considered likely that any parking overspill would occur. The applicant has confirmed that spaces within the site will be allocated and that residents will be fully aware before moving into to the flats whether they will be able to park a car or not. As this level of parking provision is supported by Travel Plan initiatives to minimise car dependency, this is considered a suitable approach to residential parking for this location. Visitors driving to the site are expected to use the nearby publicly available car parks, which is an appropriate strategy in this location given the high levels of public car park provision in the nearby area.
- It is noted that twelve disabled parking bays are proposed for the residential parking element, which is a suitable provision based on SPG4 guidance.
- The proposed “boardwalk” along the front of the Len House building has the potential to offer a benefit to pedestrian permeability, so long it is available as a through route, as it would offer a more attractive walking route than along Palace Avenue (A229).
- The site has access via continuous pavements into the town centre and key pedestrian trip attractors. The pavement widths available on Mill Street are acceptable for the likely increase in pedestrian footfall that this proposal would likely generate.
- The site benefits from access to a large number of different bus services available in close proximity. The nearby bus stops have suitable pedestrian access and generally have a good level of infrastructure, however the stop nearest to the entrance to the site on Mill Street is without a shelter. In order

- to encourage higher levels of sustainable trips to and from this site, it is recommended that the applicant should be required to provide a bus shelter.
- The proposal includes passive provision for all residential spaces with full charging provision in the 1st floor of Len House, a further 35 spaces with passive provision in the main residential car parking and passive provision for all commercial parking spaces.
 - While it would be preferable to have the greatest level of active EV charging provision possible in any new development, providing at least a high level of passive provision serves to reduce barriers to greater levels of EV adoption in the future. The amended proposals for EV charging provision on this site do represent an improvement.
 - It is noted that a total of 168 cycle parking spaces for the residential element and 16 for the commercial element of the on-site parking are proposed. This is consistent with SPG4 requirements.
 - It is noted that a framework Travel Plan has been provided with this application. The Travel Plan sets out suitable initiatives and objectives in order to maintain and enhance a sustainable modal share amongst residents, visitors and businesses on this site.
 - The framework Travel Plan submitted with the application states an overall target of the Travel Plan to “target a reduction of car-based trips by 5% over a 3 or 5 year period, with an aspiration of up to 10%.” These targets are a suitable starting point however it is recommended that the targets used in the final version of the Travel Plan should be agreed with the Local Planning Authority and Local Highways authority so that the most suitable targets can be agreed.

5.05 Kent County Council Flood and Water Management:

(Officer Note: in response to the following comments the applicant has submitted an updated flood risk assessment that seeks to address the points raised. Any further responses from the consultee will be reported within a UU.)

- The drainage strategy proposes utilisation of green roof, permeable pavement at ground level and attenuation at podium deck level. It is acknowledged in retaining the existing building and the high ground water levels encountered that there are limited design approaches to reduced surface water discharged from the site. The drainage strategy proposed may result in a reduction of discharge rates from the site from pre-developed conditions, from between 70% to 68.5% dependent upon the storm event.
- In general we do not disagree with the approach taken but there is a degree of uncertainty as to the sizing and location of elements of the drainage strategy proposed and whether this proposal is sufficient to provide the appropriate control of surface water generated from the site.
- The level of information is insufficient to provide detailed response to the Full application which has been submitted and we would recommend a holding objection until further information is provided to respond to the issues raised above.

5.06 Kent County Council Ecology:

- Advise that the proposed development has limited potential to result in ecological impacts and as such we are satisfied that there is no requirement for an ecological survey to be carried out.
- We have taken this view because the site is largely hardstanding and the building on site does not provide optimum habitat for bats (as it is flat roofed, in reasonably good condition and is well lit to due to the large numbers of windows).
- Recommend conditions seeking biodiversity enhancements

5.07 **Kent County Council Economic Development:** Identify the range of infrastructure contributions that should be sought from CIL funding. Also recommend conditions relating to broadband and accessible housing.

5.08 **Kent Police:** Recommend that the applicant engage with regard to secure by design principles.

5.09 **Southern Water:** Identify potential conflicts between the development and sewer. (Officer Note – the applicant has responded with on-site surveys and has adjusted the footprint of relevant buildings).

5.10 **Mid-Kent Environmental Health:**

Noise: A number of queries are raised and recommendations made with regard to noise management. A condition requiring a further noise assessment is recommended.

Air Quality: Our own modelling appears to confirm that there will be no exceedances of any air quality objectives. However, request that additional modelling is undertaken.

The Air Quality Assessment includes a damage cost calculation which yields £196,366. However, there is no costed mitigation scheme showing how the money is to be spent. We would like to see such a scheme, and would suggest that it would include EV charging in a minimum of 20% of the parking spaces and ducting to allow EV charging to be installed at a later date in the remainder of the spaces. We would also like to see at least 2 EV charging bays in the publicly accessible spaces. The damage cost could also be spent on, for example, cycle storage and low NOx boilers.

Land Contamination: Owing to the previous uses of the building, a contaminated land condition should be attached to any permission given for this development.

6.0 APPRAISAL

6.01 The appraisal of these applications adopts the following structure:

- 6.1 Principle of Development
- Commercial
 - Residential
- 6.2 Heritage
- Len House
 - Other heritage assets
 - Archaeology

- 6.3 Design and Visual Impact
 - Design Response
 - Townscape Assessment
 - Sustainable Design
- 6.4 Living Conditions
 - Neighbouring residents
 - Future occupiers
- 6.5 Highways and Sustainable Travel
 - Trip Generation
 - Access
 - Parking
 - Sustainable Transport
- 6.6 Ecology and Biodiversity Enhancement
- 6.7 Air Quality
- 6.8 Affordable Housing and Infrastructure

6.1 Principle of Development

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. It is a core principle of Government policy that the planning system must be plan-led. The MBLP 2017 is the principal Development Plan Document for the District. It is up-to-date and must be afforded significant weight.
- 6.1.2 The National Planning Policy Framework (NPPF) provides the national policy context and is a material consideration in the determination of the application. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this again means approving development that accords with the development plan. Members should note that the NPPF also states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- 6.1.3 In addition, it should be noted that despite the NPPF's presumption in favour of sustainable development and the emphasis upon the use of brownfield land, it also states that "*Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities* " It is therefore clear that good design is an essential requirement of any scheme that seeks to deliver sustainable development.
- 6.1.4 Policy SS1 of the Local Plan sets out the broad sustainable development strategy for the District and states that the Maidstone urban area will be the principle focus for development, with the best use made of available sites. It also states

that the town centre will be the focus for regeneration. The site falls within the defined town centre boundary as defined under policy SP4

- 6.1.5 Members should note that Policy SP1 seeks to respect and deliver the 'Spatial Vision' set out in the Local Plan. The Spatial Vision states that sustainable growth should be delivered alongside:
- protection of the Borough's built assets
 - creating an enhanced and exceptional urban environment
 - enhancement of heritage assets
 - securing high quality sustainable design and construction
 - ensuring that development is of a high quality design and makes a positive contribution to the area.
- 6.1.6 The Local Plan's vision for the town centre, which is reinforced through Policy SP4 sets out a number of objectives to which the proposed scheme responds positively, including:
- retaining its best environmental features
 - providing enhanced public realm
 - providing a diverse retail and leisure offer
 - ensuring that development is of a high quality design and makes a positive contribution to the area.

Commercial Uses

- 6.1.7 The application incorporates a number of commercial elements, namely:
- flexible commercial uses within the former car showroom fronting Mill Street
 - a food and drink related use within the
 - a large space within the former ground floor workshop that is proposed to be used for food and drink uses, namely A3 and A4

As Mill Street lies outside of the defined primary retail area, the flexible range of uses sought within the former showroom are considered to be appropriate.

With regard to the main commercial space fronting the Mill Pond, in response to Officers requests to ensure that this large space principally retains its historic scale and allows public appreciation of its character and history, the proposal limits the uses to those akin to a food and drink court/market. The applicant has referred to precedents such as Macnades and The Goods Yard Canterbury. Officers consider that such a use would respond positively to the Local Plan objective of enhancing the range of retail and leisure uses available within the town centre. In addition to the listed A3/A4 uses, an element of related A1 sales would be supported, but subject to A1 not being the predominant use and challenging the primary shopping area.

The proposal to activate the public realm in front of the buildings is again a positive response to the Local Plan's town centre vision and a proposal that should also enhance the appreciation of the site's heritage.

In summary it is considered that the commercial elements within the proposal respond positively to both NPPF and Local Plan policies. They will assist in

enhancing the economic and social sustainability of the town centre and enhancing its vitality and viability.

6.1.8 There are further commercial considerations that arise from the proposal, principally the potential to impact upon existing businesses within the town centre. This consideration is currently heightened by the economic impacts of the Covid Lockdown, during which the Government has asked local authorities to not place additional burdens upon local business sectors.

6.1.9 Competition between commercial and leisure uses is not a relevant consideration within the context of the site's town centre location, indeed, it is considered that diversity and choice are a positive benefit. However, the principle of 'agent of change' must be considered carefully. This consideration was born from a number of prominent cases where the introduction of new residential units within the vicinity of established entertainment venues impacted upon their potential to continue in the manner that they had previously. This is a concern raised by a number of established food and drink establishments within the proximity of the application site. The matter was highlighted by the (then) Chief Planner in April 2016, when he wrote to all LPA's highlighting:

"We would like to re-emphasise that updated planning guidance on noise (supporting the National Planning Policy Framework) was published in December 2014. It makes clear that the potential effect of a new residential development being located close to an existing business giving rise to noise, for example a live music venue, should be carefully considered. The guidance also underlines planning's contribution to avoiding future complaints and risks to local business from resulting enforcement action".

6.1.10 The principle is now enshrined within the NPPF, which at paragraph 182 states:

"Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."

This is further elaborated in the PPG, which states:

"The potential effect of a new residential development being located close to an existing business that gives rise to noise should be carefully considered. This is because existing noise levels from the business, even if intermittent (for example, a live music venue), may be regarded as unacceptable by the new residents and subject to enforcement action. To help avoid such

instances, appropriate mitigation should be considered, including optimising the sound insulation provided by the new development's building envelope."

- 6.1.11 The requirement is that the LPA should give sufficient consideration to the potential impact of, for example, noise and disturbance on future residents within the proposed scheme. As highlighted above (4.02), there are a number of existing entertainment establishments within close proximity to the application site, some immediately bordering the site boundary. In the main these benefit from licenses that allow opening until 0100 to 0300 on one or more days per week. A number also have outdoor entertainment licenses and outdoor areas with significant capacity for large numbers of patrons.
- 6.1.12 At 4.01 above, we highlight the comments from flats within a nearby building, who identify that they experience a degree of noise and disturbance. Inevitably within a town centre, particularly one with such a tight urban grain, the juxtaposition of residential and commercial uses may lead to occasional conflict. Equally, the operators above indicate that they do, where possible engage with the local community to address issues that arise.
- 6.1.13 The creation of sustainable mixed use communities is highly sustainable and the provision of residential accommodation is a key element of the Council's strategy for the town centre. One might expect purchasers of town centre apartments to see the immediate area's vitality as a positive aspect. However, having regard to the number of nearby venues, Officers consider that the potential impacts require careful consideration. The principal impacts are likely to arise from noise generated by patrons and music, which could cover extended periods into the evening / early morning. In addition, there may be other operational noise impacts such as refuse disposal and servicing.
- 6.1.14 Within the new build elements, both the additional floors to Len House and the new buildings to the rear, a significant number of the units face away from the adjacent entertainment uses. Terraces or balconies within exposed locations are relatively limited. However, those facing may require additional mitigation above what may normally be required. As new build elements, there is considerable flexibility to use new building fabric with increased performance levels and this could be secured through a condition.
- 6.1.15 One objector refers to case law relating to the need to adequately consider the potential limitations of heritage buildings in being able to secure adequate noise mitigation. Within Len House the proposed residential accommodation that will be converted within the existing fabric at first floor level will already be required to mitigate noise impacts from road traffic and also transmission from the commercial uses at ground floor level – to be addressed through conditions. In part the design addresses this, with the use of winter gardens on the frontage. With regard to other rear facing apartments, the character of Len House is that of a robust concrete frame with brick panelling. To the rear elements of the walls are to be upgraded or re-built and where necessary windows that are not capable of restoration replaced. Officers consider that with the improvements to the fabric that are necessary and / or with additional measures such as

secondary glazing, these could be secured by condition without prejudice the sensitivity or significance of the listed building.

6.1.16 In response to objections, the Applicant responds:

In respect of noise it is proposed that detailed façade calculations and assessments are to be conditioned to be undertaken at a later stage to establish which specific windows may require greater forms of mitigation such as triple glazing and acoustic attenuation ventilation. Triple glazing and acoustic attenuating ventilation is likely to be sufficient in this location based on the noise assessment model already undertaken. The Condition will allow specific measures to be delivered to individual properties where appropriate and go hand in hand with the Condition detailing the replacement windows. It is further considered that this would address the 'agent of change' principle as the details of the Condition could potentially highlight any further or additional mitigation measures necessary to be applied to specific individual dwellings.

6.1.16 Officers consider that an appropriate condition could secure the further assessment required, with additional acoustic surveys to focus on entertainment based noise, secure the implementation of a scheme of mitigation and require its retention in perpetuity. It is not considered that a s106 agreement is necessary in order to secure such a scheme. As the venues are currently closed, it has not been possible to carry out surveys at the present time, but a conditioned approach is considered acceptable.

Residential Uses

6.1.17 The site does not form part of a site allocation, but being within the town centre is a broad location for housing growth as defined under Policy H2(1). The site comprises previously developed land within the defined urban area of Maidstone. In principle the application will make a significant contribution to the provision of high quality housing within a sustainable town centre location. As such, the principle of residential development is acceptable and in general accordance with the provisions of the Development Plan and the NPPF, subject to the assessment of the scheme against the wider policies of the development plan as a whole.

6.1.18 The supporting text to Policy DM5 lists further considerations that will inform as to the acceptability of brownfield development, including:

- Any harm to the character and appearance of an area
- That densities are appropriate
- Impacts on residential amenity
- The scope for sustainable travel modes
- What traffic the present or past use has generated; and
- The number of car movements that would be generated by the new use, and what distances, if there are no more sustainable alternatives.

These, together with other relevant considerations are appraised below.

6.2 Heritage

6.2.1 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.

6.2.2 Section 72 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 may impact upon a conservation area, to pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area.

Similar requirements apply to the assessment of scheduled ancient monuments.

6.2.3 The National Planning Policy Framework indicates that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. It also states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. It states that local planning authorities should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. The application is accompanied by a heritage assessment, which identifies the wide range of heritage assets within the vicinity, including a range of listed buildings, conservation areas and scheduled monuments.

6.2.4 The NPPF requires that when considering the impact of a proposal on a heritage asset, the Council should first consider whether the development has sought to minimise any impacts through its design, before considering what the residual level of harm may be.

6.2.5 The NPPF advises 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 ...*" This requirement is echoed by policy DM4 of the MBLP. The NPPG sets out that public benefits should be of a scale and nature that benefit the public at large. They may involve direct heritage benefits or wider considerations such as the delivery of housing to meet local needs or other economic or social benefits.

Len House

6.2.6 The significance of Len House is identified in the above comments from both Historic England and the Council's Conservation Officer and includes:

- The principle significance of its main facades

- The large internal voids and the vehicular ramp that are indicative of its historic function.
 - Its relationship to the Mill Pond.
- 6.2.7 The loss of the building's original use is regretted and could be considered harmful to its significance. However, it is clear from discussions with the previous occupier that the building's location and physical constraints are no longer suited to the functions of a modern motor dealership or similar operation. Such a use would also not be capable of maintaining or restoring the sensitive fabric and could lead to continued decline to a stage where any renovation may not be viable.
- 6.2.8 However, there are heritage benefits associated with achieving a sustainable long-term purpose for the building which minimises harm and provides enhancements. For example, the key features that define its significance will be retained and enhanced as part of the proposed works, including the aforementioned elevations, large ground floor void and the ramp. Features that have been lost such as the original kiosk and neon signage will be re-introduced, further enhancing the public's understanding of the site's history. These would represent heritage benefits.
- 6.2.9 The works to the building have been informed by a detailed historic and structural assessment of its fabric and a scheme involving the minimum necessary intervention has been agreed.
- 6.2.10 The loss of the roof, although utilitarian in character and of lesser significance, would diminish the historic character of the workshop by compressing its internal volume and removing overhead daylight. The two storey roof extension would have a significant impact on the appearance of the building due to its height and extent, although the design is considered appropriately simple and has been set down and back from the front elevation in order to minimise its visibility. Likewise, the proposed set-back of the external amenity space is expected to reduce the intrusive appearance of domestic clutter. The material finish of the roof extension cladding/framing will be critical in the ultimate success of the design as it should appear separate yet complimentary to the existing building. It is suggested that a condition should be added to ensure the uses of appropriate finishes and that the curved corner elements are not designed out at a later stage.
- 6.2.11 The potential replacement of original steel-framed windows has been justified on the grounds they are beyond economical repair, which is accepted. The windows are an important feature and account for a substantial proportion of the listed building's elevations. Any replacement windows are intended to be closely matched in terms of design and detail, which should be carefully controlled through a condition to ensure the appearance of the building is not compromised.
- 6.2.12 The retention of the internal ramp, which is a key internal feature of the building, and its proposed continued use as for vehicles, is welcomed. The partitioning of the ramp from the main area is regrettable as it would

compromise the volume of the space, although a satisfactory argument on fire safety and operational grounds has been provided. It recommend the partition's design is conditioned to ensure that public visitors are able to appreciate its historical function.

- 6.2.13 In principle, the reinstatement of the original fuel kiosk as a beverage kiosk; the reinstatement of the original lighting and signage schemes; as well as general repairs to the historic fabric, are considered heritage benefits. A condition is proposed to ensure that the extensive collection of documents stored within the building are deposited in a suitable archive, such as the Kent Archive, in order that they are preserved in appropriate conditions and available to the wider public. This would also be a heritage benefit.

Maidstone Centre Conservation Area

- 6.2.14 The current condition of the car park and hard surfaced open space around the building is considered to detract from the character of the Maidstone Town Centre Conservation Area. The proposed new development on this area, together associated landscaping would subject to scale and design, represent an overall enhancement to both the setting of Len House and the conservation area, including the various GII listed buildings that lie within its wider setting. It is considered that although some of the rear elevations on Bank Street are intrusive and of little interest, a number are clearly historic rear projections that have an appropriately secondary scale and character to their principal northern facades. While the scale of the proposed new buildings is generally larger than anything else in this part of the Conservation Area, where buildings are of primarily 2-3 storeys, the proposed site sections indicate that their height will descend from the rear of Bank Street/High Street towards Palace Avenue, which is largely acceptable.
- 6.2.15 The rear buildings would have a loosely vernacular form by incorporating pitched roofs, with the Palace Avenue block being more contemporary in character. While Officers do not object to this approach, it is questioned whether the material palette of the buildings could better reflect the historic town centre context in terms of brick choices and roof coverings. The design and detailing could have more references to the conservation area context which is set out in detail in the Maidstone Centre Conservation Area Appraisal. Maintaining the design quality of the new buildings through appropriate conditions is an important factor in preserving the character and appearance of the conservation area.
- 6.2.16 Notwithstanding the positive aspects of the new development, I consider the changes to historic ground levels, urban grain and uplift in height and mass would result in harm to the conservation area and setting of adjacent listed buildings. This harm would, however, be less than substantial and the heritage and other public benefits of the proposals are potential mitigation provide mitigation.
- 6.2.17 The extended Len House building would be more prominent in a number of key local views, particularly from the area of the Parish Church and Archbishop's Palace, where there are both listed buildings of high significance and scheduled

ancient monuments. The roof extension would reduce views of Coleman House from this area, which would be beneficial. However, it would also largely obscure the view of Holy Trinity Church spire, which would be harmful due to the loss visual connection between historical landmarks. However, this level of harm is considered to be very limited having regard to the already intervening townscape.

- 6.2.18 The visual impact of the conversion and extension of Len House on the setting of All Saints Conservation Area and its highly graded listed buildings and ancient monuments is likely to be greater at night when the large areas of glazing would provide views into the new uses within the building. The building is expected to have more dominant presence than at present, and therefore be potentially harmful to the setting of heritage assets. However, weight should also be afforded to the existing impact of the intervening highways, their activity and artificial lighting, which represent a significant modern barrier between the two areas, thus diminishing the residual impacts on setting to one that is less than significant.
- 6.2.19 In summary, I consider the proposed works to the listed building would provide a range of heritage benefits alongside works that would cause less than substantial harm to its significance. The rooftop additions to the listed building and new development on the site would also provide benefits by enhancing the appearance of the area, but would also cause a degree of less than substantial harm due to the negative aspects of the scheme outlined above.

Archaeology

- 6.2.20 The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, LPAs should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation. Policy DM4 of the adopted Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, must include an appropriate desk based assessment of the asset. In addition where important or potentially significant archaeological heritage assets may exist, developers may be required to arrange for field evaluations to be carried out in advance of the determination of planning applications.
- 6.2.21 The principles of assessing the heritage significance and potential level of harm to archaeological assets are common to the process for built assets described above.
- 6.2.21 Following the initial comments of KCC's archaeologist, an updated desk top based assessment has been submitted. The DBA identifies the existence of a significant number of sensitive designated heritage assets within the wider vicinity. The updated report recognises the high potential of the area to contain significant remains, but notes that as a result of the history of the site, truncation and contamination of remains is possible.
- 6.2.22 Whilst KCC request pre-determination investigations, Officers consider that a pre-commencement condition would be acceptable.

6.3 Design and Visual Impact

- 6.3.1 Both the NPPF and Local Plan emphasise that good quality design is central to the successful delivery of sustainable growth. In particular the NPPF makes clear it's expectations in respect of design quality:

"The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

It further emphasises that in taking planning decisions the Council will seek to ensure that development:

- a) will function well and add to the overall quality of the area;
 - b) is visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) is sympathetic to local character and history, including the surrounding built environment and landscape setting;
 - d) establishes a strong sense of place and creates attractive places to live;
 - e) in optimising the potential of any site to accommodate development should provide an appropriate scale and mix of development and include necessary green and other public space.
- 6.3.2 The Local Plan is entirely consistent with the NPPF. It's Spatial Vision / Objectives, together with Policies SP1 and SP18 emphasise that sustainable growth should be delivered alongside protection of the built environment and heritage assets.
- 6.3.3 The Local Plan sets out clear expectations in respect of design quality, stating that "Proposals which fail to take opportunities to secure high quality design will be resisted". Policy DM1 sets out a number of design-led tests including:
- the need to respond to local character, including scale, mass and bulk,
 - the creation of high quality public realm
 - the need to respect the amenity of neighbours
 - delivering high quality design which responds to townscape and heritage settings

Design

- 6.3.4 The scheme has been designed by Kent-based practice *Holloway* who have considerable experience in delivering town centre regeneration schemes and contemporary design solutions within a heritage context across the County.
- 6.3.5 The brief was to sympathetically restore and adapt Len House in a manner that provides accommodation suited to modern user requirements, whilst ensuring that its heritage can be appreciated to the maximum possible extent. The existing external fabric is principally restored or renewed where necessary, whilst unsympathetic alterations are removed and lost features restored.
- 6.3.6 The intervention of a modern upper element is considered to be sympathetic to the original buildings forms and influenced by its overarching modernist streamline form. It is a significant intervention in the building's fabric and overall form, but one that is considered to be successfully executed.
- 6.3.7 The adjacent new building fronting Palace Avenue adopts the design principles of Len House, but in a more contemporary manner. It is considered that its scale and character compliment, but do not compete with Len House, which remains the prominent building on the site.
- 6.3.8 The new element to the rear adopts a contrasting approach, with a tight urban grain, more organic roof form and modulated heights, informed by the character of the conservation area to the north.
- 6.3.8 The manner in which the refurbished buildings engage with the public realm is positive, with the new public areas fronting Mill Street and the boardwalk re-engaging with the Mill Pond providing public access to the new active uses within the ground floor, adding to the vitality of this area of the town centre. The hard and soft landscaping proposals are of a high quality and as explained below, will incorporate biodiversity enhancement measures.

