

PLANNING COMMITTEE MEETING

Date: Thursday 22 April 2021

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, English (Chairman), Eves, Harwood, Kimmance, Munford, Parfitt-Reid, Perry, Powell, Spooner (Vice-Chairman), Vizzard and Wilby

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

AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - Monday 26 April 2021
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 25 March 2021 adjourned to 29 March 2021 1 - 14
11. Presentation of Petitions (if any)
12. Deferred Item 15

Issued on Wednesday 14 April 2021

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

13.	20/505514/FULL - The Vines, Forsham Lane, Chart Sutton, Maidstone, Kent	16 - 24
14.	20/505808/FULL - Land Adjacent 2 School Lane, Maidstone, Kent	25 - 33
15.	21/500267/FULL - 36 Shepherds Gate Drive, Weavering, Maidstone, Kent	34 - 42
16.	21/500698/FULL - 23 Forge Lane, Headcorn, Ashford, Kent	43 - 49
17.	19/500271/FULL - Oakhurst, Stilebridge Lane, Marden, Tonbridge, Kent	50 - 112
18.	20/505710/FULL - 15 Amsbury Road, Coxheath, Maidstone, Kent	113 - 122
19.	20/503279/FULL - 4 Ash Gardens, Lenham Road, Headcorn, Kent	123 - 140
20.	21/500849/NMAMD - Maidstone Borough Council Car Park, Corner of Union Street, Queen Anne Road, Maidstone, Kent	141 - 145
21.	20/505350/FULL - Warmlake Nursery, Maidstone Road, Sutton Valence, Maidstone, Kent	146 - 167
22.	Appeal Decisions	168

PLEASE NOTE

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

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

For full details of all papers relevant to the 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 Wednesday 21 April 2021. 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

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MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE REMOTE MEETING HELD ON 25 MARCH 2021 ADJOURNED TO 29 MARCH 2021

Present: Councillor English (Chairman) and
25 March 2021 Councillors Adkinson, Brindle, Eves, Harwood,
Kimmance, Munford, Parfitt-Reid, Perry, Powell,
Spooner, Vizzard and Wilby

Also Councillors D Burton and Garten
Present:

492. **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

493. **NOTIFICATION OF SUBSTITUTE MEMBERS**

There were no Substitute Members.

494. **NOTIFICATION OF VISITING MEMBERS**

Councillor D Burton indicated his wish to speak on the report of the Head of Planning and Development relating to application 19/504910/OUT (Former Syngenta Works, Hampstead Lane, Yalding, Kent).

Councillor Garten indicated his wish to speak on the report of the Head of Planning and Development relating to application 20/503940/FULL (Amberlea, South Green, Sittingbourne, Maidstone, Kent).

495. **ITEMS WITHDRAWN FROM THE AGENDA**

There were none.

496. **URGENT ITEMS**

The Chairman said that, in his opinion, the update reports of the Head of Planning and Development and the 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.

497. **DISCLOSURES BY MEMBERS AND OFFICERS**

Having joined the meeting at this point (6.06 p.m.), Councillor Powell said that he was a Member of Harrietsham Parish Council. However, he had not participated in the Parish Council's discussions regarding application

20/503651/FULL (River Wood, Chegworth Lane, Harrietsham, Kent), and intended to speak and vote when it was considered.

Councillor Munford said that he was a Member of Boughton Monchelsea Parish Council. However, he had not participated in the Parish Council's discussions regarding application 20/506112/FULL (Lewis Court Cottage, Green Lane, Boughton Monchelsea, Maidstone, Kent), and intended to speak and vote when it was considered.

498. DISCLOSURES OF LOBBYING

The following disclosures of lobbying were noted:

Item 13.	19/504910/OUT - Former Syngenta Works, Hampstead Lane, Yalding, Kent	Councillors Adkinson, Brindle, English, Eves, Kimmance, Munford, Parfitt-Reid, Perry, Powell, Spooner, Vizzard and Wilby
Item 14.	20/505707/FULL - Mote Road Car Park, Mote Road, Maidstone, Kent	Councillors Harwood, Parfitt-Reid and Wilby
Item 15.	20/504416/FULL - 8 Tonbridge Road, Maidstone, Kent	Councillors Powell and Wilby
Item 16.	20/503651/FULL - River Wood, Chegworth Lane, Harrietsham, Kent	Councillors Adkinson, Brindle, English, Eves, Kimmance, Munford, Parfitt-Reid, Powell, Spooner, Vizzard and Wilby
Item 17.	21/500168/FULL - Loxley House, Gravelly Bottom Road, Kingswood, Maidstone, Kent	Councillors Adkinson, Brindle, English, Eves, Parfitt-Reid, Perry, Powell, Spooner and Wilby
Item 18.	20/503940/FULL - Amberlea, South Green, Sittingbourne, Maidstone, Kent	Councillors Adkinson, Brindle, English, Eves, Kimmance, Munford, Parfitt-Reid, Perry, Powell, Spooner, Vizzard and Wilby
Item 19.	20/506036/FULL - Vine Cottage, Pye Corner, Ulcombe, Maidstone, Kent	Councillors Adkinson, Brindle, English, Eves, Parfitt-Reid, Powell, Spooner and Wilby
Item 20.	20/506112/FULL - Lewis Court Cottage, Green Lane, Boughton Monchelsea, Maidstone, Kent	Councillors Adkinson, Brindle, English, Eves, Kimmance, Munford, Parfitt-Reid, Perry, Powell, Spooner, Vizzard and Wilby
Item 21.	20/505996/FULL - 1 Keepers Cottage, Mote Park, Maidstone, Kent	No disclosures of lobbying
Item 22.	20/505997/LBC - 1 Keepers Cottage, Mote Park, Maidstone, Kent	No disclosures of lobbying