Townscape Assessment

- 6.3.9 The application is accompanied by a Townscape and Visual Impact Assessment which assesses the site's context, including topography, surrounding townscape character areas and sensitivity, including the relationship of the site to heritage assets.
- 6.3.10 A visual baseline assessment identified 14 localised viewpoints of the site from surrounding areas of the town centre. The assessment identifies that Len House is a clear landmark building with a high degree of authenticity.
- 6.3.11 The principal view of the site frontage across the approach to River Len bridge from Fairmeadow is of a high sensitivity due to the prominence of the building at this busy open highway junction. The view is framed by other significant urban buildings and the increase in scale is not considered to be harmful. The visual clutter of traffic activity and highway paraphernalia diminishes the sensitivity of the view to some extent. As a result of the sensitive restoration of the building

and public realm fronting it, the impact will be positive and not require any mitigation.



6.3.11 The assessment identifies that views from within the All Saints conservation area will change as a result of the increased height of Len House. However, views towards the site from the edge of the conservation area have the distraction of Coleman House behind, which will in-part be screened, which itself will be positive. Views from All saints Church itself are more distant, but the change in massing to Len House is still evident. However, the net impact is significantly mitigated by the lightweight nature of the roof addition.



6.3.12 Views from the road network to the south and east represent changing glimpses of the site, with a low level of change, with the viewpoints dominated by traffic conditions.

6.3.13 The assessment identifies that the open areas of the site make no positive contribution to the character or quality of the townscape. Whilst the magnitude of change will be significant due to the new build elements, the impact is one of positive change, removing the semi-dereliction of the open area, reinstating the built frontage to Palace Avenue and screening the poor quality buildings to the rear of Gabriel's Hill.



Sustainable Design Principles

6.3.14 Whilst heritage buildings often offer limited opportunities for the introduction of sustainable principles, due to its modernist design and linear form, Len House offers a number of opportunities to incorporate measures beyond simply passive fabric first design. These include:

- significantly improving the thermal efficiency and air tightness of the existing listed structures
- installing an extensive solar PV array on the new roof
- extensive areas of green / brown roof combined with the introduction of permeable surfaces across the sites hard and soft landscaped areas
- air sourced heat pumps for the new build element

6.4 Living Conditions

Existing Residential Neighbours

- 6.4.1 The potential impact of the development on the amenities of the occupiers of adjoining properties is a key planning consideration and an essential element of defining acceptable design. Such impacts may include sunlight and daylight, noise, privacy and overlooking and the general scale and physical relationship of new development to its neighbours. As identified in the NPPF, it is also relevant to consider the amenities of future occupiers of the proposed dwellings.
- 6.4.2 At paragraph 127(f) the NPPF confirms that developments should ensure a high standard of amenity for existing and future users and Policy DM1 (iv) of the MBLP reinforces this requirement.
- 6.4.3 Concerns have been raised by nearby residents regarding, for example, the scale of the development, the impacts upon privacy and loss of daylight and sunlight.
- 6.4.4 At the pre-application stage, the potential for adverse impacts on properties to the rear of Bank Street were identified. No.84, from which the objections have been received, sits within a tight cluster of buildings to the rear of Bank Street. In response the proposed new build element to the rear was pulled away from the boundary and its height to the rear of No. 84 was significantly reduced. Whilst the introduction of built development on land that has sat open for some time will inevitably result in a significant degree of change, by deliberately recognising the adjacency of these properties and cutting out a significant section of the building the proposals ensure that, within the context of a town centre location with a tight urban grain and juxtaposition of buildings and uses, the net impacts on existing neighbours is significantly reduced.
- 6.4.4 Property spacing standards are typically reduced within town centres, particularly having regard to the medieval plot dimensions that define this area's character. Nevertheless, the building is pulled back from the northern boundary and the majority of units are designed to have their primary aspect away from the rear of Bank Street and over the new communal open space. It is therefore not considered that the building would result in an unacceptable loss of privacy and therefore complies with the objectives of the NPPF and policies DM1 and 5 of the MBLP.
- 6.4.5 Officers note that some nearby commercial properties suggest that by being overlooked by new residential apartments, their open spaces, such as terraces, beer gardens, will be less attractive to customers. We do not consider this to be a reason to conclude harm.

Future Occupiers

- 6.4.6 The assessment above in relation to the 'agent of change' issue considers whether, by virtue of noise unacceptable conditions would be likely to arise. Noise is considered to be a matter that can be managed through conditions. In

terms of other amenity considerations, the majority of residents will have access to a range of private terraces and communal spaces that will serve principal habitable rooms and provide positive outlook conditions with interesting views across the development and the surrounding heritage assets beyond. It is not considered that occupiers will be subject to substandard levels of privacy.

- 6.4.7 Being located within the town centre, residents will have access to a wide range of amenities without the need to travel. Having regard to the high quality of the scheme, we consider that it will provide future occupiers with a very positive environment for urban living.

6.5 Highways and Sustainable Travel

- 6.5.1 The site is highly sustainable, its central location offering good access to amenities, services and employment without the need to travel, but where travel is required, KCC acknowledge that it has good access to a range of public transport options.
- 6.5.2 KCC raise no objections to issues of trip generation (there being a net reduction) and also consider the levels of parking to be appropriate to the town centre, with the proposed vehicular access points being acceptable.
- 6.5.3 KCC also consider that the site has good pedestrian accessibility and that the provision of the boardwalk and new public realm are positive measures.
- 6.5.2 A framework Travel Plan has been provided which KCC consider sets out positive measures to further reduce travel impacts.

6.6 Ecology & Biodiversity Enhancement

- 6.6.1 KCC Ecology advised that the characteristics of the site and buildings would not require an ecological impacts assessment to be carried out due to the lack of habitat. Nevertheless, the applicant has provided a preliminary ecological appraisal, which concludes:
- Low potential to support roosting bats;
 - Moderate potential to support foraging and commuting bats;
 - Moderate potential to support commuting riparian mammals;
 - Low to moderate potential to support notable fish; and
 - High potential to support nesting birds.
- 6.6.2 A number of enhancement measures are recommended, which include:
- • Wildlife friendly landscaping;
 - • Enhanced aquatic habitat;
 - • Biodiverse living roofs;

- Invertebrate habitat features (e.g. bee bricks and log piles);
- Living walls; and
- Bird and bat boxes integrated into the fabric of the building.

It is recommended that these are secured through conditions.

6.7 Air Quality

- 6.7.1 The site is located within an area of the town centre that is vulnerable to the impact of vehicular emissions on the quality of air. Both the NPPF and Policy DM6 of the Local Plan require the impact of development upon and its potential vulnerability to air quality to be assessed. The assessment identifies that future occupants would not be exposed to pollutant concentrations above the relevant objective levels.
- 6.7.2 With regard to the potential impact of the operational phase of the development, the transport assessment models a net reduction in traffic compared to the previous use during the am peak and at work, even on the worst case scenario for future trip generation, a small potential increase in the pm. As such, the impacts of the development upon local air quality are predicted to be low / imperceptible.
- 6.7.3 An emissions mitigation calculation suggests a target mitigation cost of circ £196,000. Best practice suggests that mitigation measures should be of an equivalent value and where possible, the net benefit of the measures quantified. With regard to soft measures, precise calculations are rarely possible, but the applicant has put forward the following measures, which can be monitored through condition:
- EV charging points to an agreed minimum number of parking spaces and latency across the majority of the remainder
 - A travel plan incorporating measures to encourage residents to use sustainable transport modes
 - Positive levels of cycle provision
 - Enhanced pedestrian routes across the site

Having regard to the highly sustainable location and nature of development and its limited impacts, these are considered to be acceptable measures.

6.8 Affordable Housing & Infrastructure

Affordable Housing

- 6.8.1 The NPPF sets out that the Government's aspiration for sustainable development include creating " *strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations*".

- 6.8.2 As required by the NPPF, the adopted Local Plan makes clear the type and level of affordable housing that will be expected from development. Policy SP20 identifies that in this location 30% of the scheme should provide for affordable housing. Policy SP20 (6) also notes that *"Where it can be demonstrated that the affordable targets cannot be achieved due to economic viability, the tenure and mix of affordable housing should be examined prior to any variation in the proportion of affordable housing"*.
- 6.8.2 Where there is departure from the affordable policy requirements the onus is therefore on the applicant to demonstrate why the scheme is not policy compliant. At paragraph 57 the NPPF advises that *"It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment (VA) at the application stage"* whilst *"The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case..."*.
- 6.8.4 As clarified by the NPPG, VA is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. The process includes looking at the key elements such as gross development value, development / build costs, land value, landowner premium, and developer return. The aim of the process is to strike a balance between, for example:
- The aspirations of developers in terms of returns against risk
 - The aims of the planning system to secure maximum public benefits through the grant of planning permission
- 6.8.5 In this case, a number of considerations are available to the LPA when considering whether to accept a viability assessment, for example:
- Is the development otherwise compliant with the development plan?
 - Would it contribute positively to achieving sustainable development?
 - Are there other public benefits arising?
- 6.8.6 In the case of this site, having regard to, for example, the costs associated with renovating a listed building and the potential costs of developing a contaminated site, the applicants submitted a VA that sought to demonstrate why affordable housing could not be provided, either on or off site. To assist Members in terms of terminology:
- Existing use value - EUV is the value of the land in its existing or lawful use. Existing use value is not the price paid and should disregard hope value.
- Benchmark land value - The benchmark land value is established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner. The premium for the landowner should reflect the minimum

return at which it is considered a reasonable landowner would be willing to sell their land.

Residual land value – Residual land valuation is the process of valuing land with development potential. It seeks to identify the sum of money necessary for the purchase of land and is calculated by in essence estimating the value of the completed development (for example direct sales income) and then subtracting the costs of development (for example, build costs, finance costs, professional fees, planning policy requirements and CIL and profit).

If the residual land value falls below the benchmark land value, then it is unlikely that the developer would be incentivized to deliver the assumed level of affordable housing.

6.8.7 The Applicant's VA identifies a benchmark land value of £3,700,000

For a scheme with 30% affordable housing, it generates a residual land value of (minus) -£5,633,063. This is £9,333,063 (deficit) below the benchmark land value – a loss of 8.8%

If the level of affordable housing is reduced to 0%, it generates a residual land value of (minus) -£2,536,452 which is £6,236,453 (the deficit) below the benchmark land value of £3,700,000 – a loss of 0.65%.

The applicant therefore seeks to demonstrate that in planning terms the scheme cannot viably provide an affordable housing offer.

6.8.8 In order to assess the applicant's VA, the Council appointed independent consultants 'RedLoft' to review the submitted VA. In doing so, they tested the method of calculating the sites existing and benchmark land values. They also tested the inputs to the residual appraisal, such as profit margins, build costs, sales income etc. They have advised the Council that whilst they would tweak some of the applicant's assumptions up and some down, they broadly come to the same conclusion.

6.8.9 It is therefore for the Council to consider whether there are overarching benefits that could be achieved in granting planning permission for a scheme without affordable housing. For the reasons outlined in this report, it is considered that having regard to the exceptional circumstances of this site and the wider benefits arising, this approach is justified.

6.8.10 Officers have considered whether a review mechanism should be imposed. Whilst this would often be best practice, having regard to the significant deficit for even a 0% scheme, this is unlikely to serve any beneficial purpose and may detract from the scheme's funding and timing of delivery.

6.8.11 Having regard to the deficit that the applicant needs to address, Officers are developing a series of planning conditions that seek to ensure that the quality of design and heritage restoration is not dumbed down through costs savings.

Infrastructure

6.8.12 The Council commenced CIL (Community Infrastructure Levy) charging on 1st October 2019 and with the exception of affordable housing provision the remaining infrastructure would be funded by CIL.

7 CONCLUSIONS

- 7.1 The principle of a mixed use development within a sustainable town centre location is acceptable. The balance of commercial and residential uses will make significantly positive contributions to the vitality and viability of the town centre and to the aspiration to introduce more high quality housing to the town centre,
- 7.2 Bringing a vacant building and under-utilised site is also considered to be positive and responds to the aspirations of the Council's Opportunity Site Brief.
- 7.3 It is considered that the development can be achieved without adversely affecting the amenity of existing residents and the operational viability of existing commercial uses.
- 7.4 It is considered that the scheme does result in some harm to Len House and to surrounding heritage assets, for example, loss of the original use, removal of the roof, partial subdivision of the internal space. The scheme will also cause a degree of harm to the setting of the two adjacent conservation area and the listed buildings within them. However, it is considered that this harm is less than significant.
- 7.5 The applicant has demonstrated that they have minimised the harm arising through measures such as; designing the new roof to be lightweight, retaining the large ramp and main ground floor void, as well as restoring the facades. These works respect the key defining features of significance and are considered to be heritage benefits. Additional heritage benefits include, for example, restoring the original forecourt and creating an archive of the building's history.
- 7.6 In terms of the new build elements, through their design they have sought to minimise their impact on the setting of nearby heritage assets and it is considered that the character and appearance of the conservation area will be enhanced.
- 7.7 Notwithstanding that the scheme will result in a degree of harm to heritage assets, which is considered to be less than significant, for the reasons set out above, it is considered that this harm will be outweighed by the significant heritage and public benefits that will arise.

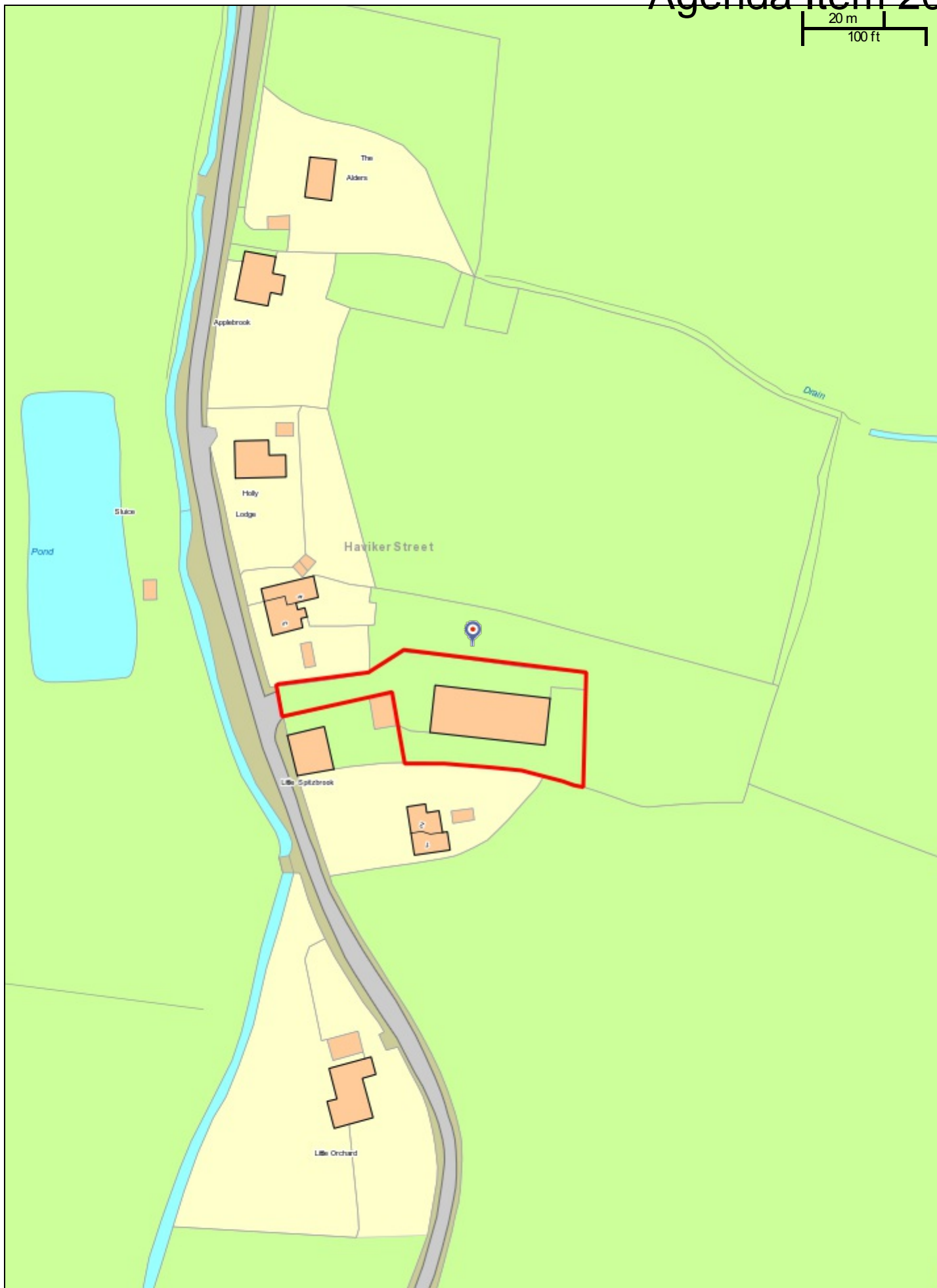
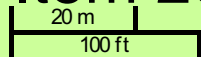
8 RECOMMENDATION –

8.01 It is recommended that:

Recommendation (A) Planning permission be granted for the development subject to conditions

Recommendation (B) Listed building consent be granted for the associated works to the listed building

- 8.02 Having regard to the complexity of the scheme, Members should note that a detailed schedule of conditions is being finalised with the applicant and will be submitted as an UU ahead of the meeting



20/500442/FULL Little Spitzbrook Farm, Haviker Street, Collier Street, Kent

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REFERENCE NO - 20/500442/FULL			
APPLICATION PROPOSAL Conversion of part of agricultural barn to a single dwelling with retention of part for use as an agricultural store, laying out of private garden including erection of woodstore, two car parking spaces and driveway. Installation of a solar PV array and flue on southern roof slope, two heat exchange units and landscaping (part retrospective).			
ADDRESS Little Spitzbrook Farm Haviker Street Collier Street Kent TN12 9RG			
RECOMMENDATION Application Refused			
SUMMARY OF REASONS FOR RECOMMENDATION The previous grounds of refusal have assessed the building as essentially representing a new build dwelling in the open countryside on the basis of the extent of works carried out to the former agricultural building. There is therefore no fall-back position available as set out by <i>Mansell v Tonbridge and Malling BC</i> [2018] JPL 176 to consider the merits of the current proposals against the fall-back position. On this basis, the current proposals, due to the size of the building, its location in an unsustainable location, its conflict with flooding policies and its less than substantial harm to the setting of the nearby listed properties to which there are considered to be little or no public benefits to outweigh this harm, means that the application is considered contrary to policies SS1, SP17, SP21, DM1, DM4, DM30, DM31 and DM32 of the Maidstone Borough Local Plan.			
REASON FOR REFERRAL TO COMMITTEE Cllr David Burton has requested that given the history relating to the previous applications and a request was made by members of the committee for discussions to take place, that this application should also be determined by the committee if officers are minded to recommend refusal.			
WARD Marden and Yalding	PARISH/TOWN Collier Street	COUNCIL	APPLICANT Mr & Mrs Cox AGENT IDE Planning
TARGET DECISION DATE 30/03/20		PUBLICITY EXPIRY DATE 05/03/20	

Relevant Planning History

15/508446/PNQCLA

Prior Notification for the change of use of part of an agricultural building to a dwellinghouse and associated operational development

For it's prior approval for:

- Transport and highways impacts of the development
- Contamination risks on the site
- Flooding risks on the site
- Noise impacts of the development

- Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed
- Design and external appearance impacts on the building

Prior approval granted. Decision Date: 10.12.15

16/503415/SUB

Submission of details pursuant to Condition 2:
Materials under reference 15/508446/PNQCLA

Approved. Decision Date: 09.05.16

18/504086/FULL

Conversion of agricultural barn to single dwelling with retention of part for use as agricultural store, laying out of private garden including erection of a woodstore, two car parking spaces and driveway, the installation of a solar PV array (two rows) and flue on southern roof slope, two heat exchange units and landscaping (part retrospective).

Refused Decision Date: 22.03.2019

18/504501/FULL

Conversion of agricultural barn to single dwelling with retention of part for use as agricultural store, laying out of private garden, two car parking spaces and driveway, the installation of solar PV array on southern roof slope, landscaping (part retrospective).

Refused Decision Date: 22.03.2019

Appeal History:

20/500029/REF

LINKED APPEAL: APP/U2235/W/19/3237237 - 18/504086/FULL - Conversion of agricultural barn to single dwelling with retention of part for use as agricultural store, laying out of private garden, two car parking spaces and driveway, the installation of solar PV array on southern roof slope, landscaping (part retrospective).

Appeal in Progress but currently held in obedience by mutual consent of all parties pending the outcome of the current submission.

20/500030/REF

LINKED APPEAL: APP/U2235/W/19/3237238 - 18/504501/FULL Conversion of agricultural barn to single dwelling with retention of part for use as agricultural store, laying out of private garden including erection of a woodstore, two car parking spaces and driveway, the installation of a solar PV array (two rows) and flue on southern roof slope, two heat exchange units and landscaping (part retrospective).

Appeal in Progress but currently held in obedience by mutual consent of all parties pending the outcome of the current submission.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The site is located on the east side and towards the southern end of Haviker Street, 230m approx. north of its junction with Green Lane. The main body of the site lies to the rear of the residential properties on Haviker Street at Little Spitzbrook Barn

and the cottages at 3 and 4 Haviker Street. The main body of the site is accessed between the properties at Little Spitzbrook Barn and 3 and 4 Haviker Street.

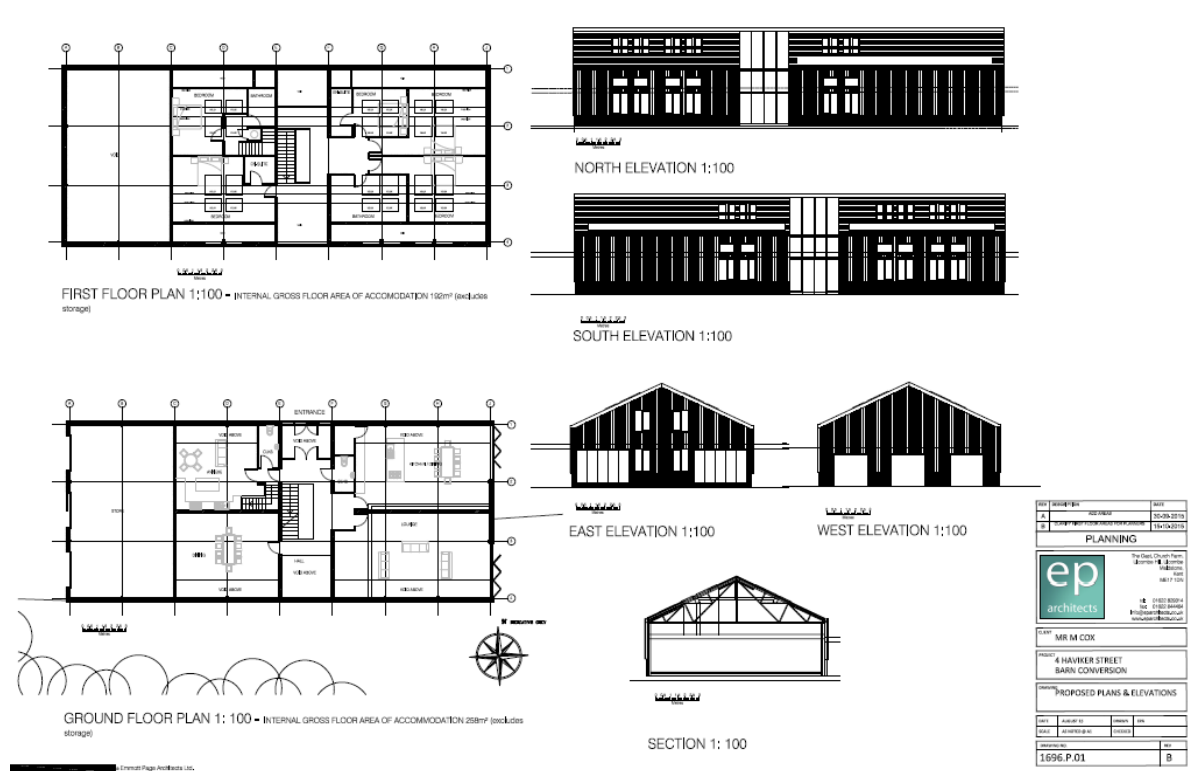
- 1.02 The main body of the site was until relatively recently occupied by a large steel portal framed agricultural building clad with corrugated iron sheeting and asbestos cement roof sheeting for which prior approval was granted on 10.12.15 for conversion to a residential dwelling.
- 1.03 It is the view of your officers and was confirmed in the previous grounds of refusal (see paragraph 6.02 below), that the agricultural building formerly on the site has, however, been substantially removed/demolished and a new large residential building (the subject of this application) has been erected on the site on the same building footprint and more or less within the same building envelope as the previous building. Retained parts of the original agricultural building have been incorporated into the new building.
- 1.04 The site is adjoined by the residential properties at 1 and 2 Haviker Street Cottages to the south which are Grade II listed and the cottages at 3 and 4 Haviker Street to the north-west are also Grade II listed. The site is adjoined by open agricultural land to the north, east and south-east.
- 1.05 The site is located in the open countryside to the south-east of the Yalding village settlement and north-west of the Marden village settlement. The open countryside location is not subject to any landscape designation. The site is within Flood Zone 3 as shown on the Environment Agency's Flood Map.

2. PROPOSAL

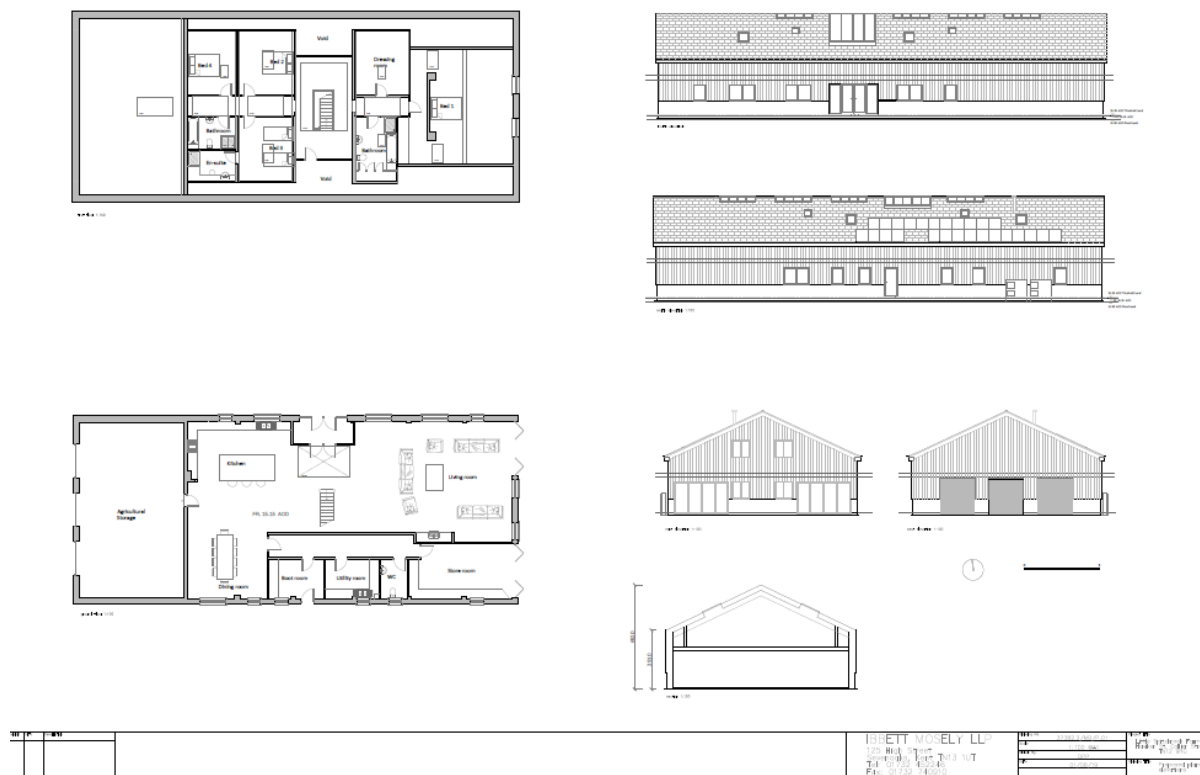
- 2.01 The application has been described by the applicant as the conversion of an agricultural barn to a single dwelling comprising open plan living space with boot room/utility room and store room on the ground floor with retention of part for use as an agricultural store and 4 bedrooms on the first floor, laying out of private garden including erection of woodstore, two car parking spaces and driveway, installation of a solar PV array (two rows) and flue on southern roof slope, two heat exchange units and landscaping (part retrospective).
- 2.02 It is your officers view, as was the officers view with the previously refused applications that the agricultural building formerly on the site has been substantially removed/demolished and a new large residential building (the subject of this application) erected on the site. This was confirmed in the previous grounds of refusal (see paragraph 6.02 below). The previous reports to committee are attached as Appendix 1.
- 2.03 The applicants' agent was therefore requested to amend the description of the development proposed in the application to the erection of a new building as opposed to the conversion of an existing building. Government guidance in the NPPG states that the Local Planning Authority should not amend the description of the development proposed in an application without the change having been first discussed and agreed with the applicant. Hence, the description of the development proposed in the application remains for the conversion of an agricultural barn building contrary to your officer's view and the view set out in the previous decision notices that the agricultural barn building was removed and rebuilt as a new building.
- 2.04 The application is supported by a suite of documents which amongst others includes a Flood Risk Assessment, Flood Warning Strategy, Heritage Statement, Phase 1 Habitat Survey and a form of Planning Statement (referred to as "Policy case in

support of application in principle”) together with a supporting letter which essentially confirms that the “application proposes alterations to a converted barn at Little Spitzbrook so that it more closely matches the floorspace and external appearance of a scheme that was previously granted prior approval”.

2.05 For Members reference, the approved plans/elevations as set out below were granted prior approval in 2015 under reference 15/508446/PNQCLA.



2.06 The current application (see below for elevations/floor plans) seeks to match as closely as possible the plans as approved and shown above.



2.07 A schedule of alterations to the 'as-built' scheme i.e. that which currently exists on-site, and which are proposed as part of this current application are included as Appendix 2 to this report. These alterations seek to return the building to match as closely as possible the building that was the subject of the prior approval.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017 - Policies SS1, SP17, SP18, SP21, DM1, DM3, DM4, DM8, DM23, DM30, DM31, DM32
Maidstone Landscape Character Assessment (LCA)
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 2 representations received from local residents objecting to the application and raising the following (summarised) issues
- This is new build not a conversion
 - Who will ensure no future increase in land levels - these have already been raised contrary to the recommendations of the Environment Agency?
 - Risk of flooding as site is located in a flood risk zone 3. The surrounding properties all flood and when there is an incidence, the houses are cut off from the main road. There is no evacuation route as outlined in the Herrington Consulting report. The raising of the entrance road by 200mm will also impact properties either side in terms of flooding.

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)

KCC Highways

- 5.01 This application does not meet the criteria for involvement of KCC highways as set out by the current protocol arrangements.

Environment Agency

- 5.02 No objection subject to the imposition of a number of conditions covering protection of ground water pollution and Flood Risk mitigation measures.

MBC – Environmental Protection Officer

- 5.03 No objection subject to the imposition of a number of conditions covering EV Charging points, Land Contamination, Hours of working, foul drainage and external lighting.

- 5.04 Further comments have not been sought on this application from the Conservation Officer or KCC Ecology on the basis that there is considered to be no significant change to the position as set out in previous report to committee attached as Appendix 1 to this report. Previous comments are set out below for clarity:

Conservation Officer

Advises that even if the new dwelling were not adjudged to lie within the curtilage of Little Spitzbrook Cottages, the building certainly lies within the setting both of these Grade II listed properties, and the adjacent listed Haviker Street Cottages, and any significant development on this land will affect the setting of the listed Little Spitzbrook Cottages.

Further advise that what we are presented with now is entirely new-build development – neither a house nor a barn, but a very large monolithic volume, clad incongruously in grey weatherboard associated with pure agricultural buildings. Comments that the building is in no way therefore a barn conversion, but a wholly new residential construction.

The size and scale of the new residence is wholly out of scale with the listed residential properties, and is damaging not only to their significance and integrity, but is also harmful to the wider, traditional landscape environment in which it sits.

Further comments that there is no functional requirement for the residential property being of such a large scale and so visually dominant, and it is this unnecessary dominance and over-bearing aspect that is so damaging to the setting of the adjacent listed buildings. Comments that the external materials and details are of low quality – poor quality brickwork in stretcher bond, with unsightly expansion joints; reconstituted cement boarding with repeating synthetic embossed patterns; synthetic slate to the roof; storm-proof windows, poor quality plastic rainwater goods; indifferent landscaping.

KCC Ecological Advice Service

Comment that they are satisfied with the conclusions of the submitted ecological report in relation to any potential impacts that the proposed development may have on any protected species or sites. Comment that the site is of low ecological value and they are satisfied with the proposed precautionary mitigation measures included within the report.

Comment that it has been identified that the southern boundary contains habitat suitable for foraging bats which will be retained as part of the proposals. Comment that there are recommendations for a sensitive lighting strategy to ensure that there will be no detrimental impacts and advise that these measures must be implemented as part of the development.

Comment that the application provides opportunities to incorporate features into the design which are beneficial to wildlife, such as native species planting or the installation of bat/bird nest boxes and further enhancements have been included within the submitted ecological report. Advise that measures to enhance biodiversity are secured as a condition of any grant of planning permission in accordance with Government guidance in the NPPF "*opportunities to incorporate biodiversity in and around developments should be encouraged*".

6. APPRAISAL

Main Issues:

6.01 The key issues for consideration relate to:

- Principle
- Relevant development plan policies
- Visual impact
- Residential amenity
- Traffic and parking
- Setting of listed buildings
- Flooding
- Ecology
- Whether the previous grounds of refusal have been addressed by the current submission.

6.02 **Relevant Background:**

The previous two applications, reference no' 18/504086/FULL and 18/504501/FULL were both refused planning permission on the grounds set out below:

(1) Given the extent of the demolition and rebuilding works which have been carried out to the original agricultural barn building on the site and the limited amount of the original structure that has been retained in the new dwelling for which retrospective planning permission is sought, the Council are of the view that the development represents a new build dwelling in an open countryside location which does not have good access to public transport and is remote from local services and facilities. The development represents unsustainable residential development where future occupants would be reliant on private cars and in the absence of any overriding justification or need for the development demonstrated in the application, the development is contrary to Government guidance in the NPPF 2019 relating to sustainable development and policies SS1 and SP17 of the Maidstone Borough Local Plan (Adopted October 2017).

The application proposal is contrary to the objectives of policies SP21 and DM31 of the Maidstone Borough Local Plan (Adopted October 2017) in terms of the residential use of the building, scale and appearance of the building, and in the context of neighbouring properties and countryside landscape.

(2) The dwelling for which retrospective planning permission is sought, by reason of its overall design, appearance, scale and massing, has a harmful impact on the visual amenities, character and appearance of the open countryside location and landscape. The unsympathetic appearance, large scale and visual dominance of the dwelling in relation to the adjoining listed properties 1 and 2 Haviker Street to the south of the site and 3 and 4 Haviker Street to the north-west and the over-bearing impact has a harmful impact on the setting of the adjoining listed buildings. As such, the development is contrary to Government guidance in the NPPF 2019 and policies SS1, SP17, SP18, SP21, DM1, DM4, DM30, DM31 and DM32 of the Maidstone Borough Local Plan (Adopted October 2017).

- (3) The works which have been carried out in excess of those given prior approval under application ref. 15/508446/PNQCLA are likely to make a material difference to the assessment of the flood risk. The extent of the demolition and rebuilding works which have been carried out to the original barn building on the site amount to the erection of a new build dwelling within Flood Zone 3 (high probability of flooding) as shown on the Environment Agency's Flood Map as opposed to the conversion of an existing building. Government guidance in the NPPF 2019 (paras. 157, 158 and 159) seeks to steer new development to areas with the lowest risk of flooding and in the absence of any overriding justification or need for the development on the site being demonstrated in the application, the development is contrary to Government guidance in the NPPF 2019 and policy DM1 of the Maidstone Borough Local Plan (Adopted October 2017).
- 6.03 Whilst both planning applications were refused on the grounds cited above, the minutes of the meeting held on the 14 March 2019 record at 308 in a section entitled "Note" and numbered 2. "Following determination of these applications, reference was made by the Chairman to the desire on the part of Members for further discussions to seek to achieve a solution to the situation which has arisen".
- 6.04 The current application is the result of discussions with the applicants agent and alterations that the owner has made in an attempt to bring forward an application which matches as closely as possible in terms of floorspace and elevations to that granted prior approval under 15/508446/PNQCLA. Improvements have also been made to the cladding of the building to help improve the aesthetic of the external appearance.
- Principle:**
- 6.05 As set out in the previous reports to committee concerning the two refused applications, the site is located in the open countryside to the south-east of the Yalding village settlement and north-west of the Marden village settlement. Whilst the current application has been submitted for the conversion of an agricultural barn building to a dwelling, your officers are of the view and this was confirmed in the grounds of refusal cited in paragraph 6.02 above, that the extent of the demolition and rebuilding works which have been carried out to the original barn building amount to the erection of a new building as opposed to the conversion of an existing rural building. The original barn structure has effectively been demolished and rebuilt as a new dwelling. The principle of the erection of a new dwelling in this open countryside location is therefore not established by the previous grant of prior approval under application ref. 15/508446/PNQCLA which relates to the conversion of the agricultural barn building only.
- 6.06 Development Plan policy and Government guidance in the NPPF supports new housing in sustainable urban locations as an alternative to residential development in more remote countryside locations. The open countryside site, in this case, does not have good access to public transport and is remote from local services and facilities. As such, the site does not represent a sustainable location where such new build dwellings could be considered acceptable in principle.
- 6.07 It is however acknowledged that the current application seeks to amend the design and internal layout so that it is as close as possible to that approved by the prior approval ref. 15/508446/PNQCLA and generally meets the requests as set out by minute 308 – Note: 2) of the planning committee meeting of the 14 March 2019. However, an application of this nature needs to be considered against the requirements of Section 38(6) of the Planning and Compulsory Act 2004 i.e. determination must be made in accordance with the development plan unless material considerations indicate otherwise. In this regard, there has been no change in the principle of development since the previous refusals.

6.08 As set out in paragraph 6.02 above, the previous grounds of refusal related to the principle of development and the fact this amounted to a new build dwelling in an unsustainable location. As established by *R and Elmbridge Borough Council (2019) EWHC 1409 (Admin)* consistency in decision making is very important and members will need to take into account their previous decision when considering whether this ground has now been overcome with the current application. Your officers view is that it has not.

Relevant development plan policies:

6.09 As set out in the previous refusals and reports to committee, attached as Appendix 1, similar considerations apply to the current proposals as they did to the previous applications in terms of development plan policies and size of building. However, as set out in 6.02 above, as the Council has already determined that the development proposals for the previously refused applications amounted to a new build dwelling in the countryside. Accordingly, the same consideration should apply to the current proposals as essentially it is only cosmetic changes that are proposed to the building as part of the current application. It is therefore your officers view that DM31 does not apply to the current application. For the sake of clarity, and only on the basis that the applicant is still claiming that the proposals relate to a change of use of the former agricultural building will I set out the conflict with DM31, as was set out by the previous reports to committee.

6.10 As a new build dwelling in the open countryside, policies SS1 and SP17 of the Local Plan are relevant. Policy SS1 states that the Maidstone urban area will be the principal focus for development with the secondary focus being rural service centres. The policy also allows for some development within some larger villages. The development does not accord with policy SS1 and the open countryside location in this case does not represent a sustainable site where such new build dwellings could be considered acceptable in principle. Policy SP17 of the adopted Maidstone Borough Local Plan states that development proposals in the countryside will not be permitted unless they accord with other policies in the plan and they will not result in harm to the character and appearance of the area.

6.11 Policy DM30 of the adopted Maidstone Borough Local Plan relating to design principles in the countryside is also relevant to the current application. The policy seeks to ensure high quality design for proposals in the countryside. Amongst the criteria to be met are the following:

- 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;
- Where an extension or alteration to an existing building is proposed, it would be of a scale which relates sympathetically to the existing building and the rural area; respect local building styles and materials; have no significant adverse impact on the form, appearance or setting of the building, and would respect the architectural and historic integrity of any adjoining building or group of buildings of which it forms part.

6.12 The size and massing of the residential building for which part retrospective planning permission is currently being sought is wholly out of scale and character with the adjoining cottage type properties at 1 and 2 Haviker Street Cottages to the south of the site and 3 and 4 Haviker Street to the north-west. These neighbouring cottages are also Grade II listed properties. The large scale and visual dominance of the new residential building in relation to the adjoining listed properties and the over-bearing aspect is considered to be damaging to the setting of the adjoining listed buildings. In light of the above, the proposals are considered to be in conflict with policy DM30 of the adopted Local Plan. The resulting harm to the character and appearance of the area and the countryside landscape is contrary to policy SP17 of the adopted Local Plan.

- 6.13 The applicant maintains the stance as set out for the previously refused applications (contained in Statement - Annex F – Policy case in support of application in principle) that the application is compliant with policy DM31 of the Maidstone Local Plan as it has been submitted for the conversion of an existing agricultural building. However, as previously set out above and as confirmed by the grounds of refusal cited in paragraph 6.02 which confirms the Council’s view that the building is a new built dwelling in the open countryside, your officers disagree with this and DM31 does not apply.
- 6.14 Whilst it is considered that DM31 does not apply to the current proposals taking account of the previous grounds of refusal, an assessment of conformity has been included within this report for completeness. However, members will need to bear in mind the need for consistency (as set out in paragraph 6.08 above) in the decision making process and the significant weight that should be attached to the previous grounds of refusal which established the Council’s view that the building represents a new build dwelling in the countryside.
- 6.15 Policy DM31 of the adopted Maidstone Borough Local Plan is in three parts. Part 1 of the policy reads as follows:
Outside of the settlement boundaries as defined on the policies map, proposals for the re-use and adaptation of existing rural buildings which meet the following criteria will be permitted:
- i. The building is of a form, bulk, scale and design which takes account of and reinforces landscape character;*
 - ii. The building is of permanent, substantial and sound construction and is capable of conversion without major or complete reconstruction;*
 - iii. Any alterations proposed as part of the conversion are in keeping with the landscape and building character in terms of materials used, design and form;*
 - iv. There is sufficient room in the curtilage of the building to park the vehicles of those who will live there without detriment to the visual amenity of the countryside; and*
 - v. No fences, walls or other structures associated with the use of the building or the definition of its curtilage or any sub-division of it are erected which would harm landscape character and visual amenity.*

Part 2 of the policy relates to *proposals for the re-use and adaptation of existing rural buildings for commercial, industrial, sport, recreation or tourism uses* and is therefore not applicable to the current proposals.

Part 3 of the policy is applicable to the current proposals and reads as follows:

Proposals for the re-use and adaptation of existing rural buildings for residential purposes will not be permitted unless the following additional criteria to the above are met:

- i. Every reasonable attempt has been made to secure a suitable business re-use for the building;*
- ii. Residential conversion is the only means of providing a suitable re-use for a listed building, an unlisted building of quality and traditional construction which is grouped with one or more listed buildings in such a way as to contribute towards the setting of the listed building(s), or other buildings which contribute to landscape character or which exemplify the historical development of the Kentish landscape; and*

iii. There is sufficient land around the building to provide a reasonable level of outdoor space for the occupants, and the outdoor space provided is in harmony with the character of its setting.

- 6.16 With regards to the above criteria to be met in Part 1 of the policy, whilst the original large steel portal framed agricultural barn building clad with corrugated iron sheeting and asbestos cement roof sheeting was typical of buildings found within the open countryside landscape, the current building with its reconstituted cement board cladding to the walls and synthetic slate to the roof, and modern domestic windows and doors is clearly not of a form, bulk, scale and design which takes account of and reinforces the countryside landscape character. It is acknowledged that changes are proposed to the external cladding of the building as part of the current proposals which will replace the cement weatherboarding with dark stained timber cladding and minor changes to the fenestration and existing balcony. These are clearly seen as positive changes as part of this application. Whilst typical of buildings found within the open countryside landscape, the original building on the site, as a result of its form, bulk, scale and design, was not the type of building which was envisaged as being suitable for conversion in accordance with criteria i and ii of Part 1 of Local Plan policy DM31 above.
- 6.17 The original and current buildings on the site do not meet the typology types of "character" former agricultural buildings which harmonise with the rural landscape. The pre-ambule to policy DM31 acknowledges (para. 8.4) that the quality and condition of rural buildings in the borough varies considerably and that the wide range of buildings includes buildings such as oast houses, which are indigenous only to the hop growing areas of the country and exemplify the historical development of agriculture in Kent. The pre-ambule to the policy further states that many of these vernacular buildings have a degree of significance which merits consideration as a heritage asset. The pre-ambule states that these functional buildings are often of simple form and character, so external alterations require careful consideration. Given the extent of the demolition and rebuilding work which has been carried to the original agricultural barn building on the site, your officers are of the view that the works amount to major reconstruction. Again, it is acknowledged that the current application seeks changes to the building (as set out in Appendix 2) which are considered to be an overall improvement to the appearance to the building from that currently constructed on site. However, these changes do not fundamentally change the concept of whether the proposals comply with policy DM31.
- 6.18 With regards to Part 3 of policy DM31, in respect of criteria i: the applicant has failed to make every reasonable attempt to secure a suitable business use for the building. The supporting information for the current application does state that the applicant did make an enquiry to the Council regarding possible use of the building as holiday homes and was advised that such a proposal was not likely to be looked on favourably. However, it states that the applicant's intention is first to pursue a residential use. The policy is clear that "every reasonable attempt has been made to secure a suitable business re-use" Notwithstanding this, tourism is not, however, the only possible business use for the building, and no evidence has been submitted in support of the current application to demonstrate that a commercial re-use of the building was fully explored before the current residential use was considered.
- 6.19 Furthermore, in respect of criteria ii: the building is not a listed building, an unlisted building of quality and traditional construction which is grouped with one or more listed buildings in such a way as to contribute towards the setting of the listed building(s), or other buildings which contribute to landscape character or which exemplify the historical development of the Kentish landscape.
- 6.20 As noted in the comments from the Conservation Officer for the previously refused applications which are still relevant to the current application, the size and scale of

the new residence constructed on the site is wholly out of scale and character with the neighbouring listed residential properties at 1 and 2 Haviker Street Cottages to the south of the site and 3 and 4 Haviker Street to the north-west, and is damaging not only to their significance and integrity, but is also harmful to the wider, traditional landscape environment in which the building sits.