499. EXEMPT ITEMS

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

500. MINUTES OF THE MEETING HELD ON 25 FEBRUARY 2021

RESOLVED: That the Minutes of the meeting held on 25 February 2021 be approved as a correct record and signed.

501. PRESENTATION OF PETITIONS

There were no petitions.

502. DEFERRED ITEMS

19/500271/FULL - CHANGE OF USE OF LAND FOR THE STATIONING OF 18 HOLIDAY CARAVANS WITH ASSOCIATED WORKS INCLUDING LAYING OF HARDSTANDING AND BIN STORE - OAKHURST, STILEBRIDGE LANE, MARDEN, TONBRIDGE, KENT

20/504386/FULL – CHANGE OF USE OF THE LAND FOR THE SITING OF 3 NO. STATIC CARAVANS AND 3 NO. TOURING CARAVANS FOR GYPSY/TRAVELLER OCCUPATION (REVISED SCHEME TO 18/506342/FULL) - THE ORCHARD PLACE, BENOVER ROAD, YALDING, KENT

The Development Manager advised Members that he had nothing further to report in respect of these applications at present.

503. 19/504910/OUT - OUTLINE APPLICATION FOR THE REDEVELOPMENT OF THE FORMER SYNGENTA WORKS SITE TO PROVIDE A NEW BUSINESS PARK OF UP TO 46,447 SQM OF B1(C), B2 AND B8 ACCOMMODATION WITH ASSOCIATED ACCESS, PARKING AND INFRASTRUCTURE WORKS. (ACCESS ONLY BEING SOUGHT) - FORMER SYNGENTA WORKS, HAMPSTEAD LANE, YALDING, KENT

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

Ms O'Hare addressed the meeting by way of an audio recording on behalf of residents of Hampstead Lane who objected to the application.

Councillor Stead of Yalding Parish Council addressed the meeting by video link.

The Chairman read out statements on behalf of Nettlestead Parish Council and Mr Medhurst, the applicant.

Councillor D Burton (Visiting Member) addressed the meeting.

RESOLVED:

1. That subject to:

- A. The prior completion of a legal agreement in such terms as the Head of Legal Services may advise to secure the Heads of Terms set out in the report with:

- (i) The contribution of £14,344 towards capacity improvements at the A26/B2015 Watlington crossroads junction being put towards access improvements at Yalding Railway Station as it was not considered necessary to mitigate the traffic impact of the development at the junction, including investigation of use for disabled access improvements. If this is not feasible, the contribution should be used for other improvements to the Station; and
 - (ii) An additional Head of Terms regarding the establishment of a Development/Delivery Group to discuss the reserved matters applications in order to deliver an exemplar scheme and requiring a financial contribution towards the setting up and running of the Group. The membership of the Group is to include the Chairman, Vice-Chairman and Political Group Spokespersons of the Planning Committee, Ward Members and representatives of Nettlestead and Yalding Parish Councils. Issues for the Group to focus on include transport issues in relation to access to and egress from the site in terms of staff and freight; design issues; landscaping and biodiversity; and flood attenuation/mitigation; AND
- B. The conditions set out in the report, as amended by the urgent update report;

the Head of Planning and Development be given delegated powers to grant permission and to be able to settle, add 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.

2. That the reserved matters applications are to be reported to the Planning Committee for determination.

Voting: 11 – For 1 – Against 1 – Abstention

Note: Councillor Parfitt-Reid requested that her dissent be recorded.

504. 20/505707/FULL - DEMOLITION OF SHANDON HOUSE AND REDEVELOPMENT OF THE SITE AND ADJACENT PRIVATE CAR PARK WITH TWO BUILDINGS COMPRISING OF 172 NO. RESIDENTIAL APARTMENTS AND 1169SQM OF COMMERCIAL SPACE, PUBLIC REALM AND LANDSCAPING, NEW ACCESS AND 47 NO. PARKING SPACES, DROP OFF BAYS, SERVICE/DELIVERY BAY AND CYCLE PARKING WITH ASSOCIATED GROUND WORKS - MOTE ROAD CAR PARK AND SHANDON HOUSE, MOTE ROAD/WAT TYLER WAY, MAIDSTONE, KENT

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

In presenting the application, the Major Projects Manager advised the Committee that he wished to add a Head of Terms to secure a S106

monitoring fee and to amend condition 9 (Energy) to require the incorporation of vertical solar P.V. panels within the development.