- 6.21 The applicant seeks to explain conformity with this part of the policy on the basis that the building does "fit a pattern of dispersed farm-related development that is characteristic of the locality, and it once served the fruit industry". I do not, however, consider that a building of this size and design meets the high threshold set by this part of the policy. The application is therefore considered to conflict with criteria i and ii of Part 3 of policy DM31 of the Local Plan. Even when assessed as a conversion of an existing rural building, as suggested by the applicant in the current application, which is not agreed, the conversion fails to meet the majority of the criteria to be met in policy DM31 of the adopted Maidstone Borough Local Plan relating to the conversion of rural buildings.
- 6.22 The previous applications were refused on the basis of conflict with policy DM31 of the Local Plan but clarity was given in the grounds of refusal that the building represented a new building dwelling in the open countryside and whilst it is acknowledged that changes have been made to the overall design, appearance and internal layout of the building, the fundamental principles of the conflict with policy remain. As has been set out above, notwithstanding the conflict with policy, it is not considered that DM31 is relevant to the current application based on the previous grounds of refusal.

Visual Impact

- 6.23 As set out in the previous officer reports to committee (attached as Appendix 1), as a result of its siting to the rear of the neighbouring residential properties along Haviker Street and the screening provided by existing trees and vegetation, particularly to the south of the site, the large residential building on the site which replaced the former agricultural building does not have a significant impact in public views along Haviker Street. However, the building, as a result of its height and scale, does have an impact from some viewpoints along the road.
- 6.24 The current proposals now being considered seek to make changes to the 'as built' building along the lines set out in Appendix 2 of this report. Essentially, and as set out by the applicant they relate to:
1. no increase in the footprint or height of the barn;
 2. to reduce the residential floorspace to 450sq.m. by re-creating the void at first floor level above the agricultural store;
 3. to remove a first floor balcony with the east elevation restored;
 4. to remove first floor windows on the west elevation;
 5. to replace the reconstituted cement weatherboarding that was permitted on all elevations as part of the prior approval with dark stained timber weatherboarding;
 6. to reduce the size of the permitted openings, including the central glazing feature that would extend from the ground to the roof ridge, so making them less dominant when set against the new cladding - the original barn had no window openings instead being lit by a panel of roof lights and sliding doors; what was permitted in the grant of prior approval would make little, if any, reference to adjoining buildings;
 7. to improve upon the energy performance of the permitted development by retaining solar PV panels - two air source heat exchange units would also be kept
- 6.25 The application is accompanied by a set of measurements (Annex G) of the supporting documentation which either establishes indicative measurements from

the relevant drawings of the original building and those measured from the plans of the prior approval and the as built building. None of the measurements however tie up and it appears no measurements have been supplied of the as constructed building i.e without being taken off the plans.

- 6.26 However, the current proposals seek changes as already set out which will bring the building more in line with what was approved in the prior approval application. This will involve some considerable cost to the applicant, and it is recognised that this has been put forward to seek a resolution of this matter. It also seeks to address some of those concerns which were voiced by members of the committee when the previous applications were heard.
- 6.27 However, and notwithstanding this, what members are considering in the current application is the conformity of a substantial former agricultural building being proposed to be converted to residential, which has little architectural merit or key historical links to the rural landscape for instance such as characteristics former agricultural buildings such as Oast houses or other characteristic farm buildings.
- 6.28 The resultant building in the current proposals, whilst much improved from that currently constructed onsite, will still result in a hybrid form of a building which has little association or connection with its former use or character. As such, and given the associated domestication of this substantial building, its increased curtilage and taking into account the previous grounds of refusal which accept the building amounts to a new built dwelling, it will have an increased visual impact in this open countryside location.
- 6.29 In addition, the Maidstone Landscape Character Assessment (LCA) comments that within the character area that the site falls, Laddingford Low Weald is a coherent landscape where continuity is provided by linear development along the roads and the regularity of field pattern, which becomes larger scale away from the settled areas. The LCA states that built development has a moderate impact on the landscape, with a strong contrast between traditional properties and more recent development. It states that visual detractors within the landscape comprise large agricultural barns and silos, polytunnels, pylons and fencing and that whilst there are striking examples of local vernacular, recent development often degrades the setting of traditional buildings. Amongst the actions to conserve and improve the Laddingford Low Weald landscape are to avoid further infill development and soften the visual impact of large agricultural barns and silos with native planting. The current building on the site is considered to have a harmful impact on the visual amenities, character and appearance of the open countryside location and landscape and the same impact will arise from the proposed altered design.
- 6.30 The proposals forming the current application, as a result of its large scale, design and appearance is out of scale and character with the adjoining cottage type properties on Haviker Street, is not of a scale and design normally considered appropriate for new build dwellings in the open countryside, and conflicts with the aims and objectives of the above Landscape Character Assessment. It is however, recognised that the changes now proposed, whilst still conflicting with the development plan are an improvement on the existing building currently on site.
- 6.31 The current proposals have not addressed the previous grounds of refusal which remain as relevant to the current application as it did to the previously refused applications.

Residential amenity

- 6.32 The main body of the site in which the application building is located lies to the rear of the residential properties on Haviker Street at Little Spitzbrook Barn and the cottages at 3 and 4 Haviker Street to the north-west. The main body of the site is

accessed between the properties at Little Spitzbrook Barn and 3 and 4 Haviker Street. The residential properties at 1 and 2 Haviker Street Cottages adjoin the site to the south.

6.33 No objections were raised on the previously refused applications regarding loss of amenity, outlook, overbearing nature or overlooking. The same can be said for the current proposals. The changes now proposed return the western elevation i.e. that facing towards the rear of properties at Little Spitzbrook Barn, to the same as that approved as part of the Prior Approval application. There are now no first floor windows proposed to that elevation (due to the internal changes proposed by having the agricultural storage room vaulted and removing the currently installed first floor over this area).

6.34 No other windows or rooflights overlook adjoining properties and no objections have been raised from the Council's EHO officer regarding potential noise from the heat exchange units. No objections are raised from vehicular or pedestrian movements to/from the site.

Traffic and parking

6.35 Sufficient parking is provided on site to accommodate the needs of the new dwelling. Whilst the application includes the provision of two parking spaces, significantly more can be accommodated on site. There are no concerns raised regarding highway safety and none were raised in the previously refused applications.

Setting of listed buildings

6.36 The neighboring properties at 1 and 2 Haviker Street Cottages to the south of the site and 3 and 4 Haviker Street to the north-west are Grade II listed. The new dwelling on the site lies within the setting of both pairs of adjoining listed buildings and the nature and extent of the development which has been carried out at the site affects the setting of the listed buildings.

6.37 The Conservation Officer previously commented on the refused applications that what he was considering was an entirely new-build development – neither a house nor a barn, but a very large monolithic volume, clad incongruously in grey weatherboard associated with pure agricultural buildings. This has now been changed as part of the current proposals to dark stained timber weatherboarding.

6.38 The Conservation Officer further commented at that time that the building was in no way therefore a barn conversion, but a wholly new residential construction and that the size and scale of the new residence is wholly out of scale with the listed residential properties, and is damaging not only to their significance and integrity, but is also harmful to the wider, traditional landscape environment in which it sits. The Conservation Officer commented that it was this large scale and visual dominance of the new dwelling and the over-bearing aspect that was so damaging to the setting of the adjacent listed buildings.

6.39 Whilst the current proposal has led to some improved design changes, a key one being the change in cladding and removal of the balcony to the east elevation, the principle concerns that the Conservation Officer raised remain in terms of the size and scale of the building.

6.40 Whilst the partly retrospective application is considered to be damaging to the setting of the adjacent Grade II listed buildings, it is considered that the development will lead to less than substantial harm to the significance of the designated heritage assets and in such circumstances, Government guidance in the NPPF (para. 196) advises that the resulting harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum

viable use. This is the balancing exercise and will be considered in the overall conclusion on the proposals.

- 6.41 The previous applications were refused on harm to the setting of the adjacent listed buildings and the current proposals have not addressed this harm. As such, the previous grounds of refusal have not been overcome.

Flooding

- 6.42 The same Flood Risk Assessment and Flood Warning Strategy has been submitted with the current application as was submitted and considered for the previously refused applications. The site falls within the same flood risk categorisation as was previously considered.
- 6.43 The previous grounds of refusal as noted in paragraph 6.02 above referred to a material difference to the assessment of flood risk from that approved under the prior approval application and concluded that the proposals were contrary to the NPPF and policy DM1 of the Local Plan. No further justification, other than those mentioned above, asserts how the current proposals overcome the previous grounds of refusal.
- 6.44 The Environment Agency continue to raise no objection to the application with regards to flood risk however, as was previously set out, it must be noted that the Environment Agency have considered the application as a conversion of an existing agricultural barn to a dwelling as opposed to the erection of a new residential building to which more stringent tests are applied.
- 6.45 For the sake of brevity, I will not repeat all what was previously set out in the officers reports for the two refused applications (which are appended to this report as Appendix 1) in relation to flood risk. The information contained in these reports is as relevant to the current application as it was to the refused applications, principally on the basis that they rely on the same information submitted.
- 6.46 However, for the assessment of the current submission, the Council have confirmed, by reasons of the first ground of refusal cited in 6.02 above, that they consider the building represents a new build dwelling in the countryside. On this basis, the sequential and exception tests need to be passed, which the current proposals fail to meet. As such, the proposals are contrary to the advice in the NPPF on flood risk.
- 6.47 Based on the above assessment and having duly considered the approach adopted by the officer in his report to the two previously refused applications, the previous grounds of refusal have not been overcome by the current submission.

Ecology

- 6.48 The Phase 1 Habitat Survey is the same as was submitted for the two previously refused applications, however no grounds of objection were raised on ecology grounds. The same applies to the current proposals and it is considered that the suggested site enhancements as recommended by the Habitat Survey could be secured by conditions.

Other Matters

- 6.49 As with the previous applications, the applicant continues to maintain that the prior approval granted by 15/508446/PNQCLA is a relevant material consideration to this application. As with the previous officers report to committee on this matter, your officers agreed that the fallback position (what could happen on the land if the planning application was not approved), including any permitted development rights (with or without prior approval), can be a material consideration in the

determination of planning applications, see *Mansell v Tonbridge and Malling BC* [2018] JPL 176.

- 6.50 However, following the refusal of both applications, it was confirmed in the decision notices that the Council considered that due to the works which had been carried out to the original agricultural barn building on the site, that the development represented a new build dwelling in the open countryside. As such it was contrary to development plan policies SS1, SP17 and the objectives of policies SP21 and DM31.
- 6.51 Based on this, there is no fall-back position because the previous agricultural building no longer exists. This position is reached on the analysis of *Hibbitt v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* and *Graham Oates v Secretary of State for Communities and Local Government and Canterbury City Council*.
- 6.52 An analysis of the judgements is set out in paragraphs 6.40 – 6.43 of the earlier report (as attached as Appendix 1 to this report).
- 6.53 An alternative view was offered in the previous report to committee as set out in paragraph 6.47, which confirmed that if the committee did not accept the officer's view that the building was in effect a new build dwelling in the countryside and that the works carried out did amount to a conversion, then what could be built under PD (of which the prior approval was an illustration) can and should be given weight as a relevant fallback position (in that the Committee should consider the relative merits of an application proposal against the alternative under PD rights).
- 6.54 It would now be difficult for the committee to reach an opposing view from the previously refused schemes which confirmed the development proposals represented a new build dwelling in the open countryside, especially in the light of the judgement I refer to in paragraph 6.08 in this report above and the weight to be attached to previous decisions. However, it is accepted that the current proposals are an improvement on the existing as built building and could be said to be similar to the prior approval application with the significant improvement to the external cladding material in the form of dark stained timber weatherboarding as opposed to the cement weatherboarding which was approved for the prior approval building.

PUBLIC SECTOR EQUALITY DUTY

- 6.55 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 previous grounds of refusal have assessed the building as essentially representing a new build dwelling in the countryside on the basis of the extent of works carried out to the former agricultural building. There is therefore no fall back position available as set out by *Mansell v Tonbridge and Malling BC* [2018] JPL 176 to consider the merits of the current proposals against the fall back position.
- 7.02 On this basis, the current proposals, due to the size of the building, its location in an unsustainable location, its conflict with flooding policies and its less than substantial harm to the setting of the nearby listed properties to which there are considered to be little or no public benefits to outweigh this harm, means that the application is considered contrary to policies SS1, SP17, SP21, DM1, DM4, DM30, DM31 and DM32 of the Maidstone Borough Local Plan.

8. RECOMMENDATION

REFUSE planning permission for the following reason(s):

- 1) Given the extent of the demolition and rebuilding works which have been carried out to the original agricultural barn building on the site and the limited amount of the original structure that has been retained in the new dwelling for which retrospective planning permission is sought, the Council are of the view that the development represents a new build dwelling in an open countryside location which does not have good access to public transport and is remote from local services and facilities. The development represents unsustainable residential development where future occupants would be reliant on private cars and in the absence of any overriding justification or need for the development demonstrated in the application, the development is contrary to Government guidance in the NPPF 2019 relating to sustainable development and policies SS1 and SP17 of the Maidstone Borough Local Plan (Adopted October 2017). The application proposal is contrary to the objectives of policies SP21 and DM31 of the Maidstone Borough Local Plan (Adopted October 2017) in terms of the residential use of the building, scale and appearance of the building, and in the context of neighbouring properties and countryside landscape.
- 2) The dwelling for which retrospective planning permission is sought, by reason of its overall design, appearance, scale and massing, has a harmful impact on the visual amenities, character and appearance of the open countryside location and landscape. The unsympathetic appearance, large scale and visual dominance of the dwelling in relation to the adjoining listed properties 1 and 2 Haviker Street to the south of the site and 3 and 4 Haviker Street to the north-west and the over-bearing impact has a harmful impact on the setting of the adjoining listed buildings. As such, the development is contrary to Government guidance in the NPPF 2019 and policies SS1, SP17, SP18, SP21, DM1, DM4, DM30, DM31 and DM32 of the Maidstone Borough Local Plan (Adopted October 2017).
- 3) The works which have been carried out in excess of those given prior approval under application ref. 15/508446/PNQCLA are likely to make a material difference to the assessment of the flood risk. The extent of the demolition and rebuilding works which have been carried out to the original barn building on the site amount to the erection of a new build dwelling within Flood Zone 3 (high probability of flooding) as shown on the Environment Agency's Flood Map. as opposed to the conversion of an existing building. Government guidance in the NPPF 2019 (paras. 157, 158 and 159) seeks to steer new development to areas with the lowest risk of flooding and in the absence of any overriding justification or need for the development on the site being demonstrated in the application, the development is contrary to Government guidance in the NPPF 2019 and policy DM1 of the Maidstone Borough Local Plan (Adopted October 2017).

Case Officer: James Bailey

REFERENCE NO - 18/504501/FULL		
APPLICATION PROPOSAL Conversion of agricultural barn to single dwelling with retention of part for use as agricultural store, laying out of private garden, two car parking spaces and driveway, the installation of solar PV array on southern roof slope, landscaping (part retrospective)		
ADDRESS Little Spitzbrook Farm Haviker Street Collier Street Kent TN12 9RG		
RECOMMENDATION - REFUSE PLANNING PERMISSION		
SUMMARY OF REASONS FOR RECOMMENDATION This is an application for largely retrospective planning permission for works carried out on an existing agricultural building. Officers are of the view that the development which has been carried out, as a result of the extent of the demolition and rebuilding works which have taken place, represents a new build residential building in the open countryside for which there is no justification or need demonstrated in the application. The site does not represent a sustainable location where new build dwellings would normally be considered acceptable. The substantial residential building on the site, including the alterations proposed in this application, is considered to have a harmful impact on the visual amenities, character and appearance of the open countryside location and landscape. The large scale and visual dominance of the residential building on the site is considered to be damaging to the setting of the adjoining listed properties on Haviker Street. The development which has been carried out represents new build residential development in an area at high risk of flooding which conflicts with Government guidance in the NPPF. The differences between this application and the first application ref. 18/504086/FULL, do not address the principal issues relating to the erection of a new substantial residential building in the open countryside, adjoining listed cottages, and in an area at high risk of flood.		
REASON FOR REFERRAL TO COMMITTEE The application has been called-in for consideration by the Planning Committee by Ward Councillor David Burton, given the significance of the scale of potential enforcement action.		
WARD Marden and Yalding	PARISH/TOWN COUNCIL Collier Street	APPLICANT Mr & Mrs Cox AGENT IDE Planning
TARGET DECISION DATE 23/10/18		PUBLICITY EXPIRY DATE 22/11/18

Relevant Planning History

15/508446/PNQCLA

Prior Notification for the change of use of part of an agricultural building to a dwellinghouse and associated operational development

For it's prior approval for:

- Transport and highways impacts of the development
- Contamination risks on the site
- Flooding risks on the site
- Noise impacts of the development
- Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed
- Design and external appearance impacts on the building

Prior approval granted. Decision Date: 10.12.15

16/503415/SUB

Submission of details pursuant to Condition 2:
Materials under reference 15/508446/PNQCLA

Approved. Decision Date: 09.05.16

18/504086/FULL

Conversion of agricultural barn to single dwelling with retention of part for use as agricultural store, laying out of private garden including erection of a woodstore, two car parking spaces and driveway, the installation of a solar PV array (two rows) and flue on southern roof slope, two heat exchange units and landscaping (part retrospective).

Pending Consideration (see previous item on agenda)

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The site is located on the east side and towards the southern end of Haviker Street, 230m approx. north of its junction with Green Lane. The main body of the site lies to the rear of the residential properties on Haviker Street at Little Spitzbrook Barn and the cottages at 3 and 4 Haviker Street. The main body of the site is accessed between the properties at Little Spitzbrook Barn and 3 and 4 Haviker Street. The main body of the site was until relatively recently occupied by a large steel portal framed agricultural building clad with corrugated iron sheeting and asbestos cement roof sheeting for which prior approval was granted on 10.12.15 for conversion to a residential dwelling. It is the view of your officers, that the agricultural building formerly on the site has, however, been substantially removed/demolished and a new large residential building (the subject of this application) has been erected on the site on the same building footprint and more or less within the same building envelope as the previous building. Retained parts of the original agricultural building have been incorporated into the new building. The site is adjoined by the residential properties at 1 and 2 Haviker Street Cottages to the south which are Grade II listed and the cottages at 3 and 4 Haviker Street to the north-west are also Grade II listed. The site is adjoined by open agricultural land to the north, east and south-east.
- 1.02 The site is located in the open countryside to the south-east of the Yalding village settlement and north-west of the Marden village settlement. The open countryside location is not subject to any landscape designation. The site is within Flood Zone 3 as shown on the Environment Agency's Flood Map.

2. PROPOSAL

- 2.01 The application, as submitted, proposes the conversion of an agricultural barn building located to the rear and to the south-east of the residential properties at 3 and 4 Haviker Street to a single-dwelling on two floors with part of the building (the western end of the building) retained for agricultural storage. The dwelling would be accessed from a paved driveway off Haviker Street and the majority of the curtilage around the dwelling would be paved. Two parking spaces are shown within the curtilage in the submitted plans. The submitted plans show the proposed dwelling to incorporate an open plan kitchen/dining room and living room, store room, boot room, utility room and wc on the ground floor and 5 bedrooms, 3 bathrooms and a dressing room on the first floor. A first floor balcony is incorporated to the eastern end of the building. The roof to the dwelling incorporates solar panels to the south facing roof slope. The application is largely retrospective as the works are

substantially completed although the application proposes further works to the building as built.

- 2.02 There is a related application (ref. 18/504086/FULL) which also forms part of the agenda. The related application essentially seeks retrospective permission for the residential building as it currently stands. This application differs from the first application (ref. 18/504086/FULL) in that the first floor residential accommodation in this application is to be reduced from that as built and proposed in the first application to bring it more in line with the previous grant of prior approval under application ref. 15/508446/PNQCLA in terms of floorspace. The 7 bedroom dwelling is to be reduced to 5 bedrooms. The extent of the solar PV array on the southern roof slope is also reduced from that proposed in the first application. In addition to the above, the first floor windows currently installed to the western end of the building are removed. The freestanding log store building and two heat exchange units which have been erected within the curtilage adjacent to the south elevation wall of the building which form part of the first application ref. 18/504086/FULL do not form part of this second application (ref. 18/504501/FULL).
- 2.03 It is the view of your officers, that the agricultural building formerly on the site has been substantially removed/demolished and a new large residential building (the subject of this application) has been erected on the site. The applicants' agent was therefore requested to amend the description of the development proposed in the application to the erection of a new building as opposed to the conversion of an existing building but the agent has declined to agree to this amendment. Government guidance in the NPPG states that the Local Planning Authority should not amend the description of the development proposed in an application without the change having been first discussed and agreed with the applicant. Hence, the description of the development proposed in the application remains for the conversion of an agricultural barn building contrary to officers view that the agricultural barn building was removed and rebuilt as a new building.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017: Policies SS1, SP17, SP18, SP21, DM1, DM3, DM4, DM8, DM23, DM30, DM31, DM32

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 Two representations received from local residents raising the following (summarised) issues:
- The external works to the building now look to be complete.
 - It appears that a completely new building has been erected.
 - The property overshadows neighbouring properties.
 - The new building overlooks neighbouring properties to such an extent that it imposes on the privacy of the neighbouring occupiers.
 - Removal of foliage and trees would mean neighbouring properties would be overlooked.
 - Raising the height of the entrance road from Haviker Street to Little Spitzbrook Farm will significantly impact on flooding to the properties either side of the entrance.

- Raising or changing levels of Little Spitzbrok Farmyard could increase potential flooding to neighbouring properties.
- The plans do not indicate how parking will be provided for a 5 bedroom property. Only 2 car parking spaces are shown on the plans. Haviker Street has no provision for street parking. The addition of several cars will create severe disruption and hazard to road users.
- The only buses that serve Collier Street are on school days, one am/one pm. Residents would need use of a car.
- Traffic generated by a 5 bedroom house will change the nature of the lane.

4.02 The matters raised by neighbours and other objectors are discussed in the detailed assessment below.

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)

Collier Street Parish Council

5.01 The Parish Council wish to adopt a neutral stance on this application.

Conservation Officer

5.02 Advises that even if the new dwelling were not adjudged to lie within the curtilage of Little Spitzbrook Cottages, the building certainly lies within the setting both of these Grade II listed properties, and the adjacent listed Haviker Street Cottages, and any significant development on this land will affect the setting of the listed Little Spitzbrook Cottages. Further advises that what we are presented with now is entirely new-build development – neither a house nor a barn, but a very large monolithic volume, clad incongruously in grey weatherboard associated with pure agricultural buildings. Comments that the building is in no way therefore a barn conversion, but a wholly new residential construction. The size and scale of the new residence is wholly out of scale with the listed residential properties, and is damaging not only to their significance and integrity, but is also harmful to the wider, traditional landscape environment in which it sits. Further comments that there is no functional requirement for the residential property being of such a large scale and so visually dominant, and it is this unnecessary dominance and over-bearing aspect that is so damaging to the setting of the adjacent listed buildings. Comments that the external materials and details are of low quality – poor quality brickwork in stretcher bond, with unsightly expansion joints; reconstituted cement boarding with repeating synthetic embossed patterns; synthetic slate to the roof; storm-proof windows, poor quality plastic rainwater goods; indifferent landscaping.

MBC Environmental Health

5.03 Comments that in addition to the previous agricultural use of the site, the site is also within the Council's potential contaminated sites based on information from the contaminated land database and historic maps databases. Further comments that there is no indication of any chance of high radon concentrations and there is no issue with the air quality in the area. Comments that the heat exchange units must be installed and operated in such a way as not to have an adverse impact on all nearby sensitive premises. No objection raised subject to a condition being imposed on any grant of planning permission to ensure that any potential contamination encountered during the works is appropriately dealt with.

Kent Highways

- 5.04 Commented that it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

KCC Ecological Advice Service

- 5.05 Comment that they are satisfied with the conclusions of the submitted ecological report in relation to any potential impacts that the proposed development may have on any protected species or sites. Comment that the site is of low ecological value and they are satisfied with the proposed precautionary mitigation measures included within the report. Comment that it has been identified that the southern boundary contains habitat suitable for foraging bats which will be retained as part of the proposals. Comment that there are recommendations for a sensitive lighting strategy to ensure that there will be no detrimental impacts and advise that these measures must be implemented as part of the development. Comment that the application provides opportunities to incorporate features into the design which are beneficial to wildlife, such as native species planting or the installation of bat/bird nest boxes and further enhancements have been included within the submitted ecological report. Advise that measures to enhance biodiversity are secured as a condition of any grant of planning permission in accordance with Government guidance in the NPPF "*opportunities to incorporate biodiversity in and around developments should be encouraged*".

Environment Agency

- 5.06 Raise no objection to the application, as submitted, for conversion of the agricultural barn to a single dwelling with retention of part for use as agricultural store. Comment that the submitted Flood Risk Assessment (FRA) outlines flood risk mitigation measures including raising the ground floor to 15.15mAOD above existing ground level and the threshold of the building to 15.23mAOD primarily to protect against flooding. Comment further that the submitted plan shows all bedrooms at first floor level. Recommend the following condition:
Condition: The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Herrington Consulting Ltd, dated August 2018 and the following mitigation measures detailed within the FRA:
1. Finished floor levels are set no lower than 15.15mAOD above Ordnance Datum (AOD) and threshold finished floor level are set no lower than 15.23mAOD.
 2. No sleeping accommodation on the ground level.
 3. Sleeping accommodation to be on the first floor as shown on EP Architects drawing No. 1696.P.01 dated 30.09.2015.

Reason: To reduce the risk of flooding and provide a safe access and egress for this development.

Further comment that the Local Authority will also need to be satisfied that, where appropriate, safe access and egress can be achieved from the site during a flood event.

6. APPRAISAL

Main Issues

- 6.01 The key issues for consideration relate to:

- Principle
- Relevant development plan policies
- Visual impact
- Residential amenity
- Traffic and parking
- Setting of listed buildings
- Flooding
- Ecology
- Other matters (including the relevance of the prior approval application)

Principle

- 6.02 The site is located in the open countryside to the south-east of the Yalding village settlement and north-west of the Marden village settlement. The application, as submitted, proposes the conversion of an agricultural barn building to a single-dwelling on two floors incorporating 5 bedrooms.
- 6.03 Class Q, Part 3 of Schedule 2 to the GDPO 2015 (as amended) permits the conversion of existing agricultural units to residential dwellings within the limits set out in Q.1. The current application does not benefit from permitted development rights because it does not comply with the limits set out in Q.1 and is materially different from the previous prior approval application 15/508446/PNQCLA.
- 6.04 Whilst the current application has been submitted for the conversion of an agricultural barn building to a dwelling, officers are of the view that the extent of the demolition and rebuilding works which have been carried out to the original barn building amount to the erection of a new building as opposed to the conversion of an existing rural building. The original barn structure has effectively been demolished and rebuilt as a new dwelling. The principle of the erection of a new dwelling in this open countryside location is therefore not established by the previous grant of prior approval under application ref. 15/508446/PNQCLA which relates to the conversion of the agricultural barn building only.
- 6.05 Development Plan policy and Government guidance in the NPPF supports new housing in sustainable urban locations as an alternative to residential development in more remote countryside locations. The open countryside site, in this case, does not have good access to public transport and is remote from local services and facilities. As such, the site does not represent a sustainable location where such new build dwellings could be considered acceptable in principle.

Relevant development plan policies

- 6.06 For the reasons set out below, officers are of the view that the development which has been carried out at the site represents the erection of a new build dwelling, as opposed to the conversion of an existing rural building, in the open countryside. As a new build dwelling in the open countryside, policies SS1 and SP17 of the Local Plan are also relevant. Policy SS1 states that the Maidstone urban area will be the principal focus for development with the secondary focus being rural service centres. The policy also allows for some development within some larger villages. The development does not accord with policy SS1 and, as noted in 6.05 above, the open countryside site in this case does not represent a sustainable location where such new build dwellings could be considered acceptable in principle. Policy SP17 of the adopted Maidstone Borough Local Plan states that development proposals in the

countryside will not be permitted unless they accord with other policies in the plan and they will not result in harm to the character and appearance of the area.

6.07 Policy DM30 of the adopted Maidstone Borough Local Plan relating to design principles in the countryside is also relevant to the current application. The policy seeks to ensure high quality design for proposals in the countryside. Amongst the criteria to be met are the following:

- 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;

- Where an extension or alteration to an existing building is proposed, it would be of a scale which relates sympathetically to the existing building and the rural area; respect local building styles and materials; have no significant adverse impact on the form, appearance or setting of the building, and would respect the architectural and historic integrity of any adjoining building or group of buildings of which it forms part.

6.08 The size and massing of the residential building for which retrospective planning permission is currently being sought is wholly out of scale and character with the adjoining cottage type properties at 1 and 2 Haviker Street Cottages to the south of the site and 3 and 4 Haviker Street to the north-west. These neighbouring cottages are also Grade II listed properties. The large scale and visual dominance of the new residential building in relation to the adjoining listed properties and the over-bearing aspect is considered to be damaging to the setting of the adjoining listed buildings. In light of the above, the proposals are considered to be in conflict with policy DM30 of the adopted Local Plan. The resulting harm to the character and appearance of the area and the countryside landscape is contrary to policy SP17 of the adopted Local Plan.

6.09 The applicant suggests that the application is assessed principally under policies SP21 and DM31 of the adopted Maidstone Borough Local Plan because it is a conversion of an existing agricultural building. Your officers do not agree. For the reasons set out in detail in paragraphs 6.39 to 6.47 below, it is the view of your officer that the application proposal is a new building, therefore DM31 does not apply.

6.10 In any event (and even if the Committee takes the view that the application proposal is a conversion of an existing building and not a new dwelling) it is the view of your officers that the application proposal does not comply with policies SP21 and DM31.

6.11 Policy SP21 states that the Council is committed to supporting and improving the economy of the borough and providing for the needs of businesses. One of the means through which this will be achieved is (Policy SP21 (vii)) by prioritising the commercial re-use of existing rural buildings in the countryside over conversion to residential use, in accordance with policy DM31. The re-use of the former agricultural building is therefore inconsistent with SP21 in principle, subject to the policy DM31.

6.12 Policy DM31 of the adopted Maidstone Borough Local Plan is in three parts. Part 1 of the policy reads as follows:

Outside of the settlement boundaries as defined on the policies map, proposals for the re-use and adaptation of existing rural buildings which meet the following criteria will be permitted:

- i. The building is of a form, bulk, scale and design which takes account of and reinforces landscape character;*

Appendix 1

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- ii. *The building is of permanent, substantial and sound construction and is capable of conversion without major or complete reconstruction;*
- iii. *Any alterations proposed as part of the conversion are in keeping with the landscape and building character in terms of materials used, design and form;*
- iv. *There is sufficient room in the curtilage of the building to park the vehicles of those who will live there without detriment to the visual amenity of the countryside; and*
- v. *No fences, walls or other structures associated with the use of the building or the definition of its curtilage or any sub-division of it are erected which would harm landscape character and visual amenity.*

Part 2 of the policy relates to *proposals for the re-use and adaptation of existing rural buildings for commercial, industrial, sport, recreation or tourism uses* and is therefore not applicable to the current proposals.

Part 3 of the policy is applicable to the current proposals and reads as follows:

Proposals for the re-use and adaptation of existing rural buildings for residential; purposes will not be permitted unless the following additional criteria to the above are met:

- i. *Every reasonable attempt has been made to secure a suitable business re-use for the building;*
- ii. *Residential conversion is the only means of providing a suitable re-use for a listed building, an unlisted building of quality and traditional construction which is grouped with one or more listed buildings in such a way as to contribute towards the setting of the listed building(s), or other buildings which contribute to landscape character or which exemplify the historical development of the Kentish landscape; and*
- iii. *There is sufficient land around the building to provide a reasonable level of outdoor space for the occupants, and the outdoor space provided is in harmony with the character of its setting.*

6.13 With regards to the above criteria to be met in Part 1 of the policy, whilst the original large steel portal framed agricultural barn building clad with corrugated iron sheeting and asbestos cement roof sheeting was typical of buildings found within the open countryside landscape, the current building with its reconstituted cement board cladding to the walls and synthetic slate to the roof, and modern domestic windows and doors is clearly not of a form, bulk, scale and design which takes account of and reinforces the countryside landscape character. Whilst typical of buildings found within the open countryside landscape, the original building on the site, as a result of its form, bulk, scale and design, was not the type of building which was envisaged as being suitable for conversion in accordance with criteria i and ii of Part 1 of Local Plan policy DM31 above.

6.14 The original and current buildings on the site do not meet the typology types of "character" former agricultural buildings which harmonise with the rural landscape. The pre-amble to policy DM31 acknowledges (para. 8.4) that the quality and condition of rural buildings in the borough varies considerably and that the wide range of buildings includes buildings such as oast houses, which are indigenous only to the hop growing areas of the country and exemplify the historical development of agriculture in Kent. The pre-amble to the policy further states that many of these vernacular buildings have a degree of significance which merits consideration as a heritage asset. The pre-amble states that these functional buildings are often of simple form and character, so external alterations require careful consideration. Given the extent of the demolition and rebuilding work which has been carried to the original agricultural barn building on the site, officers are of the view that the works amount to major reconstruction. Furthermore, the works carried out, particularly

the first floor balcony formed to the eastern end of the building and provision of glazing to the roof which projects above the roof ridge line, are not considered to be in keeping with the building character in terms of design and form and therefore conflict with criteria i and iii of Part 1 of the policy.

- 6.15 With regards to Part 3 of policy DM31, in respect of criteria i: the applicant has failed to make every reasonable attempt to secure a suitable business use for the building. The applicant did make an enquiry to the Council regarding possible use of the building as holiday homes and were advised that such a proposal was not likely to be looked on favourably because the building due to its form, bulk, scale and design would not be considered to accord with the requirements to be met in policy DM31 which still apply to the re-use and adaptation of existing rural buildings for tourism uses. Tourism is not, however, the only possible business use for the building, and no evidence has been submitted in support of the current application to demonstrate that a commercial re-use of the building was fully explored before the current residential use was considered. Furthermore, in respect of criteria ii: the building is not a listed building, an unlisted building of quality and traditional construction which is grouped with one or more listed buildings in such a way as to contribute towards the setting of the listed building(s), or other buildings which contribute to landscape character or which exemplify the historical development of the Kentish landscape. As noted in the comments from the Conservation Officer (see paragraph 5.02 above), the size and scale of the new residence constructed on the site is wholly out of scale and character with the neighbouring listed residential properties at 1 and 2 Haviker Street Cottages to the south of the site and 3 and 4 Haviker Street to the north-west, and is damaging not only to their significance and integrity, but is also harmful to the wider, traditional landscape environment in which the building sits. The application is therefore considered to conflict with criteria i and ii of Part 3 of policy DM31 of the Local Plan. Even when assessed as a conversion of an existing rural building, as suggested by the applicant in the application as submitted, the conversion fails to meet the majority of the criteria to be met in policy DM31 of the adopted Maidstone Borough Local Plan relating to the conversion of rural buildings.

Visual impact

- 6.16 As a result of its siting to the rear of the neighbouring residential properties along Haviker Street and the screening provided by existing trees and vegetation, particularly to the south of the site, the large residential building currently on the site which replaced the former agricultural building does not have a significant impact in public views along Haviker Street. However, the building, as a result of its height and scale, does have an impact from some viewpoints along the road.
- 6.17 The residential building currently on the site differs from that approved under the previous prior approval application in that the residential accommodation now extends into part of the upper part/roof void of the retained agricultural storage part of the building, a first floor balcony has been formed to the eastern end of the building, and the window and door layout to the external facades has changed, including the provision of glazing to the roof which projects above the roof ridge line. The more substantial portal frame which has been erected to the building extends beyond the profile of the existing retained parts of the steel frame to the original building and as a result the current building on the site is slightly higher and more bulky than the building that previously existed on the site. In addition to the above, solar panels have been added to the south facing roof slope and the residential curtilage has been enlarged. First floor windows are currently installed to the western end of the building, and a freestanding log store building and two heat exchange units have been erected within the curtilage adjacent to the south elevation wall but these elements do not form part of the current application. The changes made to the building approved under the previous prior approval application have resulted in the further domestication of the substantial building on

the site and its curtilage and an increased visual impact in the open countryside location.

- 6.18 In the Maidstone Landscape Character Assessment (LCA) (Amended July 2013) the site falls within the Laddingford Low Weald landscape area. The LCA comments that Laddingford Low Weald is a coherent landscape where continuity is provided by linear development along the roads and the regularity of field pattern, which becomes larger scale away from the settled areas. The LCA states that built development has a moderate impact on the landscape, with a strong contrast between traditional properties and more recent development. The LCA comments that visual detractors within the landscape comprise large agricultural barns and silos, polytunnels, pylons and fencing and that whilst there are striking examples of local vernacular, recent development often degrades the setting of traditional buildings. Amongst the actions to conserve and improve the Laddingford Low Weald landscape are to avoid further infill development and soften the visual impact of large agricultural barns and silos with native planting. The current substantial residential building on the site is considered to have a harmful impact on the visual amenities, character and appearance of the open countryside location and landscape. The current substantial new build residential building as a result of its large scale, design and appearance is out of scale and character with the adjoining cottage type properties on Haviker Street, is not of a scale and design normally considered appropriate for new build dwellings in the open countryside, and conflicts with the aims and objectives of the above Landscape Character Assessment.

Residential amenity

- 6.19 The main body of the site in which the application building is located lies to the rear of the residential properties on Haviker Street at Little Spitzbrook Barn and the cottages at 3 and 4 Haviker Street to the north-west. The main body of the site is accessed between the properties at Little Spitzbrook Barn and 3 and 4 Haviker Street. The residential properties at 1 and 2 Haviker Street Cottages adjoin the site to the south.
- 6.20 The part residential building and part agricultural storage building for which retrospective planning permission is sought in the current application generally reflects the footprint, height, bulk and massing of the agricultural barn building which previously existed on the site and for which prior approval was granted under application ref. 15/508446/PNQCLA for conversion to a dwelling. However, as a result of the more substantial portal frame which has been erected to the retained parts of the original building on the site, the current building is slightly higher and more bulky than the building that previously existed on the site. Given the separation distances between the existing residential building and the neighbouring residential properties referred to above, any modest increases in the height, footprint, bulk and massing of the existing building on the site, which in officers view represents a new building as opposed to the conversion of an existing building (as suggested by the applicant), compared to the previous building are not likely to have any material additional impact on the amenities of the occupiers of the neighbouring properties in terms any unneighbourly overbearing, enclosing, overshadowing and/or loss of outlook impacts. Whilst the size and scale of the new residential building erected on the site is seen as over-bearing and overdominant in the context of the neighbouring smaller cottage type properties on Haviker Street, it is not considered that the building results in any overriding and unneighbourly impact issues.
- 6.21 The large residential building currently on the site has first floor windows to the western end elevation facing the rear of the neighbouring residential property at Little Spitzbrook Barn which increase the potential for overlooking to the rear of that neighbouring property. However, in the current application the first floor windows to

the western end elevation are omitted and as a result it is not considered that the current application raises any overriding issues with regards to loss of privacy to the occupiers of Little Spitzbrook Barn.

- 6.22 The changes made to the first floor fenestration to the side (north and south facing) elevations of the residential building proposed in the current application from that previously approved (under application ref. 15/508446/PNQCLA) are not considered to raise any overriding issues with regards to overlooking and loss of privacy to the occupiers of neighbouring properties.
- 6.23 Vehicular and pedestrian movements to and from the site associated with the residential use of the building via the accessway which runs between the properties at Little Spitzbrook Barn and 3 and 4 Haviker Street are not likely to have a significantly greater impact on neighbouring properties than the vehicular and pedestrian movements associated with the previous agricultural use of the building.

Traffic and parking

- 6.24 The new dwelling is accessed from an existing accessway off Haviker Street. Whilst the five bedroom dwelling will generate vehicle movements to and from the site and along Haviker Street, any increase in such vehicle movements over and above those associated with the use of the previous agricultural barn building on the site is not likely to be so significant as to materially impact on traffic flows along Haviker Street or result in highway safety issues along the road or in the vicinity of the access to the road.
- 6.25 The submitted site layout plan shows the accessway off Haviker Street and the majority of the land within the site around the new dwelling to be paved with two parking spaces adjacent to the south-western corner of the dwelling. Adequate paved hardstanding areas exist within the site for further vehicle parking to be accommodated on site. The paved hardstanding area at the western end of the building also allows access to the retained agricultural store part of the building. It is not considered that the largely retrospective application raises any overriding traffic, parking or highway safety issues.

Setting of listed buildings

- 6.26 The neighbouring properties at 1 and 2 Haviker Street Cottages to the south of the site and 3 and 4 Haviker Street to the north-west are Grade II listed. The new dwelling on the site lies within the setting of both pairs of adjoining listed buildings and the nature and extent of the development which has been carried out at the site affects the setting of the listed buildings. The Conservation Officer has advised that what we are presented with now is entirely new-build development – neither a house nor a barn, but a very large monolithic volume, clad incongruously in grey weatherboard associated with pure agricultural buildings. The Conservation Officer further comments that the building is in no way therefore a barn conversion, but a wholly new residential construction and that the size and scale of the new residence is wholly out of scale with the listed residential properties, and is damaging not only to their significance and integrity, but is also harmful to the wider, traditional landscape environment in which it sits. The Conservation Officer comments that it is the large scale and visual dominance of the new dwelling and the over-bearing aspect that is so damaging to the setting of the adjacent listed buildings.
- 6.27 Whilst the development which has been carried out at the site is considered to be damaging to the setting of the adjacent Grade II listed buildings, it is considered that the development has led to less than substantial harm to the significance of the designated heritage assets and in such circumstances, Government guidance in the NPPF (para. 196) advises that the resulting harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The rebuilding of the former agricultural barn building on the site to

provide a five-bedroom dwelling and an agricultural store is not considered to result in any public benefits which outweigh the resulting harm to the significance of the adjacent designated heritage assets by virtue of the harm to their setting.

Flooding

- 6.28 The site falls within Flood Zone 3 (high probability of flooding) as shown on the Environment Agency's Flood Map. The flood risk is from the nearby river – Lesser Teise – located some 900m to the east of the site. Dwellinghouses are identified as *more vulnerable* in the Flood risk vulnerability classification in the Technical Guidance to the National Planning Policy Framework. The submitted Flood Risk Assessment (FRA) states that the risk of fluvial flooding has been examined under the design flood event, which includes a 35% allowance for climate change over the next 100 years (i.e. a 35% increase in peak river flow) and under this scenario the site is shown to flood, with flood depths reaching a maximum of 130mm next to the building. The FRA further states that the risk to the future occupants of the dwelling has been mitigated by raising the finished floor of the ground floor, which is located 220mm above the design flood level and, in addition, it is proposed that the threshold of the building is raised further to minimize the risk of internal flooding during an event which exceeds the design event. The FRA recommends that the threshold of the building should be set to 15.23m AODN (i.e. 300mm above the design flood level). The raised floor and threshold levels are shown on the submitted proposed plan.
- 6.29 The NPPF states that, where required safe access and escape is available to/from new developments in flood risk areas. The Practice Guidance to the NPPF states that access routes should be such that occupants can safely access and exit their dwellings in design flood conditions and that vehicular access to allow the emergency services to safely reach the development will also be required. The submitted FRA indicates that Haviker Street will be subject to flooding under the design event and this is the only access road to the development. The FRA states that the levels along the safest route to an area outside of the floodplain via Haviker Street have been established and using the design flood event conditions that include the impacts of climate change, the highest predicted flood depths is 0.23m. The FRA concludes that safe access/egress is available to/from the site during a flood event.
- 6.30 The submitted FRA recommends that flood resilience measures be incorporated into the design of the building where practicable, the owner and occupants of the dwelling sign up to the Environment Agency's floodline warnings and that this should be used in combination with the Flood Evacuation Plan that has been prepared (and submitted with the application), and the surface water management strategy for the development will need to be developed to a detailed design stage taking into account the requirements set out in the FRA which propose the use of Sustainable Drainage Systems (SuDS). Implementation of the recommendations of the FRA in the development can be secured by planning conditions imposed on any grant of planning permission.
- 6.31 The issue of flooding was considered under the previous prior approval application ref. 15/508446/PNQCLA for the change of use of part of the building to a dwellinghouse and associated operational development and the previous application was not considered to raise any overriding issues in this regard. It should be noted that Government policy/advice directs that Change of use applications do not need to apply the Sequential and Exception tests to applications (the more stringent tests – which seek to steer development away from areas at risk of flooding) and need only ensure that they are safe. The current application, as submitted, proposes the conversion of an agricultural barn building to a dwelling with part of the building retained for agricultural storage and, as such, the application would not be considered to raise any new flood risk issues which were not considered and

addressed under the previous prior approval application for change of use and conversion of an existing building.

- 6.32 The works which have been carried out in excess of those given prior approval under application ref. 15/508446/PNQCLA are likely to make a material difference to the assessment of the flood risk. As noted in section 6.04 above, your officers are of the view that the extent of the demolition and rebuilding works which have been carried out to the original barn building on the site amount to the erection of a new building as opposed to the conversion of an existing building. The NPPF states (para. 155) that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). The NPPF states (para. 157) that – so as to avoid, where possible, flood risk to people and property, the sequential test (amongst other requirements) and then, if necessary, the exception test should be applied to the location of development. The NPPF states (para. 158) that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding and that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The submitted FRA does not address the issue of the sequential test in relation to the location of the development (for the reasons set out above), and as, in your officers view, the existing residential building on the site represents a new building following demolition of the original barn building, there is no specific reason why the new building needs to be located on the site of the original building in an area at high risk of flooding. The erection of a new build dwelling on the site has not been justified in terms of flood risk.
- 6.33 Whilst the Environment Agency have raised no objection to the application with regards to flood risk (see comments in section 5.06 above), it must be noted that the Environment Agency have considered the application as a conversion of an existing agricultural barn to a dwelling as opposed to the erection of a new residential building to which more stringent tests are applied.

Ecology

- 6.34 The submitted Ecological survey report concludes that the site in general is of low ecological value and that the majority of habitats on the site are common and widespread. The report states that the greatest ecological value is found within the southern boundary habitat which will be retained and enhanced. The current application is essentially retrospective as the works are substantially completed. Any impact on the ecological interests of the site would have already taken place.
- 6.35 The submitted Ecological survey report recommends post development enhancement comprising new planting, including a diverse mixture of native tree and shrub species commonly used for planting hedgerows, the installation of bat boxes within retained boundary trees, the use of a bat sensitive lighting scheme for the development, the installation of a total of three sparrow terrace nest boxes on the external elevations of the building at the eaves, and the installation of log pile refugia within retained boundary habitats for hedgehogs. The Ecological survey report concludes that the proposed site enhancements will maintain and increase the ecological value of the site and provide suitable habitat for a range of wildlife including invertebrates, breeding birds and bats. The proposed site enhancements can be secured by planning conditions imposed on any grant of planning permission

Other Matters

- 6.36 The Applicant asserts that the prior approval granted on 10.12.15 is a relevant material consideration to this application.