Mr Tomasi addressed the Committee by video link on behalf of the applicant.

RESOLVED: That subject to:

A. The prior completion of a legal agreement in such terms as the Head of Legal Services may advise to secure the Heads of Terms set out in the report with an additional Head of Terms for S106 monitoring;
AND

B. The conditions set out in the report with:

The amendment of condition 9 (Energy) to require the incorporation of vertical solar P.V. panels within the development;

An additional condition requiring the submission of a car park management plan demonstrating how the right of way to Romney Place for occupiers and visitors will be maintained and managed;

An informative advising the applicant that the construction management plan should explain the right of way arrangements for occupiers and visitors to Romney Place;

An informative advising the applicant (a) that the travel plan should highlight that future residents will not be eligible for residents' parking permits and include details of the EV car club and (b) that this information should be included in the marketing details; and

An informative advising the applicant that the landscaping details should exclude Sycamore trees, plastic tree guards and peat based soils;

the Head of Planning and Development be given delegated powers to grant permission and to be able to settle, add or amend any necessary Heads of Terms and planning conditions/informatives in line with the matters set out in the recommendation and as resolved by the Planning Committee, including delegated powers to resolve the design details relating to the base and upper levels of the buildings.

Voting: 13 – For 0 – Against 0 – Abstentions

505. 20/504416/FULL - DEMOLITION OF THE EXISTING BUILDING AND ERECTION OF A FOUR STOREY BUILDING CONSISTING OF 19 NO. RESIDENTIAL UNITS, TOGETHER WITH ASSOCIATED ACCESS, PARKING CYCLE STORE AND INFRASTRUCTURE - 8 TONBRIDGE ROAD, MAIDSTONE, KENT

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

In presenting the application, the Major Projects Manager advised the Committee that he wished to add a further Head of Terms to secure a S106 monitoring fee.

The Democratic Services Officer read out a statement on behalf of DHA Planning, agent for the applicant.

RESOLVED: That subject to:

A. The prior completion of a legal agreement in such terms as the Head of Legal Services may advise to secure the Heads of Terms set out in the report with:

- (i) The contribution to off-site open space/public realm enhancement measures and biodiversity planting/habitat creation being put towards the daylighting of the River Len and then towards improvements at the Cornwallis Recreation Ground if the daylighting scheme does not go ahead; and
- (ii) An additional Head of Terms to secure a S106 monitoring fee;
AND

B. The terms and conditions set out in the report with:

The amendment of condition 8 (Biodiversity Enhancements) to specify that the biodiversity enhancements shall include the incorporation of bee bricks within the development;

The amendment of condition 12 (Air Quality) to include the report reference;

An additional condition requiring the provision of 50% active and 50% passive electric vehicle charging points; and

An informative advising the applicant that the details to be submitted pursuant to condition 7 (Landscaping) shall include tree planting to the rear of the site with the infrastructure required to support it (tree pits) and exclude peat-based soils, plastic tree guards and Sycamore trees,

the Head of Planning and Development be given delegated powers to grant permission and to settle, add or amend any necessary Heads of Terms and planning conditions/informatives in line with the matters set out in the report and as resolved by the Planning Committee.

Voting: 13 – For 0 – Against 0 – Abstentions

Note: Councillors Eves and Wilby left the meeting after consideration of this application (8.15 p.m.).

506. 20/503940/FULL - DEMOLITION OF EXISTING BARN AND ERECTION OF A BUILDING TO BE USED FOR CLASSES IN SUSHI MAKING AND THE

JAPANESE TEA CEREMONY. ERECTION OF A SINGLE STOREY SIDE
EXTENSION TO THE EXISTING COACH HOUSE AND CHANGE OF USE TO
AN ARTIST'S STUDIO/WORKSHOP. CREATION OF NEW DRIVEWAY AND
PARKING AREA - AMBERLEA, SOUTH GREEN, SITTINGBOURNE,
MAIDSTONE, KENT

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

The Chairman read out a statement on behalf of Mr Adams for objectors.

The Democratic Services Officer read out a statement on behalf of Stockbury Parish Council.

Councillor Garten (Visiting Member) addressed the meeting.

RESOLVED:

1. That permission be granted subject to the conditions and informative set out in the report with:

The deletion of the word "near" from the fifth line of condition 8 (Landscape Scheme) and the further amendment of the condition to (a) require the removal of the bamboo fencing and its replacement with a native species hedge; (b) specify that the landscape scheme shall exclude the planting of Sycamore trees; and (c) require the use of non-plastic tree guards; and

The deletion of the word "or" from the fifth line of condition 10 (Biodiversity Enhancements) and the insertion of the word "and".

2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended conditions and to amend any other conditions as a consequence.