- 6.37 Your officers agree that the fallback position (what could happen on the land if the planning application was not approved), including any permitted development rights (with or without prior approval), can be a material consideration in the determination of planning applications, see *Mansell v Tonbridge and Malling BC* [2018] JPL 176.
- 6.38 Your officer's primary position is, however, that there is no fall-back position (in terms of PD rights or the prior approval) in relation to the building that forms the subject of this application because the previous agricultural building no longer exists.
- 6.39 Your officer's rely on the analysis in High Court (*Hibbitt v Secretary of State for Communities and Local Government and Rushcliffe Borough Council*) in a decision dated 09.11.16 and further in the Court of Appeal (*Graham Oates v Secretary of State for Communities and Local Government and Canterbury City Council*) in a decision dated 12.10.18.
- 6.40 In *Hibbitt v SSCLG* [2016] EWHC 2853 (Admin) Green J considered (in the context of whether a development fell within the PD rights in Class Q) the distinction between a conversion, and a rebuild, and summarised the position as follows (at paragraph 27).

"[27] In my view whilst I accept that a development following a demolition is a rebuild, I do not accept that this is where the divide lies. In my view it is a matter of legitimate planning judgment as to where the line is drawn. The test is one of substance, and not form based upon a supposed but ultimately artificial clear bright line drawn at the point of demolition. And nor is it inherent in "agricultural building". There will be numerous instances where the starting point (the "agricultural building") might be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such magnitude that in practical reality what is being undertaken is a rebuild. ..."

- 6.41 Green J's approach was expressly approved by the Court of Appeal in *Oates v SSCLG* [2018] EWCA Civ 2229 in which the court held that a planning inspector had been entitled to find that works to chicken coops was not permitted development as these had resulted in the creation of new buildings, notwithstanding that the original buildings had been incorporated into the new buildings and had not been demolished, see paragraph 37 of the judgment of Lindblom LJ:

"[37] Put simply, the principle here is unsurprising: that a building constructed partly of new materials and partly of usable elements of previous structures on the site, after other elements of those previous structures have been removed through demolition, may in fact be a "new" building; or it may not. The facts and circumstances of every case will be different. But, in principle, the retention of some of the fabric of an original building or buildings within the building that has been, or is being erected, does not preclude a finding by the decision-maker, as a matter of fact and degree, that the resulting building is, physically, a "new" building, and that the original building has ceased to exist. This, in effect, is what the inspector found here. In doing so she made no error of law. She was not compelled to find that because some elements of the original buildings had survived in the construction of the buildings now on the site, the buildings were not and could not be, as a matter of fact, "new buildings". That suggestion is untenable".

- 6.42 As illustrated in *Hibbitt*, the retention of part of the original agricultural building (the vertical steel columns and roof rafters only in the current case) does not necessarily

mean the development amounts to a conversion as opposed to a rebuild. The Judge further commented that the nub of the point being made by the Inspector, in the Judge's view correctly, was that the works (which in this case included the construction of all four exterior walls) went a very long way beyond what might sensibly or reasonably be described as a conversion. The Judge commented that the development was in all practical terms starting afresh, with only a modest amount of help from the original agricultural building.

- 6.43 In *Oates*, the court held that the Inspector had made no error in finding that the original buildings had ceased to exist and that she was not compelled to find that because some elements of the original buildings had survived in the construction of the buildings now on the site, the buildings were not and could not be, as a matter of fact, "new buildings".
- 6.44 In the case of the current application building at Little Spitzbrook Farm, your officers are of the view that the extent of the demolition and rebuilding works which have been carried out to the original barn building amount to the erection of a new building as opposed to the conversion of an existing building.
- 6.45 This is because as a result of the works that have in fact been carried out, the original barn structure has effectively been demolished and a new more substantial steel portal frame erected with retained parts of the existing structure (the vertical steel columns and roof rafters of the original portal frame only) tied to the new more substantial portal frame. The more substantial portal frame which has been erected to the building extends beyond the profile of the existing retained parts of steel frame to the original building and as a result the current building on the site is slightly higher and more bulky than the building that previously existed on the site. Horizontal floor beams are provided for the new first floor. New infill foundations appear to have been constructed, and new walls and a roof have been constructed infilling between and around the new steel portal frame and retained vertical steel columns and roof rafters of the original building.
- 6.46 As the original barn building has effectively been replaced with a new building, the fall-back positions of implementing the previous grant of prior approval or indeed relying on the permitted development rights attached to the barn do not now exist.
- 6.47 If the Committee **does not** accept the Officer's view and that the works carried out amount to a conversion, then what could be built under PD (of which the prior approval is an illustration) can and should be given weight as a relevant fallback position (in that the Committee should consider the relative merits of the application proposal against the alternative under PD rights). It is the Officer's view that the alternative development under PD rights i.e the fallback position, would be preferable to the application proposal.
- 6.48 The works proposed in this application are different from those granted prior approval in that the first floor residential accommodation is extended into the upper part/roof void of the retained agricultural storage part of the building, a first floor balcony has been formed to the eastern end of the building, and the window, door and glazing layout to the external facades have changed, including the provision of glazing to the roof which projects above the roof ridge line. The more substantial portal frame which has been erected to the building also results in the current building being slightly higher and more bulky than the original building. In addition to the above differences, solar panels have been added to the south facing roof slope and the residential curtilage has been enlarged.
- 6.49 As set out above, your officer's view is that these additional changes have a harmful visual impact and are detrimental to the setting of the neighbouring listed buildings.
- 6.50 Therefore it is your officer's view that the fallback position does not weigh in favour of granting planning permission for the application proposal.

- 6.51 As the works for which planning permission is sought are substantially completed and the current application is essentially retrospective, the condition requested by the Environmental Health Officer (see 5.03 above) relating to any potential contamination encountered during the works is no longer applicable.
- 6.52 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.

7. CONCLUSION

- 7.01 The current application is essentially retrospective as the works to provide a new dwelling at the site are substantially completed. The current application proposes further alterations to the new dwelling as built. Whilst the current application has been submitted for the conversion of an agricultural barn building to a dwelling, your officers are of the view that the extent of the demolition and rebuilding works which have been carried out to the original barn building amount to the erection of a new building as opposed to the conversion of an existing building. Your officers stance on this matter is supported by decisions in both the High Court and Court of Appeal.
- 7.02 The former agricultural barn building on the site was granted prior approval under previous application ref. 15/508446/PNQCLA for the change of use of part of the building to a dwellinghouse and associated operational development. As, in your officers view, the agricultural barn building has been subsequently demolished and rebuilt as a dwelling, the fall-back position of converting the former building cannot now be applied. In any case, your officer's consider the application proposal to be more harmful, in terms of visual amenity, than the fallback position under PD (as illustrated by the prior approval).
- 7.03 The open countryside site does not have good access to public transport and is remote from local services and facilities. As such, the site does not represent a sustainable location where such new build dwellings could be considered acceptable.
- 7.04 The changes which have been made to the appearance of the residential building for which prior approval was previously granted under application ref. 15/508446/PNQCLA compared to the building for which retrospective planning permission is currently sought, together with the enlarged residential curtilage and, whilst not part of this application, the associated structures, are considered to result in the further domestication of the substantial building on the site and an increased visual impact in the open countryside location. The current substantial residential building on the site is considered to have a harmful impact on the visual amenities, character and appearance of the open countryside location and landscape.
- 7.05 The size and massing of the dwelling (5 bedrooms) for which retrospective planning permission is currently being sought is wholly out of scale and character with the adjoining Grade II listed cottage type properties at 1 and 2 Haviker Street Cottages to the south of the site and 3 and 4 Haviker Street to the north-west. The large scale and visual dominance of the new dwelling in relation to the adjoining listed properties and the over-bearing aspect is considered to be damaging to the setting of the adjoining listed buildings.
- 7.06 The site is within Flood Zone 3 (high probability of flooding) as shown on the Environment Agency's Flood Map. The principle of conversion of an existing building on the site to a dwelling within the flood zone was established by the previous grant of prior approval under application ref. 15/508446/PNQCLA and a new application

for the conversion of the former building on the site would not be considered to raise any new flood risk issues which were not considered and addressed under the previous prior approval application. However, your officers are of the view that the current residential building on the site represents new build development in an area at high risk of flooding and, as such, Government guidance in the NPPF seeks to direct new residential development away from areas at the highest risk. As a new build residential development the current building on the site is in conflict with the NPPF guidance as the location has not been justified in terms of flood risk.

- 7.07 The development which has been carried out on the site, together with the changes proposed in the current application, is not considered to raise any overriding unacceptable unneighbourly impacts, traffic, parking or highway safety issues, or impact on ecological and biodiversity interests at the site.
- 7.08 The differences between this application and the first application ref. 18/504086/FULL, as outlined in section 2.02 above, do not address the principal issues relating to the erection of a new substantial residential building in the open countryside, adjoining listed cottages, and in an area at high risk of flood.
- 7.09 Refusal of planning permission is recommended for the reasons set out below.

8. RECOMMENDATION

REFUSE planning permission for the following reason(s):

- 1) Given the extent of the demolition and rebuilding works which have been carried out to the original agricultural barn building on the site and the limited amount of the original structure that has been retained in the new dwelling for which retrospective planning permission is sought, the Council are of the view that the development represents a new build dwelling in an open countryside location which does not have good access to public transport and is remote from local services and facilities. The development represents unsustainable residential development where future occupants would be reliant on private cars and in the absence of any overriding justification or need for the development demonstrated in the application, the development is contrary to Government guidance in the NPPF 2019 relating to sustainable development and policies SS1 and SP17 of the Maidstone Borough Local Plan (Adopted October 2017). The application proposal is contrary to the objectives of policies SP21 and DM31 of the Maidstone Borough Local Plan (Adopted October 2017) in terms of the residential use of the building, scale and appearance of the building, and in the context of neighbouring properties and countryside landscape.
- 2) The dwelling for which retrospective planning permission is sought, by reason of its overall design, appearance, scale and massing, has a harmful impact on the visual amenities, character and appearance of the open countryside location and landscape. The unsympathetic appearance, large scale and visual dominance of the dwelling in relation to the adjoining listed properties 1 and 2 Haviker Street to the south of the site and 3 and 4 Haviker Street to the north-west and the over-bearing impact has a harmful impact on the setting of the adjoining listed buildings. As such, the development is contrary to Government guidance in the NPPF 2019 and policies SS1, SP17, SP18, SP21, DM1, DM4, DM30, DM31 and DM32 of the Maidstone Borough Local Plan (Adopted October 2017).
- 3) The works which have been carried out in excess of those given prior approval under application ref. 15/508446/PNQCLA are likely to make a material difference to the assessment of the flood risk. The extent of the demolition and rebuilding works

which have been carried out to the original barn building on the site amount to the erection of a new build dwelling within Flood Zone 3 (high probability of flooding) as shown on the Environment Agency's Flood Map as opposed to the conversion of an existing building. Government guidance in the NPPF 2019 (paras. 157, 158 and 159) seeks to steer new development to areas with the lowest risk of flooding and in the absence of any overriding justification or need for the development on the site being demonstrated in the application, the development is contrary to Government guidance in the NPPF 2019 and policy DM1 of the Maidstone Borough Local Plan (Adopted October 2017).

Case Officer: Jon Barnes

REFERENCE NO - 18/504086/FULL		
APPLICATION PROPOSAL Conversion of agricultural barn to single dwelling with retention of part for use as agricultural store, laying out of private garden including erection of a woodstore, two car parking spaces and driveway, the installation of a solar PV array (two rows) and flue on southern roof slope, two heat exchange units and landscaping (part retrospective).		
ADDRESS Little Spitzbrook Farm Haviker Street Collier Street Kent TN12 9RG		
RECOMMENDATION - REFUSE PLANNING PERMISSION		
SUMMARY OF REASONS FOR RECOMMENDATION This is an application for retrospective planning permission for works carried out on an existing agricultural building. Officers are of the view that the development which has been carried out, as a result of the extent of the demolition and rebuilding works which have taken place, represents a new build residential building in the open countryside for which there is no justification or need demonstrated in the application. The site does not represent a sustainable location where new build dwellings would normally be considered acceptable. The substantial residential building on the site is considered to have a harmful impact on the visual amenities, character and appearance of the open countryside location and landscape. The large scale and visual dominance of the residential building on the site is considered to be out of character with and damaging to the setting of the adjoining listed properties on Haviker Street. The development which has been carried out represents new build residential development in an area at high risk of flooding which conflicts with Government guidance in the NPPF.		
REASON FOR REFERRAL TO COMMITTEE The application has been called-in for consideration by the Planning Committee by Ward Councillor David Burton, given the significance of the scale of potential enforcement action.		
WARD Marden and Yalding	PARISH/TOWN COUNCIL Collier Street	APPLICANT Mr & Mrs Cox AGENT IDE Planning
TARGET DECISION DATE 08/10/18	PUBLICITY EXPIRY DATE 22/11/18	

Relevant Planning History

15/508446/PNQCLA

Prior Notification for the change of use of part of an agricultural building to a dwellinghouse and associated operational development

For it's prior approval for:

- Transport and highways impacts of the development
- Contamination risks on the site
- Flooding risks on the site
- Noise impacts of the development
- Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed
- Design and external appearance impacts on the building

Prior approval granted. Decision Date: 10.12.15

16/503415/SUB

Submission of details pursuant to Condition 2:
 Materials under reference 15/508446/PNQCLA

Approved.

Decision Date: 09.05.16

18/504501/FULL

Conversion of agricultural barn to single dwelling with retention of part for use as agricultural store, laying out of private garden, two car parking spaces and driveway, the installation of solar PV array on southern roof slope, landscaping (part retrospective)

Pending Consideration (see next item on agenda)

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The site is located on the east side and towards the southern end of Haviker Street, 230m approx. north of its junction with Green Lane. The main body of the site lies to the rear of the residential properties on Haviker Street at Little Spitzbrook Barn and the cottages at 3 and 4 Haviker Street. The main body of the site is accessed between the properties at Little Spitzbrook Barn and 3 and 4 Haviker Street. The main body of the site was until relatively recently occupied by a large steel portal framed agricultural building clad with corrugated iron sheeting and asbestos cement roof sheeting for which prior approval was granted on 10.12.15 for conversion to a residential dwelling. It is the view of your officers, that the agricultural building formerly on the site has, however, been substantially removed/demolished and a new large residential building (the subject of this application) has been erected on the site on the same building footprint and more or less within the same building envelope as the previous building. Retained parts of the original agricultural building have been incorporated into the new building. The site is adjoined by the residential properties at 1 and 2 Haviker Street Cottages to the south which are Grade II listed and the cottages at 3 and 4 Haviker Street to the north-west are also Grade II listed. The site is adjoined by open agricultural land to the north, east and south-east.
- 1.02 The site is located in the open countryside to the south-east of the Yalding village settlement and north-west of the Marden village settlement. The open countryside location is not subject to any landscape designation. The site is within Flood Zone 3 as shown on the Environment Agency's Flood Map.

2. PROPOSAL

- 2.01 The application, as submitted, proposes the conversion of an agricultural barn building located to the rear and to the south-east of the residential properties at 3 and 4 Haviker Street to a single-dwelling on two floors with part of the building (the ground floor part of the western end of the building) retained for agricultural storage. The dwelling would be accessed from a paved driveway off Haviker Street and the majority of the curtilage around the dwelling would be paved. A detached log store is located to the southern side of the dwelling and two parking spaces are shown within the curtilage in the submitted plans. The submitted plans show the proposed dwelling to incorporate an open plan kitchen/dining room and living room, store room, boot room, utility room and wc on the ground floor and 7 bedrooms, 3 bathrooms, a shower room and a dressing room on the first floor. The roof to the dwelling incorporates solar panels to the south facing roof slope and two freestanding heat exchange units are located adjacent to the south elevation wall of the building. The application is essentially retrospective as the works are substantially completed.
- 2.02 There is a related second application (ref. 18/504501/FULL) which also forms part of the agenda. This application differs from the second application in that the first floor

residential accommodation in this application is essentially as built, extending across the full width of the upper part/roof void of the retained agricultural storage part of the building. In the second application (ref. 18/504501/FULL) the first floor residential accommodation as built is proposed to be reduced to bring it more in line with the previous grant of prior approval under application ref. 15/508446/PNQCLA in terms of floorspace. In addition to the above, the first floor windows currently installed to the western end of the building and the freestanding log store building and two heat exchange units which have been erected within the curtilage adjacent to the south elevation wall of the building are to be considered as part of this application. However, these elements of the development which has been carried out do not form part of the second application.

- 2.03 It is the view of your officers, that the agricultural building formerly on the site has been substantially removed/demolished and a new large residential building (the subject of this application) has been erected on the site. The applicants' agent was therefore requested to amend the description of the development proposed in the application to the erection of a new building as opposed to the conversion of an existing building but the agent has declined to agree to this amendment. Government guidance in the NPPG states that the Local Planning Authority should not amend the description of the development proposed in an application without the change having been first discussed and agreed with the applicant. Hence, the description of the development proposed in the application remains for the conversion of an agricultural barn building contrary to officers view that the agricultural barn building was removed and rebuilt as a new building.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017: Policies SS1, SP17, SP18, SP21, DM1, DM3, DM4, DM8, DM23, DM30, DM31, DM32

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 Three representations received from local residents raising the following (summarised) issues
- The new building is much larger than the original barn on which the planning permission was previously granted.
 - The property overshadows neighbouring properties.
 - The new building overlooks neighbouring properties to such an extent that it imposes on the privacy of the neighbouring occupiers.
 - Removal of foliage and trees would mean neighbouring properties would be overlooked.
 - The Environment Agency's past concern about the possible effects of increased flooding in the area as a result of this new development should be re-assessed.
 - Raising the height of the entrance road from Haviker Street to Little Spitzbrook Farm will significantly impact on flooding to the properties either side of the entrance.
 - Raising or changing levels of Little Spitzbrook Farmyard could increase potential flooding to neighbouring properties.

- The Environment Agency made a ruling when the property was being constructed under the GPDO scheme in 2016 that “no raising of any ground levels was to take place”. This has been blatantly ignored.
 - The development will detract from the value of neighbouring properties should the neighbouring owners wish to sell.
 - The plans do not indicate how parking will be provided for a 7 bedroom property. Only 2 car parking spaces are shown on the plans. Haviker Street has no provision for street parking. The addition of several cars will create severe disruption and hazard to road users.
 - The only buses that serve Collier Street are on school days, one am/one pm. Residents would need use of a car.
 - Traffic generated by a 7 bedroom house will change the nature of the lane.
- 4.02 Issues relating to the impact on the value of neighbouring property are not a material planning consideration and therefore cannot be taken into account in the determination of this application. The other matters raised by neighbours are discussed in the detailed assessment below.

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)

Collier Street Parish Council

- 5.01 The Parish Council wish to adopt a neutral stance on this application.

Conservation Officer

- 5.02 Advises that even if the new dwelling were not adjudged to lie within the curtilage of Little Spitzbrook Cottages, the building certainly lies within the setting both of these Grade II listed properties, and the adjacent listed Haviker Street Cottages, and any significant development on this land will affect the setting of the listed Little Spitzbrook Cottages. Further advises that what we are presented with now is entirely new-build development – neither a house nor a barn, but a very large monolithic volume, clad incongruously in grey weatherboard associated with pure agricultural buildings. Comments that the building is in no way therefore a barn conversion, but a wholly new residential construction. The size and scale of the new residence is wholly out of scale with the listed residential properties, and is damaging not only to their significance and integrity, but is also harmful to the wider, traditional landscape environment in which it sits. Further comments that there is no functional requirement for the residential property being of such a large scale and so visually dominant, and it is this unnecessary dominance and over-bearing aspect that is so damaging to the setting of the adjacent listed buildings. Comments that the external materials and details are of low quality – poor quality brickwork in stretcher bond, with unsightly expansion joints; reconstituted cement boarding with repeating synthetic embossed patterns; synthetic slate to the roof; storm-proof windows, poor quality plastic rainwater goods; indifferent landscaping.

MBC Environmental Health

- 5.03 Comments that in addition to the previous agricultural use of the site, the site is also within the Council’s potential contaminated sites based on information from the contaminated land database and historic maps databases. Further comments that there is no indication of any chance of high radon concentrations and there is no issue with the air quality in the area. Comments that the heat exchange units must

be installed and operated in such a way as not to have an adverse impact on all nearby sensitive premises. No objection raised subject to a condition being imposed on any grant of planning permission to ensure that any potential contamination encountered during the works is appropriately dealt with.

Kent Highways

- 5.04 Commented that it would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

KCC Ecological Advice Service

- 5.05 Comment that they are satisfied with the conclusions of the submitted ecological report in relation to any potential impacts that the proposed development may have on any protected species or sites. Comment that the site is of low ecological value and they are satisfied with the proposed precautionary mitigation measures included within the report. Comment that it has been identified that the southern boundary contains habitat suitable for foraging bats which will be retained as part of the proposals. Comment that there are recommendations for a sensitive lighting strategy to ensure that there will be no detrimental impacts and advise that these measures must be implemented as part of the development. Comment that the application provides opportunities to incorporate features into the design which are beneficial to wildlife, such as native species planting or the installation of bat/bird nest boxes and further enhancements have been included within the submitted ecological report. Advise that measures to enhance biodiversity are secured as a condition of any grant of planning permission in accordance with Government guidance in the NPPF "*opportunities to incorporate biodiversity in and around developments should be encouraged*".

Environment Agency

- 5.06 Raise no objection to the application, as submitted, for conversion of the agricultural barn to a single dwelling with retention of part for use as agricultural store. Comment that the submitted Flood Risk Assessment (FRA) outlines flood risk mitigation measures including raising the ground floor to 15.15mAOD above existing ground level and threshold of the building to 15.23mAOD primarily to protect against flooding. Comment further that the submitted plan shows all bedrooms at first floor level. Recommend the following condition:
Condition: The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Herrington Consulting Ltd, dated August 2018 and the following mitigation measures detailed within the FRA:

1. Finished floor levels are set no lower than 15.15mAOD above Ordnance Datum (AOD) and threshold finished floor level are set no lower than 15.23mAOD.
2. No sleeping accommodation on the ground level.
3. Sleeping accommodation to be on the first floor as shown on EP Architects drawing No. 1696.P.01 dated 30.09.2015.

Reason: To reduce the risk of flooding and provide a safe access and egress for this development.

Further comment that the Local Authority will also need to be satisfied that, where appropriate, safe access and egress can be achieved from the site during a flood event.

6. APPRAISAL

Main Issues

6.01 The key issues for consideration relate to:

- Principle
- Relevant development plan policies
- Visual impact
- Residential amenity
- Traffic and parking
- Setting of listed buildings
- Flooding
- Ecology
- Other matters (including the relevance of the prior approval application)

Principle

6.02 The site is located in the open countryside to the south-east of the Yalding village settlement and north-west of the Marden village settlement. The application, as submitted, proposes the conversion of an agricultural barn building to a single-dwelling on two floors incorporating 7 bedrooms.