Voting: 10 – For 1 – Against 0 – Abstentions

507. 21/500168/FULL - DEMOLITION OF THE EXISTING DWELLING LOXLEY
HOUSE AND THE ERECTION OF REPLACEMENT DWELLING WITH AMENITY
SPACE, LANDSCAPING AND ACCESS - LOXLEY HOUSE, GRAVELLY
BOTTOM ROAD, KINGSWOOD, MAIDSTONE, KENT

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

In the absence of a written representation from Broomfield and Kingswood Parish Council, the Chairman read out a statement on behalf of Mr Taylor, a local resident in support of the application.

The Chairman also read out a statement on behalf of Mr Przyjemski, agent for the applicant.

During the discussion, the Development Manager advised the Committee that a Section 106 Unilateral Undertaking had been completed and signed to ensure that the original dwelling is demolished on completion of the replacement dwelling.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to grant permission subject to conditions and informatives to be settled by the Head of Planning and Development in consultation with the Chairman, Vice-Chairman and Political Group Spokespersons of the Planning Committee.

In making this decision, Members considered that the proposed replacement dwelling would not result in a development which would be visually harmful to the character and appearance of the countryside and, together with the additional landscaping to the frontage, would not conflict with, principally, policy DM32 of the Maidstone Borough Local Plan 2017.

RESOLVED: That permission be granted subject to conditions and informatives to be settled by the Head of Planning and Development in consultation with the Chairman, Vice-Chairman and Political Group Spokespersons of the Planning Committee; the key conditions/informative to include:

Conditions

Woodland management plan for a minimum period of ten years;
Lighting – details to be submitted and then no additional lighting;
Biodiversity enhancements to include bird, bat and bee bricks and gaps under fencing to allow movement of wildlife;
Renewables to include water management system and air/ground source heat pumps;
Electric vehicle charging points; and
SUDS scheme.

Informative

Advising the applicant that a Tree Preservation Order will be made to protect the woodland landscaping to the front of the site following its implementation.

Voting: 8 – For 3 – Against 0 – Abstentions

508. 20/506036/FULL - DEMOLITION OF EXISTING CHALET BUNGALOW, GARAGE AND 2 NO. OUTBUILDINGS, REMOVAL OF 2 NO. STATIONED UNITS AND THE ERECTION OF 1 NO. FOUR BEDROOM, PART SINGLE/PART TWO STOREY DWELLING WITH ASSOCIATED CARPORT, CYCLE STORE AND LANDSCAPING (RE-SUBMISSION OF 20/503142/FULL) - VINE COTTAGE, PYE CORNER, ULCOMBE, MAIDSTONE, KENT

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

In presenting the application, the Senior Planning Officer advised Members that the Committee notification letters for the application had been sent out with a recommendation for approval instead of refusal. Amended letters were sent out to correct the error.

The Chairman read out statements on behalf of Councillor Kenward of Ulcombe Parish Council and Mr Bax, agent for the applicant.

RESOLVED: That permission be refused for the reason set out in the report with the attachment of the recommended informatives to the decision notice.

Voting: 7 – For 1 – Against 3 – Abstentions

509. 20/506112/FULL - ERECTION OF A DETACHED DWELLING WITH PARKING AND LANDSCAPING (RE-SUBMISSION OF 20/502940/FULL) - LEWIS COURT COTTAGE, GREEN LANE, BOUGHTON MONCHELSEA, MAIDSTONE, KENT

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

The Chairman read out statements on behalf of Boughton Monchelsea Parish Council and Mr Blythin, agent for the applicant.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, Members considered the development to be an over-intensive form of development of the site with the consequential jarring with the spatial character of the immediate surrounding area contrary to policies DM1 and DM11 of the Maidstone Borough Local Plan 2017.

It was further considered that the less than substantial harm arising from the development to the nearby heritage assets was not outweighed by the very limited public benefits arising from the proposal contrary to policies SP18, DM1 and DM4 of the Maidstone Borough Local Plan 2017.

RESOLVED: That permission be refused and that the Head of Planning and Development be given delegated powers to finalise the reason(s) for refusal to include those key issues cited above.

Voting: 9 – For 2 – Against 0 – Abstentions

510. ADJOURNMENT OF MEETING

Prior to 10.30 p.m., during consideration of the report of the Head of Planning and Development relating to application 20/506112/FULL (Lewis Court Cottage, Green Lane, Boughton Monchelsea, Maidstone, Kent), the Committee:

RESOLVED: That after determination of application 20/506112/FULL, the meeting be adjourned until 6.00 p.m. on Monday 29 March 2021 when the remaining items on the agenda will be discussed.

511. DURATION OF MEETING

6.00 p.m. to 10.35 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE REMOTE MEETING HELD ON 25 MARCH 2021 ADJOURNED TO 29 MARCH 2021

Present: Councillor English (Chairman) and
29 March Councillors Adkinson, Brindle, Harwood, Kimmance,
2021 Munford, Parfitt-Reid, Perry, Powell, Spooner,
Vizzard, Wilby and Young

512. COUNCILLOR KEITH ADKINSON

The Chairman said that, since this was the penultimate meeting of the Committee before the Borough Council elections in May 2021, he wished to take the opportunity to thank Councillor Adkinson, who would not be seeking re-election, for his services as a Councillor and as a Member and Political Group Spokesperson of the Planning Committee.

513. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillor Eves.

514. NOTIFICATION OF SUBSTITUTE MEMBERS

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

515. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

516. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

517. URGENT ITEMS

The Chairman said that, in his opinion, the update report of the Head of Planning and Development in relation to application 20/503651/FULL (River Wood, Chegworth Lane, Harrietsham, Kent) 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.

518. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Powell disclosed an Other Significant Interest in the report of the Head of Planning and Development relating to application

20/503651/FULL (River Wood, Chegworth Lane, Harrietsham, Kent) due to the possible impact of the development on his property. He added that there was an ongoing issue regarding a piece of his garden that was in dispute regarding ownership. However, the land did not adjoin the red line boundary. He would make representations and then leave the meeting when the application was discussed.

519. DISCLOSURES OF LOBBYING

All Members except Councillors Harwood and Young stated that they had been lobbied on the report of the Head of Planning and Development relating to application 20/503651/FULL (River Wood, Chegworth Lane, Harrietsham, Kent).

520. EXEMPT ITEMS

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

521. 20/503651/FULL - CONSTRUCTION OF 6 NO. ONE BEDROOM TOURIST LODGES (RE-SUBMISSION OF 19/500305/FULL) - RIVER WOOD, CHEGWORTH LANE, HARRIETSHAM, KENT

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

In presenting the application, the Development Team Leader advised the Committee that he wished to add a condition requiring on-site renewable energy.

Having disclosed an Other Significant Interest, Councillor Powell addressed the Committee and then left the meeting while this application was considered.

RESOLVED:

1. That permission be granted subject to the conditions and informatives set out in the report with:

An additional condition requiring on-site renewable energy;

The amendment of condition 5 (Biodiversity Enhancements) to include the provision of bee bricks;

The amendment of condition 6 (Ecological Management Plan) to specify that the Plan shall be for as long as the tourist use remains in operation and to require the individual hedges surrounding the lodges to be maintained at a height of approx. 1.8-2.0m;

The amendment of condition 8 (Approved Layout Plan) to prevent development in the meadow area including use for tourism related

purposes in any way and to specify that it shall only be used as a wildlife area;

The amendment of the reason for condition 8 by the deletion of the words "in the interests of the amenities of the occupiers of neighbouring residential properties" and the addition of wording relating to the protection and enhancement of biodiversity;

The amendment of condition 10 (Hard Surfacing) to ensure permeable paving;

The amendment of condition 16 (Landscaping Scheme) to (a) specify that the landscaping scheme shall include native species climbing plants to the weld mesh fencing and exclude the planting of Sycamore trees and (b) require the use of non-plastic tree guards; and

An additional informative advising the applicant that the nature conservation area should be maintained as rough grass with a mosaic mowing regime which ensures that some areas are not cut in any one year.

2. That the Head of Planning and Development be given delegated powers to finalise the wording of the additional and amended conditions and the additional informative and to amend any other conditions as a consequence.

Voting: 12 – For 0 – Against 0 – Abstentions

Note: Councillor Powell was not present for the discussion and voting on this application.

522. 20/505996/FULL - REPLACEMENT OF EXISTING ROOFLIGHT AND WINDOWS TO BATHROOM AND KITCHEN, INCLUDING EXTERNAL WORKS TO COTTAGE AND OUTBUILDING - 1 KEEPERS COTTAGE, MOTE PARK, MAIDSTONE, KENT

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

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

Voting: 12 – For 0 – Against 0 – Abstentions

Note: Councillor Wilby was not present for the voting on this application.

523. 20/505997/LBC - LISTED BUILDING CONSENT FOR REPLACEMENT OF EXISTING ROOFLIGHT AND WINDOWS TO BATHROOM AND KITCHEN, INCLUDING INTERNAL AND EXTERNAL WORKS TO COTTAGE AND OUTBUILDING - 1 KEEPERS COTTAGE, MOTE PARK, MAIDSTONE, KENT

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

RESOLVED: That Listed Building Consent be granted subject to the conditions and informative set out in the report.

Voting: 12 – For 0 – Against 0 – Abstentions

Note: Councillor Wilby was not present for the voting on this application.

524. 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.

Members thanked the Officers for the Council's ongoing success at appeal.

RESOLVED: That the report be noted.

525. ENFORCEMENT TRACKER

The Development Manager presented the enforcement tracker report which provided the current status of enforcement cases where formal notices had been served.

The Development Manager advised the Committee that he was looking at how real-time information could be provided for Members on live enforcement cases. This could involve Members logging into a dashboard system to gain access to live enforcement cases with a benchmark date of 1 January 2021. He hoped to be able to report back to Members very soon.

Members welcomed these new arrangements, and in the meantime asked the Development Manager to consider how the information contained in the enforcement tracker report might better be presented/made available to them.