6.03 Class Q, Part 3 of Schedule 2 to the GDPO 2015 (as amended) permits the conversion of existing agricultural units to residential dwellings within the limits set out in Q.1. The current application does not benefit from permitted development rights because it does not comply with the limits set out in Q.1 and is materially different from the previous prior approval application 15/508446/PNQCLA.

6.04 Whilst the current application has been submitted for the conversion of an agricultural barn building to a dwelling, officers are of the view that the extent of the demolition and rebuilding works which have been carried out to the original barn building amount to the erection of a new building as opposed to the conversion of an existing rural building. The original barn structure has effectively been demolished and rebuilt as a new dwelling. The principle of the erection of a new dwelling in this open countryside location is therefore not established by the previous grant of prior approval under application ref. 15/508446/PNQCLA which relates to the conversion of the agricultural barn building only.

6.05 Development Plan policy and Government guidance in the NPPF supports new housing in sustainable urban locations as an alternative to residential development in more remote countryside locations. The open countryside site, in this case, does not have good access to public transport and is remote from local services and facilities. As such, the site does not represent a sustainable location where such new build dwellings could be considered acceptable in principle.

Relevant development plan policies

6.06 For the reasons set out below, officers are of the view that the development which has been carried out at the site represents the erection of a new build dwelling, as opposed to the conversion of an existing rural building, in the open countryside. As a new build dwelling in the open countryside, policies SS1 and SP17 of the Local Plan are also relevant. Policy SS1 states that the Maidstone urban area will be the principal focus for development with the secondary focus being rural service

centres. The policy also allows for some development within some larger villages. The development does not accord with policy SS1 and, as noted in 6.05 above, the open countryside site in this case does not represent a sustainable location where such new build dwellings could be considered acceptable in principle. Policy SP17 of the adopted Maidstone Borough Local Plan states that development proposals in the countryside will not be permitted unless they accord with other policies in the plan and they will not result in harm to the character and appearance of the area.

6.07 Policy DM30 of the adopted Maidstone Borough Local Plan relating to design principles in the countryside is also relevant to the current application. The policy seeks to ensure high quality design for proposals in the countryside. Amongst the criteria to be met are the following:

- 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;

- Where an extension or alteration to an existing building is proposed, it would be of a scale which relates sympathetically to the existing building and the rural area; respect local building styles and materials; have no significant adverse impact on the form, appearance or setting of the building, and would respect the architectural and historic integrity of any adjoining building or group of buildings of which it forms part.

6.08 The size and massing of the residential building for which retrospective planning permission is currently being sought is wholly out of scale and character with the adjoining cottage type properties at 1 and 2 Haviker Street Cottages to the south of the site and 3 and 4 Haviker Street to the north-west. These neighbouring cottages are also Grade II listed properties. The large scale and visual dominance of the new residential building in relation to the adjoining listed properties and the over-bearing aspect is considered to be damaging to the setting of the adjoining listed buildings. In light of the above, the proposals are considered to be in conflict with policy DM30 of the adopted Local Plan. The resulting harm to the character and appearance of the area and the countryside landscape is contrary to policy SP17 of the adopted Local Plan.

6.09 The applicant suggests that the application is assessed principally under policies SP21 and DM31 of the adopted Maidstone Borough Local Plan because it is a conversion of an existing agricultural building. Your officers do not agree. For the reasons set out in detail in paragraphs 6.39 to 6.47 below, it is the view of your officer that the application proposal is a new building, therefore DM31 does not apply.

6.10 In any event (and even if the Committee takes the view that the application proposal is a conversion of an existing building and not a new dwelling) it is the view of your officers that the application proposal does not comply with policies SP21 and DM31.

6.11 Policy SP21 states that the Council is committed to supporting and improving the economy of the borough and providing for the needs of businesses. One of the means through which this will be achieved is (Policy SP21 (vii)) by prioritising the commercial re-use of existing rural buildings in the countryside over conversion to residential use, in accordance with policy DM31. The re-use of the former agricultural building is therefore inconsistent with SP21 in principle, subject to the policy DM31.

6.12 Policy DM31 of the adopted Maidstone Borough Local Plan is in three parts. Part 1 of the policy reads as follows:

Outside of the settlement boundaries as defined on the policies map, proposals for the re-use and adaptation of existing rural buildings which meet the following criteria will be permitted:

- i. The building is of a form, bulk, scale and design which takes account of and reinforces landscape character;*
- ii. The building is of permanent, substantial and sound construction and is capable of conversion without major or complete reconstruction;*
- iii. Any alterations proposed as part of the conversion are in keeping with the landscape and building character in terms of materials used, design and form;*
- iv. There is sufficient room in the curtilage of the building to park the vehicles of those who will live there without detriment to the visual amenity of the countryside; and*
- v. No fences, walls or other structures associated with the use of the building or the definition of its curtilage or any sub-division of it are erected which would harm landscape character and visual amenity.*

Part 2 of the policy relates to *proposals for the re-use and adaptation of existing rural buildings for commercial, industrial, sport, recreation or tourism uses* and is therefore not applicable to the current proposals.

Part 3 of the policy is applicable to the current proposals and reads as follows:

Proposals for the re-use and adaptation of existing rural buildings for residential purposes will not be permitted unless the following additional criteria to the above are met:

- i. Every reasonable attempt has been made to secure a suitable business re-use for the building;*
- ii. Residential conversion is the only means of providing a suitable re-use for a listed building, an unlisted building of quality and traditional construction which is grouped with one or more listed buildings in such a way as to contribute towards the setting of the listed building(s), or other buildings which contribute to landscape character or which exemplify the historical development of the Kentish landscape; and*
- iii. There is sufficient land around the building to provide a reasonable level of outdoor space for the occupants, and the outdoor space provided is in harmony with the character of its setting.*

6.13 With regards to the above criteria to be met in Part 1 of the policy, whilst the original large steel portal framed agricultural barn building clad with corrugated iron sheeting and asbestos cement roof sheeting was typical of buildings found within the open countryside landscape, the current building with its reconstituted cement board cladding to the walls and synthetic slate to the roof, and modern domestic windows and doors is clearly not of a form, bulk, scale and design which takes account of and reinforces the countryside landscape character. Whilst typical of buildings found within the open countryside landscape, the original building on the site, as a result of its form, bulk, scale and design, was not the type of building which was envisaged as being suitable for conversion in accordance with criteria i and ii of Part 1 of Local Plan policy DM31 above.

6.14 The original and current buildings on the site do not meet the typology types of "character" former agricultural buildings which harmonise with the rural landscape. The pre-ambles to policy DM31 acknowledges (para. 8.4) that the quality and condition of rural buildings in the borough varies considerably and that the wide range of buildings includes buildings such as oast houses, which are indigenous only to the hop growing areas of the country and exemplify the historical development of agriculture in Kent. The pre-ambles to the policy further states that many of these

vernacular buildings have a degree of significance which merits consideration as a heritage asset. The pre-amble states that these functional buildings are often of simple form and character, so external alterations require careful consideration. Given the extent of the demolition and rebuilding work which has been carried to the original agricultural barn building on the site, officers are of the view that the works amount to major reconstruction. Furthermore, the works carried out, particularly the first floor balcony formed to the eastern end of the building and provision of glazing to the roof which projects above the roof ridge line, are not considered to be in keeping with the building character in terms of design and form and therefore conflict with criteria i and iii of Part 1 of the policy.

- 6.15 With regards to Part 3 of policy DM31, in respect of criteria i: the applicant has failed to make every reasonable attempt to secure a suitable business use for the building. The applicant did make an enquiry to the Council regarding possible use of the building as holiday homes and were advised that such a proposal was not likely to be looked on favourably because the building due to its form, bulk, scale and design would not be considered to accord with the requirements to be met in policy DM31 which still apply to the re-use and adaptation of existing rural buildings for tourism uses. Tourism is not, however, the only possible business use for the building, and no evidence has been submitted in support of the current application to demonstrate that a commercial re-use of the building was fully explored before the current residential use was considered. Furthermore, in respect of criteria ii: the building is not a listed building, an unlisted building of quality and traditional construction which is grouped with one or more listed buildings in such a way as to contribute towards the setting of the listed building(s), or other buildings which contribute to landscape character or which exemplify the historical development of the Kentish landscape. As noted in the comments from the Conservation Officer (see paragraph 5.02 above), the size and scale of the new residence constructed on the site is wholly out of scale and character with the neighbouring listed residential properties at 1 and 2 Haviker Street Cottages to the south of the site and 3 and 4 Haviker Street to the north-west, and is damaging not only to their significance and integrity, but is also harmful to the wider, traditional landscape environment in which the building sits. The application is therefore considered to conflict with criteria i and ii of Part 3 of policy DM31 of the Local Plan. Even when assessed as a conversion of an existing rural building, as suggested by the applicant in the application as submitted, the conversion fails to meet the majority of the criteria to be met in policy DM31 of the adopted Maidstone Borough Local Plan relating to the conversion of rural buildings.

Visual impact

- 6.16 As a result of its siting to the rear of the neighbouring residential properties along Haviker Street and the screening provided by existing trees and vegetation, particularly to the south of the site, the large residential building currently on the site which replaced the former agricultural building does not have a significant impact in public views along Haviker Street. However, the building, as a result of its height and scale, does have an impact from some viewpoints along the road.
- 6.17 The residential building currently on the site, differs from that approved under the previous prior approval application in that the residential accommodation now extends into the upper part/roof void of the retained agricultural storage part of the building, a first floor balcony has been formed to the eastern end of the building, and the window and door layout to the external facades have changed, including first floor windows to the western end of the building and the provision of glazing to the roof which projects above the roof ridge line. The more substantial portal frame which has been erected to the building extends beyond the profile of the existing retained parts of the steel frame to the original building and as a result the current building on the site is slightly higher and more bulky than the building that previously existed on the site. In addition to the above, solar panels have been

added to the south facing roof slope, the residential curtilage has been enlarged, and a freestanding log store building and two heat exchange units have been erected within the curtilage adjacent to the south elevation wall. This has resulted in the further domestication of the substantial building on the site and its curtilage and an increased visual impact in the open countryside location.

- 6.18 In the Maidstone Landscape Character Assessment (LCA) (Amended July 2013) the site falls within the Laddingford Low Weald landscape area. The LCA comments that Laddingford Low Weald is a coherent landscape where continuity is provided by linear development along the roads and the regularity of field pattern, which becomes larger scale away from the settled areas. The LCA states that built development has a moderate impact on the landscape, with a strong contrast between traditional properties and more recent development. The LCA comments that visual detractors within the landscape comprise large agricultural barns and silos, polytunnels, pylons and fencing and that whilst there are striking examples of local vernacular, recent development often degrades the setting of traditional buildings. Amongst the actions to conserve and improve the Laddingford Low Weald landscape are to avoid further infill development and soften the visual impact of large agricultural barns and silos with native planting. The current substantial residential building on the site is considered to have a harmful impact on the visual amenities, character and appearance of the open countryside location and landscape. The current substantial new build residential building as a result of its large scale, design and appearance is out of scale and character with the adjoining cottage type properties on Haviker Street, is not of a scale and design normally considered appropriate for new build dwellings in the open countryside, and conflicts with the aims and objectives of the above Landscape Character Assessment.

Residential amenity

- 6.19 The main body of the site in which the application building is located lies to the rear of the residential properties on Haviker Street at Little Spitzbrook Barn and the cottages at 3 and 4 Haviker Street to the north-west. The main body of the site is accessed between the properties at Little Spitzbrook Barn and 3 and 4 Haviker Street. The residential properties at 1 and 2 Haviker Street Cottages adjoin the site to the south.
- 6.20 The part residential building and part agricultural storage building for which retrospective planning permission is sought in the current application generally reflects the footprint, height, bulk and massing of the agricultural barn building which previously existed on the site and for which prior approval was granted under application ref. 15/508446/PNQCLA for conversion to a dwelling. However, as a result of the more substantial portal frame which has been erected to the retained parts of the original building on the site, the current building is slightly higher and more bulky than the building that previously existed on the site. Given the separation distances between the existing residential building and the neighbouring residential properties referred to above, any modest increases in the height, footprint, bulk and massing of the existing building on the site, which in officers view represents a new building as opposed to the conversion of an existing building (as suggested by the applicant), compared to the previous building are not likely to have any material impact on the amenities of the occupiers of the neighbouring properties in terms any unneighbourly overbearing, enclosing, overshadowing and/or loss of outlook impacts. Whilst the size and scale of new residential building erected on the site is seen as over-bearing and overdominant in the context of the neighbouring smaller cottage type properties on Haviker Street, it is not considered that the building results in any overriding and unneighbourly impact issues.
- 6.21 The large residential building currently on the site has first floor windows to the western end elevation of the building facing the rear of Little Spitzbrook Barn as a

result of the extension/enlargement of the first floor residential accommodation in the previously approved (under ref. 15/508446/PNQCLA) residential conversion of the original building. The first floor windows to the western end elevation of the building increase the potential for overlooking to the rear of the neighbouring property at Little Spitzbrook Barn. However, given the separation distance between the first floor windows to the western end of the building and the neighbouring property at Little Spitzbrook Barn, it is not considered that the current proposals raise any overriding issues with regards to loss of privacy to the occupiers of Little Spitzbrook Barn.

- 6.22 The changes made to the first floor fenestration to the side (north and south facing) elevations of the residential building currently on the site from that previously approved (under application ref. 15/508446/PNQCLA), including that resulting from the extension/enlargement of the first floor residential accommodation to provide two additional bedrooms, are not considered to raise any overriding issues with regards to overlooking and loss of privacy to the occupiers of neighbouring properties.
- 6.23 Vehicular and pedestrian movements to and from the site associated with the residential use of the building via the accessway which runs between the properties at Little Spitzbrook Barn and 3 and 4 Haviker Street are not likely to have a significantly greater impact on neighbouring properties than the vehicular and pedestrian movements associated with the previous agricultural use of the building.

Traffic and parking

- 6.24 The new dwelling is accessed from an existing accessway off Haviker Street. Whilst the seven bedroom dwelling will generate vehicle movements to and from the site and along Haviker Street, any increase in such vehicle movements over and above those associated with the use of the previous agricultural barn building on the site is not likely to be so significant as to materially impact on traffic flows along Haviker Street or result in highway safety issues along the road or in the vicinity of the access to the road.
- 6.25 The submitted site layout plan shows the accessway off Haviker Street and the majority of the land within the site around the new dwelling to be paved with two parking spaces adjacent to the south-western corner of the dwelling. Adequate paved hardstanding areas exist within the site for further vehicle parking to be accommodated on site. The paved hardstanding area at the western end of the building also allows access to the retained agricultural store part of the building. It is not considered that the retrospective application raises any overriding traffic, parking or highway safety issues.

Setting of listed buildings

- 6.26 The neighbouring properties at 1 and 2 Haviker Street Cottages to the south of the site and 3 and 4 Haviker Street to the north-west are Grade II listed. The new dwelling on the site lies within the setting of both pairs of adjoining listed buildings and the nature and extent of the development which has been carried out at the site affects the setting of the listed buildings. The Conservation Officer has advised that what we are presented with now is entirely new-build development – neither a house nor a barn, but a very large monolithic volume, clad incongruously in grey weatherboard associated with pure agricultural buildings. The Conservation Officer further comments that the building is in no way therefore a barn conversion, but a wholly new residential construction and that the size and scale of the new residence is wholly out of scale with the listed residential properties, and is damaging not only to their significance and integrity, but is also harmful to the wider, traditional landscape environment in which it sits. The Conservation Officer comments that it is

the large scale and visual dominance of the new dwelling and the over-bearing aspect that is so damaging to the setting of the adjacent listed buildings.

- 6.27 Whilst the development which has been carried out at the site is considered to be damaging to the setting of the adjacent Grade II listed buildings, it is considered that the development has led to less than substantial harm to the significance of the designated heritage assets and in such circumstances, Government guidance in the NPPF (para. 196) advises that the resulting harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The rebuilding of the former agricultural barn building on the site to provide a seven-bedroom dwelling and an agricultural store is not considered to result in any public benefits which outweigh the resulting harm to the significance of the adjacent designated heritage assets by virtue of the harm to their setting.

Flooding

- 6.28 The site falls within Flood Zone 3 (high probability of flooding) as shown on the Environment Agency's Flood Map. The flood risk is from the nearby river – Lesser Teise – located some 900m to the east of the site. Dwellinghouses are identified as *more vulnerable* in the Flood risk vulnerability classification in the Technical Guidance to the National Planning Policy Framework. The submitted Flood Risk Assessment (FRA) states that the risk of fluvial flooding has been examined under the design flood event, which includes a 35% allowance for climate change over the next 100 years (i.e. a 35% increase in peak river flow) and under this scenario the site is shown to flood, with flood depths reaching a maximum of 130mm next to the building. The FRA further states that the risk to the future occupants of the dwelling has been mitigated by raising the finished floor of the ground floor, which is located 220mm above the design flood level and, in addition, it is proposed that the threshold of the building is raised further to minimize the risk of internal flooding during an event which exceeds the design event. The FRA recommends that the threshold of the building should be set to 15.23m AODN (i.e. 300mm above the design flood level). The raised floor and threshold levels are shown on the submitted proposed plan.
- 6.29 The NPPF states that, where required safe access and escape is available to/from new developments in flood risk areas. The Practice Guidance to the NPPF states that access routes should be such that occupants can safely access and exit their dwellings in design flood conditions and that vehicular access to allow the emergency services to safely reach the development will also be required. The submitted FRA indicates that Haviker Street will be subject to flooding under the design event and this is the only access road to the development. The FRA states that the levels along the safest route to an area outside of the floodplain via Haviker Street have been established and using the design flood event conditions that include the impacts of climate change, the highest predicted flood depths is 0.23m. The FRA concludes that safe access/egress is available to/from the site during a flood event.
- 6.30 The submitted FRA recommends that flood resilience measures be incorporated into the design of the building where practicable, the owner and occupants of the dwelling sign up to the Environment Agency's floodline warnings and that this should be used in combination with the Flood Evacuation Plan that has been prepared (and submitted with the application), and the surface water management strategy for the development will need to be developed to a detailed design stage taking into account the requirements set out in the FRA which propose the use of Sustainable Drainage Systems (SuDS). Implementation of the recommendations of the FRA in the development can be secured by planning conditions imposed on any grant of planning permission.

6.31 The issue of flooding was considered under the previous prior approval application ref. 15/508446/PNQCLA for the change of use of part of the building to a dwellinghouse and associated operational development and the previous application was not considered to raise any overriding issues in this regard. It should be noted that Government policy/advice directs that Change of use applications do not need to apply the Sequential and Exception tests to applications (the more stringent tests

– which seek to steer development away from areas at risk of flooding) and need only ensure that they are safe. The current application, as submitted, proposes the conversion of an agricultural barn building to a dwelling with part of the building retained for agricultural storage and, as such, the application would not be considered to raise any new flood risk issues which were not considered and addressed under the previous prior approval application for change of use and conversion of an existing building.

6.32 The works which have been carried out in excess of those given prior approval under application ref. 15/508446/PNQCLA are likely to make a material difference to the assessment of the flood risk. As noted in section 6.04 above, your officers are of the view that the extent of the demolition and rebuilding works which have been carried out to the original barn building on the site amount to the erection of a new building as opposed to the conversion of an existing building. The NPPF states (para. 155) that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). The NPPF states (para. 157) that – so as to avoid, where possible, flood risk to people and property, the sequential test (amongst other requirements) and then, if necessary, the exception test should be applied to the location of development. The NPPF states (para. 158) that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding and that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The submitted FRA does not address the issue of the sequential test in relation to the location of the development (for the reasons set out above), and as, in your officers view, the existing residential building on the site represents a new building following demolition of the original barn building, there is no specific reason why the new building needs to be located on the site of the original building in an area at high risk of flooding. The erection of a new build dwelling on the site has not been justified in terms of flood risk.

6.33 Whilst the Environment Agency have raised no objection to the application with regards to flood risk (see comments in section 5.06 above), it must be noted that the Environment Agency have considered the application as a conversion of an existing agricultural barn to a dwelling as opposed to the erection of a new residential building to which more stringent tests are applied.

Ecology

6.34 The submitted Ecological survey report concludes that the site in general is of low ecological value and that the majority of habitats on the site are common and widespread. The report states that the greatest ecological value is found within the southern boundary habitat which will be retained and enhanced. The current application is essentially retrospective as the works are substantially completed. Any impact on the ecological interests of the site would have already taken place.

6.35 The submitted Ecological survey report recommends post development enhancement comprising new planting, including a diverse mixture of native tree and shrub species commonly used for planting hedgerows, the installation of bat boxes within retained boundary trees, the use of a bat sensitive lighting scheme for the development, the installation of a total of three sparrow terrace nest boxes on the external elevations of the building at the eaves, and the installation of log pile refugia within retained boundary habitats for hedgehogs. The Ecological survey

report concludes that the proposed site enhancements will maintain and increase the ecological value of the site and provide suitable habitat for a range of wildlife including invertebrates, breeding birds and bats. The proposed site enhancements can be secured by planning conditions imposed on any grant of planning permission.

Other Matters

- 6.36 The Applicant asserts that the prior approval granted on 10.12.15 is a relevant material consideration to this application.
- 6.37 Your officers agree that the fallback position (what could happen on the land if the planning application was not approved), including any permitted development rights (with or without prior approval), can be a material consideration in the determination of planning applications, see *Mansell v Tonbridge and Malling BC* [2018] JPL 176.
- 6.38 Your officer's primary position is, however, that there is no fall-back position (in terms of PD rights or the prior approval) in relation to the building that forms the subject of this application because the previous agricultural building no longer exists.
- 6.39 Your officer's rely on the analysis in High Court (*Hibbitt v Secretary of State for Communities and Local Government and Rushcliffe Borough Council*) in a decision dated 09.11.16 and further in the Court of Appeal (*Graham Oates v Secretary of State for Communities and Local Government and Canterbury City Council*) in a decision dated 12.10.18.
- 6.40 In *Hibbitt v SSCLG* [2016] EWHC 2853 (Admin) Green J considered (in the context of whether a development fell within the PD rights in Class Q) the distinction between a conversion, and a rebuild, and summarised the position as follows (at paragraph 27).

"[27] In my view whilst I accept that a development following a demolition is a rebuild, I do not accept that this is where the divide lies. In my view it is a matter of legitimate planning judgment as to where the line is drawn. The test is one of substance, and not form based upon a supposed but ultimately artificial clear bright line drawn at the point of demolition. And nor is it inherent in "agricultural building". There will be numerous instances where the starting point (the "agricultural building") might be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such magnitude that in practical reality what is being undertaken is a rebuild. ..."

- 6.41 Green J's approach was expressly approved by the Court of Appeal in *Oates v SSCLG* [2018] EWCA Civ 2229 in which the court held that a planning inspector had been entitled to find that works to chicken coops was not permitted development as these had resulted in the creation of new buildings, notwithstanding that the original buildings had been incorporated into the new buildings and had not been demolished, see paragraph 37 of the judgment of Lindblom LJ:

"[37] Put simply, the principle here is unsurprising: that a building constructed partly of new materials and partly of usable elements of previous structures on the site, after other elements of those previous structures have been removed through demolition, may in fact be a "new" building; or it may not. The facts and circumstances of every case will be different. But, in principle, the retention of some of the

fabric of an original building or buildings within the building that has been, or is being erected, does not preclude a finding by the decision-maker, as a matter of fact and degree, that the resulting building is, physically, a "new" building, and that the original building has ceased to exist. This, in effect, is what the inspector found here. In doing so she made no error of law. She was not compelled to find that because some elements of the original buildings had survived in the construction of the buildings now on the site, the buildings were not and could not be, as a matter of fact, "new buildings". That suggestion is untenable".