RESOLVED: That the report be noted.

526. DURATION OF MEETING

6.00 p.m. to 7.14 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

22 APRIL 2021

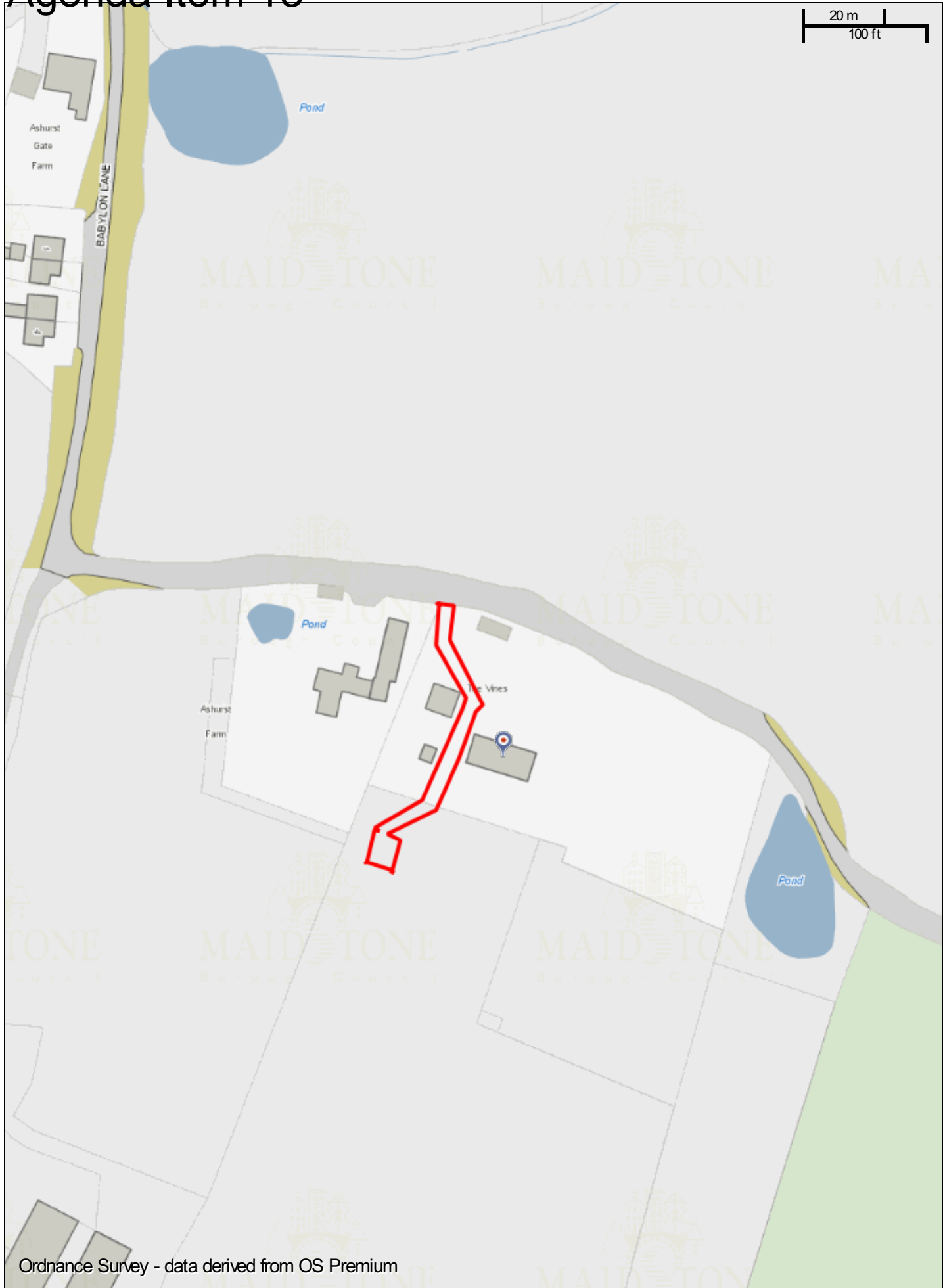
REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

DEFERRED ITEM

The following application stands deferred from a previous meeting of the Planning Committee. The Head of Planning and Development will report orally at the meeting on the latest situation.

APPLICATION	DATE DEFERRED
<p><u>20/504386/FULL - CHANGE OF USE OF THE LAND FOR THE SITING OF 3 NO. STATIC CARAVANS AND 3 NO. TOURING CARAVANS FOR GYPSY/TRAVELLER OCCUPATION (REVISED SCHEME TO 18/506342/FULL) - THE ORCHARD PLACE, BENOVER ROAD, YALDING, KENT</u></p> <p>Deferred to:</p> <ul style="list-style-type: none"> Negotiate a reconfiguration of the site layout to achieve better landscaping of the pond/woodland area to enable ecological and flood amelioration; and Seek the advice of the Environment Agency specifically relating to this site. <p><u>Note:</u> The Development Manager confirmed that when the application is reported back to the Committee the additional conditions recommended by the Officers and the suggestions made by Members during the discussion regarding (1) the provision of (a) bin and cycle storage and (b) bug hotels and bat tubes in the eaves of the wooden buildings and (2) the exclusion of Sycamore trees from the landscaping scheme and the use of non-plastic guards for trees and hedgerows will be included.</p>	<p>17 December 2020</p>

Agenda Item 13



Ordnance Survey - data derived from OS Premium

REFERENCE NO – 20/505514/FULL		
APPLICATION PROPOSAL Erection of 1no. agricultural storage building.		
ADDRESS The Vines Forsham Lane Chart Sutton Maidstone Kent ME17 3EP		
RECOMMENDATION Grant planning permission subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is modest and would not be visually harmful in the countryside.		
REASON FOR REFERRAL TO COMMITTEE Chart Sutton Parish Council requested that the application is reported to the Planning Committee if Officers are minded to recommend approval for the reasons set out in the consultation section of this report.		
WARD Boughton Monchelsea And Chart Sutton	PARISH/TOWN COUNCIL Chart Sutton	APPLICANT Mr John O'Rawe AGENT ML Planning Consultancy Ltd
TARGET DECISION DATE 30/04/21 (EOT)		PUBLICITY EXPIRY DATE 09/03/21

Relevant Planning History:

App No	Proposal	Decision	Date
20/502892/FULL	Erection of a two storey oak framed barn extension with glazed link. <i>(Siting, design and scale would be harmful to the character and appearance of the host building, the landscape setting and would not represent a modest extension)</i>	Refusal	2.9.20
19/502492/FULL	Erection of an oak framed barn extension with glazed link <i>(Siting, design and scale, the proposed extension would be harmful to the character and appearance of the host building, the landscape setting and would not represent a modest extension)</i>	Refused, Dismissed at appeal	16.7.19
01/1517	Conversion of existing barn to 1 no. dwelling house and demolition of existing store and erection of detached double garage	Approved	16.11.01

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is located to the south of Forsham Lane within an area of open countryside. The site is in an area of Landscape of Local Value as designated in the adopted Local Plan.
- 1.02 The application site relates to agricultural land to the rear of a detached residential barn, namely The Vines. The Vines has been converted into a dwelling following the grant of planning permission 01/1517 in 2001. An access linking Forsham Lane to the site through the property also forms part of the current application site.

- 1.03 The Applicant confirmed by an email dated 1 April 2021 that the site currently consists of a temporary structure housing the equipment which the proposed building is intended to provide. The temporary structure will be removed when the proposed building is implemented.
- 1.04 The nearest residential dwelling is Ashurst Farm. Ashurst Farm is a Grade II Listed Building which is situated approximately 40m north of the proposed building. The agricultural fields to rear of the two properties are separated by stock fencing, located approximately 5.5m to the west of the proposed building.
- 1.05 A public footpath (KH564) is located about 65m to the north of the site across from Babylon Lane, and another public footpath (KH559A) is situated about 90m to the west of the site.
- 1.06 A cluster of agricultural buildings are situated approximately 100m south west of the application site.

2. PROPOSAL

- 2.01 Planning permission is sought for the erection of an agricultural building for the storage of machinery for the management of adjoining agricultural land covering 2.4 hectares and for the storage of hay.
- 2.02 The proposed building has a 12.1m x 9.1m footprint and incorporates a shallow pitched roof with an overall roof ridge height of 4.8m. The Applicant has amended the external materials to timber boarding with a brick plinth in response to the request by the Agricultural Advisor.
- 2.03 The roof will be covered in profile sheeting coloured in green. The east elevation (fronting away from Babylon Lane) of the building consists of two roller doors. The building will be set back from the highway by approximately 60m separated by the garage and main house of the host dwelling which are approximately 25m to the front of the proposed building.
- 2.04 The proposed development benefits from an existing access to Babylon Lane used by the host dwelling.

3. POLICY AND OTHER CONSIDERATIONS

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

Maidstone Borough Local Plan 2017:

SS1- Maidstone borough spatial strategy

SP17- Countryside

SP18 Historic environment

DM1- Principles of good design

DM2- Sustainable design

DM3- Natural environment

DM4- Development affecting designated and non-designated heritage assets

DM8- External lighting

DM23- Parking standards

DM30- Design principles in the countryside

DM36- New agricultural buildings and structures

Supplementary Planning Documents:

Maidstone Landscape Character Assessment (2012-amended 2013)

Maidstone Landscape Capacity Study: Sensitivity Assessment (2015)

4. LOCAL REPRESENTATIONS

- 4.01 No representations received from local residents.

5. CONSULTATIONS

5.01 Chart Sutton Parish Council

Objection. The size of the proposed building is disproportionate to the agricultural needs of the site. If the planning officer is minded to approve the application, the Parish Council requests that it is reported to the Planning Committee.