- 6.42 As illustrated in *Hibbitt*, the retention of part of the original agricultural building (the vertical steel columns and roof rafters only in the current case) does not necessarily mean the development amounts to a conversion as opposed to a rebuild. The Judge further commented that the nub of the point being made by the Inspector, in the Judge's view correctly, was that the works (which in this case included the construction of all four exterior walls) went a very long way beyond what might sensibly or reasonably be described as a conversion. The Judge commented that the development was in all practical terms starting afresh, with only a modest amount of help from the original agricultural building.
- 6.43 In *Oates*, the court held that the Inspector had made no error in finding that the original buildings had ceased to exist and that she was not compelled to find that because some elements of the original buildings had survived in the construction of the buildings now on the site, the buildings were not and could not be, as a matter of fact, "new buildings".
- 6.44 In the case of the current application building at Little Spitzbrook Farm, your officers are of the view that the extent of the demolition and rebuilding works which have been carried out to the original barn building amount to the erection of a new building as opposed to the conversion of an existing building.
- 6.45 This is because as a result of the works that have in fact been carried out, the original barn structure has effectively been demolished and a new more substantial steel portal frame erected with retained parts of the existing structure (the vertical steel columns and roof rafters of the original portal frame only) tied to the new more substantial portal frame. The more substantial portal frame which has been erected to the building extends beyond the profile of the existing retained parts of steel frame to the original building and as a result the current building on the site is slightly higher and more bulky than the building that previously existed on the site. Horizontal floor beams are provided for the new first floor. New infill foundations appear to have been constructed, and new walls and a roof have been constructed infilling between and around the new steel portal frame and retained vertical steel columns and roof rafters of the original building.
- 6.46 As the original barn building has effectively been replaced with a new building, the fall-back positions of implementing the previous grant of prior approval or indeed relying on the permitted development rights attached to the barn do not now exist.
- 6.47 If the Committee **does not** accept the Officer's view and that the works carried out amount to a conversion, then what could be built under PD (of which the prior approval is an illustration) can and should be given weight as a relevant fallback position (in that the Committee should consider the relative merits of the application proposal against the alternative under PD rights). It is the Officer's view that the alternative development under PD rights i.e the fallback position, would be preferable to the application proposal.

- 6.48 The works proposed in this application are different from those granted prior approval in that the first floor residential accommodation is extended into the upper part/roof void of the retained agricultural storage part of the building, a first floor balcony has been formed to the eastern end of the building, and the window, door and glazing layout to the external facades have changed, including first floor windows to the western end of the building and the provision of glazing to the roof which projects above the roof ridge line. The more substantial portal frame which has been erected to the building also results in the current building being slightly higher and more bulky than the original building. In addition to the above differences, solar panels have been added to the south facing roof slope, the residential curtilage has been enlarged, and a freestanding log store building and two heat exchange units have been erected within the curtilage adjacent to the south elevation wall.
- 6.49 As set out above, your officer's view is that these additional changes have a harmful visual impact and are detrimental to the setting of the neighbouring listed buildings.
- 6.50 Therefore it is your officer's view that the fallback position does not weigh in favour of granting planning permission for the application proposal.
- 6.51 As the works for which planning permission is sought are substantially completed and the current application is essentially retrospective, the condition requested by the Environmental Health Officer (see 5.03 above) relating to any potential contamination encountered during the works is no longer applicable.
- 6.52 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.

7. CONCLUSION

- 7.01 The current application is essentially retrospective as the works to provide a new dwelling at the site are substantially completed. Whilst the current application has been submitted for the conversion of an agricultural barn building to a dwelling, your officers are of the view that the extent of the demolition and rebuilding works which have been carried out to the original barn building amount to the erection of a new building as opposed to the conversion of an existing building. Your officers stance on this matter is supported by decisions in both the High Court and Court of Appeal.
- 7.02 The former agricultural barn building on the site was granted prior approval under previous application ref. 15/508446/PNQCLA for the change of use of part of the building to a dwellinghouse and associated operational development. As, in your officers view, the agricultural barn building has been subsequently demolished and rebuilt as a dwelling, the fall-back position of converting the former building cannot now be applied. In any case, your officer's consider the application proposal to be more harmful, in terms of visual amenity, than the fallback position under PD (as illustrated by the prior approval).
- 7.03 The open countryside site does not have good access to public transport and is remote from local services and facilities. As such, the site does not represent a sustainable location where such new build dwellings could be considered acceptable.
- 7.04 The changes which have been made to the appearance of the residential building for which prior approval was previously granted under application ref. 15/508446/PNQCLA compared to the building for which retrospective planning

permission is currently sought, together with the enlarged residential curtilage and associated structures, are considered to result in the further domestication of the substantial building on the site and an increased visual impact in the open countryside location. The current substantial residential building on the site is considered to have a harmful impact on the visual amenities, character and appearance of the open countryside location and landscape.

- 7.05 The size and massing of the dwelling (7 bedrooms) for which retrospective planning permission is currently being sought is wholly out of scale and character with the adjoining Grade II listed cottage type properties at 1 and 2 Haviker Street Cottages to the south of the site and 3 and 4 Haviker Street to the north-west. The large scale and visual dominance of the new dwelling in relation to the adjoining listed properties and the over-bearing aspect is considered to be damaging to the setting of the adjoining listed buildings.
- 7.06 The site is within Flood Zone 3 (high probability of flooding) as shown on the Environment Agency's Flood Map. The principle of conversion of an existing building on the site to a dwelling within the flood zone was established by the previous grant of prior approval under application ref. 15/508446/PNQCLA and a new application for the conversion of the former building on the site would not be considered to raise any new flood risk issues which were not considered and addressed under the previous prior approval application. However, your officers are of the view that the current residential building on the site represents new build development in an area at high risk of flooding and, as such, Government guidance in the NPPF seeks to direct new residential development away from areas at the highest risk. As a new build residential development the current building on the site is in conflict with the NPPF guidance as the location has not been justified in terms of flood risk.
- 7.07 The development which has been carried out on the site is not considered to raise any overriding unacceptable unneighbourly impacts, traffic, parking or highway safety issues, or impact on ecological and biodiversity interests at the site.
- 7.08 Refusal of planning permission is recommended for the reasons set out below.

8. RECOMMENDATION

REFUSE planning permission for the following reason(s):

- 1) Given the extent of the demolition and rebuilding works which have been carried out to the original agricultural barn building on the site and the limited amount of the original structure that has been retained in the new dwelling for which retrospective planning permission is sought, the Council are of the view that the development represents a new build dwelling in an open countryside location which does not have good access to public transport and is remote from local services and facilities. The development represents unsustainable residential development where future occupants would be reliant on private cars and in the absence of any overriding justification or need for the development demonstrated in the application, the development is contrary to Government guidance in the NPPF 2019 relating to sustainable development and policies SS1 and SP17 of the Maidstone Borough Local Plan (Adopted October 2017). The application proposal is contrary to the objectives of policies SP21 and DM31 of the Maidstone Borough Local Plan (Adopted October 2017) in terms of the residential use of the building, scale and appearance of the building, and in the context of neighbouring properties and countryside landscape.

- 2) The dwelling for which retrospective planning permission is sought, by reason of its overall design, appearance, scale and massing, has a harmful impact on the visual amenities, character and appearance of the open countryside location and landscape. The unsympathetic appearance, large scale and visual dominance of the dwelling in relation to the adjoining listed properties 1 and 2 Haviker Street to the south of the site and 3 and 4 Haviker Street to the north-west and the over-bearing impact has a harmful impact on the setting of the adjoining listed buildings. As such, the development is contrary to Government guidance in the NPPF 2019 and policies SS1, SP17, SP18, SP21, DM1, DM4, DM30, DM31 and DM32 of the Maidstone Borough Local Plan (Adopted October 2017).

- 3) The works which have been carried out in excess of those given prior approval under application ref. 15/508446/PNQCLA are likely to make a material difference to the assessment of the flood risk. The extent of the demolition and rebuilding works which have been carried out to the original barn building on the site amount to the erection of a new build dwelling within Flood Zone 3 (high probability of flooding) as shown on the Environment Agency's Flood Map. as opposed to the conversion of an existing building. Government guidance in the NPPF 2019 (paras. 157, 158 and 159) seeks to steer new development to areas with the lowest risk of flooding and in the absence of any overriding justification or need for the development on the site being demonstrated in the application, the development is contrary to Government guidance in the NPPF 2019 and policy DM1 of the Maidstone Borough Local Plan (Adopted October 2017).

Case Officer: Jon Barnes

ANNEX J

UPDATED SCHEDULE OF ALTERATIONS TO AS-BUILT SCHEME (based upon original dated 10.08.19).

Notes –

This update clarifies nos. #1 and #4; it add #29 referring to cladding with subsequent renumbering.

GF ground floor

FF first floor to eaves

PA prior approval under 15/508446/PNQCLA

ELEVATION	AMENDMENT to the as built scheme	
East	#	
GF	1.	To replace openings on this elevation to match the PA more closely and those openings retained on the north and south elevations.
	2.	To rebuild section of internal wall to accommodate '1' so it would sit flush with the bifold doors.
FF	3.	To remove balcony.
	4.	To replace openings to accord with the PA more closely and those openings retained on the north and south elevations.
West		
GF	5	To create central (third) set of garage doors as per PA.
FF	6.	To remove all 3 upper level windows as per PA.
North		
GF	7.	To retain the as built 5 smaller window openings (with 8 more-square panes) instead of providing 6 rectangular window openings (comprising 12 panes) under the PA.
	8.	To replace the as built entrance to provide 4 panes as per PA.
FF	9.	To retain this elevation as built i.e. not to provide 6 rectangular openings as originally permitted.
	10.	To retain this elevation as built i.e. not to provide dominant central glazing feature as originally permitted.
Roof	11.	To retain the as built roof lantern over store as the only natural light source – this to be lowered as per '12'.
	12.	To lower remaining roof lanterns so they sit flush with ridge as per officer's 19.07.19 email.

	13.	To retain central glazing as installed within roof slope i.e. not to provide as quite as extensive a central glazing feature as originally permitted and to reduce this to 4 panes as per the PA (cf. the 5 that have been built out).
	14.	To remove 2 velux over store.
	15.	To retain 4 velux on roof slope as installed in contrast with the 6 openings (and what appear to be 24 individual panes, some with a horizontal emphasis) permitted under the PA.
	16.	Not to install solar PV array/solar panels as seemingly shown under PA.
South		
GF	17.	To retain the as built 6 window openings (7 more-square panes) instead of providing 6 rectangular window openings (comprising 12 panes) under the PA.
	18.	To retain single doorway as built cf. ground to ridge central glazing feature originally permitted.
	19.	To retain 2 heat exchange units as installed as per officer's 19.07.19 email.
FF	20.	As for '9'.
	21.	As for '10'.
Roof	22.	To retain flue as installed.
	23.	As for '11'.
	24.	As for '12'.
	25.	To retain roof as clad and not to provide full central glazing feature as originally permitted.
	26.	As for '14'.
	27.	As for '15'.
	28.	To retain PV/solar panels as built and not to extend along whole of southern roof slope as apparently shown in PA.
All elevations	29.	To replace originally permitted cladding with dark stained timber weatherboarding
INTERIOR (ADDITIONAL).	30.	To bring the whole residential floorspace back to the PA.
	31.	To reconfigure accommodation at FFL by reducing the as built beds 2, 3 and 4, lose one bathroom, lose as built beds nos. 5-7.
	32.	The as built bed 1 to lose balcony.
CURTILAGE	33.	To retain private garden/curtilage as laid out.

	34.	To retain log store further to officer's 19.07.19 email.
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NI/29.01.20

Agenda Item 21



20/502043/FULL Maidstone Lawn Tennis Club, Poplar Grove, Maidstone, Kent

Scale: 1:1250

Printed on: 16/6/2020 at 10:48 AM by JoannaW

REPORT SUMMARY

REFERENCE NO - 20/502043/FULL			
APPLICATION PROPOSAL Demolition of a club house and erection of a new club house with a patio area alongside.			
ADDRESS Maidstone Lawn Tennis Club Poplar Grove Maidstone Kent ME16 0DE			
RECOMMENDATION : GRANT subject to the planning conditions set out in Section 8.0 of the report			
SUMMARY OF REASONS FOR RECOMMENDATION The application would support a community use and facilitate improved facilities. The proposal would be acceptable visually and would not result in undue additional harm to neighbouring residential occupiers such that the proposed development would be in accordance with current policy and guidance and all other material planning considerations are considered acceptable.			
REASON FOR REFERRAL TO COMMITTEE The site is situated on land owned by Maidstone Borough Council.			
WARD Allington	PARISH/TOWN COUNCIL	APPLICANT Maidstone Lawn Tennis Club AGENT	
DECISION DUE DATE 14/07/20	PUBLICITY EXPIRY DATE 22/06/20	OFFICER SITE VISIT DATE 01/06/20	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
82/1190	Erection of timber hut and 3 hard paved floodlit tennis courts as amended by the agents letter dated 8/11/82 and accompanying plans and specification received on 9/11/82 and as further amended by agents letter dated 15/12/82	Permitted	17/12/82
87/0911	Construction of single tennis court and practice wall as validated by letter received on 26 May 1987.	Permitted	8/9/87
01/1287	Provision of tennis court floodlighting, as shown on LTL report received on 07.08.01 and as amended by additional documents being further drawings and information received on 23.08.01 and 04.09.01.	Permitted	26/9/01
14/0315	Introduction of floodlighting to fourth court (2No. additional 10m lighting columns) as shown on block plan, column and floodlight elevations Philips OptiVision specification and LTL floodlighting luminance plot report reference CalcuLux Area 7.7.0.1 rece	Permitted	21/7/14

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The proposal site relates to the Maidstone Lawn Tennis club which is situated within the recreation ground sited off Poplar Grove, Giddyhorn Lane and neighbouring cul-de-sacs. The site area includes the parking area to the north-east of the site which is shared by users of the recreation ground, the pre-school and the Tennis Club.
- 1.02 The site is on elevated land above the parking area, accessed by a pedestrian footpath. There are four existing floodlit tennis courts to the south-east of the site which are enclosed by fencing. There is an existing timber club house building to the north-east of the site approximately 15m from the boundary with 15 Birchwood Road. This is single storey with a corrugated roof and directly adjoins the grassed recreation ground.
- 1.03 The site is within the Maidstone Urban Settlement boundary as defined in the Local Plan, with a public right of way (PROW) sited along the south-eastern boundary of the recreation ground and an area of woodland (protected by a woodland Tree Preservation Order), situated to the south-east of the PROW.

2.0 PROPOSAL

- 2.01 The proposal is to demolish the existing clubhouse and replace it with a larger building which would contain a kitchen, toilet facilities and store. An enclosed area of hardstanding would be provided to the south-west of the new building, extending an existing patio.
- 2.02 The new building would be approximately 11m in width, 4.3m in depth and would be single storey with a pitched roof with an approximate height of 3.9m. This would be compared to the existing building which measures approximately 7.6m in width, 4.2m in depth with a ridge height of approximately 3.5m
- 2.03 The patio area would measure approximately 10m in width and in depth and would be enclosed by fencing and hedging to a height of 2.4m. This would contain a mobility gate to provide access from the north-east.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 : Policies SS1, SP1, DM1, DM3, DM19 and DM20.

4.0 LOCAL REPRESENTATIONS

Local Residents:

- 4.01 At the time of writing 15 letters of support have been received, these set out the following comments :
- Good for local community
 - Need for a new clubhouse

- Improved disabled access
- Upgrading for the next generation of players
- Significant financial input

5.0 CONSULTATIONS

5.01 None

6.0 APPRAISAL

Main Issues

6.01 The key issues for consideration relate to:

- Principle of development
- Visual amenity (including landscaping)
- Residential amenity
- Highways matters
- Other matters

Principle of Development

6.02 The proposal is to replace an existing clubhouse for an existing tennis club. The tennis club has use of 4 existing tennis courts granted planning permission in the 1980s. The planning statement describes the existing building as being over 30 years old, very small and cramped, containing rotting timber, minimal insulation and no disabled facilities.

6.03 The planning statement continues by setting out that the club has 200 members and is open 365 days a year from 8am to 10pm. The tennis courts are also available to book by the public in order to fulfil the terms of the tennis clubs lease with Maidstone Borough Council (who own the land).

6.04 Paragraph 92 of the NPPF sets out that decisions should plan positively for the provision and use of.....community facilities (such as.....sports venues, open space). Paragraph 96 continues :

'Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.'

6.05 Policy SS1 of the Local Plan seeks to promote the multi-functional nature of the borough's open space. Policy DM20 supports the adequate provision of community facilities, which include recreational facilities and sports venues.

6.06 Policy DM19 relates to Publicly accessible open space and recreation and seeks that proposals should not result in a net loss of existing open space or sport and

recreation facilities. This is in accordance with Paragraph 97 of the NPPF which sets out that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless :

b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or

c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

- 6.07 Policy DM19 also sets out that proposals for new publicly assessable open space and recreation provision should reinforce existing landscape character and respect the amenities of neighbouring occupiers. Policies DM1 and DM3 re-enforce these considerations.
- 6.08 The proposal would replace an existing building, albeit a slightly larger footprint would result. The proposal would also result in the enclosure on a small area of currently open space adjacent to the building.
- 6.09 The principle of a replacement building which would improve the existing facilities of the tennis club is considered acceptable. It will enable the building to provide facilities which would better serve all the users of the tennis club. It is noted that a small area of open space would be lost, however this area is immediately adjacent to the existing building and would be replaced with an enclosed patio to serve the recreational use of the tennis club. As such an alternative recreational use would be provided and the extent and location of the space lost is not considered unacceptable.
- 6.10 It is considered that the principle of the proposed replacement building should be supported subject to the discussion of the material considerations below, namely the impact on visual and residential amenities, together with highways implications.

Visual Impact (including landscaping)

- 6.11 The wider recreational ground is formed of two distinct areas, separated by a change in topography. The lower part to the north-east contains a large area of grassed open space, play area, car parking area and single storey pre-school buildings and associated play area. The south-western part of the site is at a slightly higher level and again contains a large grassed area of open space, with the tennis courts and existing club house situated in the north-eastern corner. The existing buildings and hardsurfacing is contained within the central part of the recreation ground.
- 6.12 The fundamental position of the clubhouse would remain unchanged, the new building would be marginally larger in every proportion, however the appearance with a green colour weatherboarding and black felt tiles would be in keeping with the surrounding recreational ground and the new building would not appear as unduly prominent within the area of open space.
- 6.13 The new extended patio itself would be principally screened from public views, however the proposed fencing and hedging would be visible. There is an existing smaller patio which is screened by a similar fencing/hedging arrangement. The fencing if visible would be seen in the context of the existing fencing around the perimeter of the tennis courts. The area although 10m in length, relates to a small area of land in terms of the wider recreation ground and the provision of a small

section of additional fencing, which could be substantially screened by a planted hedge (the details of which could be conditioned) is considered acceptable.

- 6.14 The new clubhouse and extended patio would be a suitable replacement to the existing building and would be well related to the existing tennis courts and would not cause significant harm to the visual character and appearance of the area of open space nor the wider street scene from Birchwood Road whereby glimpse views maybe possible.

Residential Amenity

- 6.15 The nearest residential properties are to the north-west of the application site, situated on Birchwood Road. These are predominantly 2-storey detached dwellings, with the road being a cul-de-sac and a pedestrian access into the recreation ground. The boundary of number 15 runs along the boundary with the recreation ground and is sited approximately 15m from the proposed replacement building and patio.

- 6.16 Policy DM1 sets out at (iv) that proposals shall :

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

- 6.17 The building is sited a significant distance from the boundary such that it would not be overbearing, cause loss of light or outlook to the neighbouring occupiers, nor would it be overshadowing. The building has been designed so that it would be 'inward' looking towards the tennis courts with an absence of windows in the north-west facing elevation. As such the new building would not cause harm by loss of privacy or overlooking.

- 6.18 The building with its improved facilities may give rise to greater use, with a larger patio area providing again improved external space for use by the users of the clubhouse. This said the recreation ground itself and the use of the tennis courts already provides a certain level of noise and activity and it is not considered that the improved facilities would increase any associated noise and disturbance to a level which would be unneighbourly. The tennis courts are conditioned to not be used beyond 22.00 and it is considered that subject to the same hours of use by the clubhouse and patio the building would not be significantly more harmful than the use of the building it would replace nor the use of the tennis courts or recreation ground in which the club house is located.

- 6.19 Overall it is considered that the proposed development would not have a harmful impact on neighbouring amenity and any potential harm could be mitigated by conditions.

Highways

- 6.20 The proposed replacement clubhouse would improve the facilities of the existing club but it is not considered that it would attract significant additional users that would result in any significant impact on highways or parking matters. The recreational ground benefits from the use of a large car park area and this would be unchanged as a result of the proposed development.

Other matters

- 6.21 The proposal is not considered to have a harmful impact on ecological matters such that the footprint of the existing and replacement buildings would be similar, the area proposed for the patio area is well trodden grass and the existing building is considered to have limited potential in terms of ecological value and therefore its demolition is considered acceptable.
- 6.22 The consultation period expires on 22nd June 2020, any further representation received after the publication of this report will be verbally updated upon at the Committee meeting.

7.0 CONCLUSION

- 7.01 The proposed replacement clubhouse and extended patio area would provide improved facilities for a community sports use and the proposal is not considered to be significantly more harmful than that which would be replaced in terms of the impact on visual and residential amenity, such that these and all other material planning consideration are considered to be in accordance with current policy and guidance.

8.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS to include

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

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

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

Drawing Number 131-A101 Rev I (Proposed plans and elevations)
Drawing Number 131-A200 A (Block Plan)

Reason: To clarify which plans have been approved.

3. The materials to be used in the development hereby approved shall be as indicated on the approved plans.

Reason: To ensure a satisfactory appearance to the development

4. The development hereby approved shall not commence above slab level until a hard and soft landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall provide details of the proposed hedging around the perimeter of the patio, details of the surfacing of the patio area and details of any proposed fencing and include a planting specification, a programme of implementation and a 5 year management plan. The proposed fencing and surfacing shall be carried out in accordance with the approved details prior to first use of the replacement clubhouse and shall be retained as such.

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

5. All landscaping approved under Condition 4 shall be carried out during the planting season (October to February) following first use of the replacement clubhouse hereby approved. 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 unless the local planning authority gives written consent to any variation.

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

6. The use of the clubhouse and external patio area hereby permitted shall be restricted to the hours of 8 am to 10 pm.

Reason: In the interests of the amenities of the area.

7. Any musical equipment and/or electrically amplified sound use within the clubhouse shall be so installed, maintained and operated so as to prevent the transmission of noise and/or vibration to any adjacent premises and No musical equipment and/or electrically amplified sound shall be used within the external patio area.

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers.

8. No external lighting shall be installed on the new clubhouse or within the external patio area.

Reason: In the interests of visual amenity

9. No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the north-west facing wall of the building hereby permitted;

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of their occupiers and to protect the visual amenity of the recreation area and light spillage.

Case Officer: Rachael Elliott

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

Agenda Item 22

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 25th June 2020**

APPEAL DECISIONS:

- 1. 19/505160/FULL** **Erection of 1no. new semi-detached dwelling adjoining 12 Bathurst Close, with associated landscaping/parking.**

APPEAL: DISMISSED

12 Bathurst Close
Staplehurst
Tonbridge
Kent
TN12 0NA

(Delegated)

- 2. 19/500305/FULL** **Change of use of land for the erection of 6no. one-bedroom tourist lodges**

APPEAL: DISMISSED

River Wood
Chegworth Lane
Harrietsham
Kent

(Committee)