5.02 MBC Conservation Officer

No objection. The site is adjacent to Ashurst Farmhouse, which is a grade II listed 16th century farmhouse and forms part of its wider historic agricultural setting. In my view the proposed building would not have a harmful impact on the setting or significance of the listed building and I therefore have no objections in heritage terms.

5.03 Agricultural Advisor (Summarized)

No objection

- Clarified the proposal relates to 2 hectares of agricultural land adjoining the applicant's residence instead of 2 acres as stated in the application form.
- The proposed building is quite modest in scale and it is considered a building of this size to be justifiable in relation to the storage of the hay itself, and for securing the sort of small range of equipment that is likely to be required to generally maintain the land, in any event.
- In terms of design, the proposed enclosed metal-clad design may be thought overly industrialised in appearance and suggest a partly-open structure or otherwise utilising timbered elevations would be a more appropriate approach to consider.

6. APPRAISAL

Main Issues

- 6.01 The key issues for consideration relate to:

- Principle of development
- Agricultural need
- Heritage
- Visual amenity
- Residential amenity
- Highways safety implications
- Ecology and biodiversity

Principle of development

- 6.02 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. Notwithstanding this, the council is committed to supporting and improving the economy of the borough and providing for the needs of businesses; and there is policy support for new agricultural buildings and appropriate expansions of existing agricultural business in the rural area, provided there is adequate justification for such development and it would not cause unacceptable harm for any material planning reason. The NPPF also leads strong support to the rural economy and seeks to promote agricultural and land based rural businesses.

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

Agricultural Need

- 6.04 When considering the need for development, the Council's agricultural Advisor Rural Planning Ltd has provided the following advice:

"The submitted statement explains that the proposal relates to some 2 acres of agricultural land adjoining the applicant's residence; however the submitted plan indicates a somewhat greater area of about 2 hectares (or about 5 acres) - excluding the residential curtilage.

The proposed use of the building is "for the storage of a tractor and machinery required to service the parcel of land....and the storage of hay made on the land".

The storage of a full range of dedicated hay-making equipment might be difficult to justify on a relatively small parcel of land such as this; a more usual arrangement would be for the hay to be made by contractors, or local farmers, bringing equipment to the site as required.

That said, the proposed building is quite modest in scale and I consider a building of this size to be justifiable in relation to the storage of the hay itself, and for securing the sort of small range of equipment that is likely to be required to generally maintain the land, in any event.

However, having regard, for example, to your Local Plan Policy DM 30 ("Design principles in the countryside") the proposed enclosed, metal-clad design may be thought overly industrialised in appearance here. I would suggest a partly-open structure (for better accessibility and ventilation for the hay, and otherwise utilising timbered elevations), would be a more appropriate approach to consider" (NB The Applicant has amended the external materials to timber boarding with a brick plinth in response to the request by the Agricultural Advisor).

- 6.05 Whilst the proposed agricultural building is used for private use rather than a rural business (supported by the NPPF), the Council's Agricultural Advisor considers it as a reasonable addition to the servicing and storage needs of the holding.
- 6.06 It is considered there is a reasonable need for the development and the proposal is necessary for agricultural in line with Policy DM36 of the Local Plan. Therefore, the overarching question is whether the harm to the appearance of the countryside, natural environment and designated heritage assets is so great to outweigh the agricultural need for this development and this will be assessed in the following sections.

Visual amenity

- 6.07 Policy SS1 of the Local Plan states that Landscapes of Local Value will be conserved and enhanced and that protection will be given to the rural character of the borough; SP17 states that the distinctive landscape character of the Low Weald will be conserved and enhanced as Landscapes of Local Value and proposals in the countryside will not result in harm to the character and appearance of the area; policy DM30 states that new development should maintain, or where possible, enhance the local distinctiveness of an area. The Low Weald Landscape of Local Value is considered to be a landscape that is highly sensitive to significant change, and it is a landscape that should be conserved and enhanced where appropriate.
- 6.08 As stated in the Maidstone Landscape Capacity Study: Sensitivity Assessment (2015), the site falls within Headcorn Pasturelands and this area's landscape condition is considered as being of high overall landscape sensitivity and is sensitive to change. The relevant summary of actions area outlined below:
- Consider the generic guidelines and mitigation advice for Headcorn Pasturelands

- New development should respect the local vernacular in scale, density and materials
 - Conserve the pastoral land use and resist conversion to arable land
 - Conserve and enhance the small scale field pattern and sense of enclosure
 - Conserve the largely undeveloped rural landscape and the remote quality of isolated farmsteads
 - Soften the visual prominence of large agricultural barns through native planting.
- 6.09 Policy DM36 sets out that new agricultural buildings will be permitted:
- Where the proposal is reasonably necessary for the purposes of agriculture;
 - The proposal would not have an adverse impact on the amenity of existing residents; and
 - The building or structure would be located within or adjacent to any existing group of buildings, in order to mitigate against the visual impact of development, unless it can be demonstrated that a more isolated location is essential to meet the needs of the holding. Where an isolated location is essential the site should be chosen to minimize the visual impact of the building or structure on the character and appearance of the countryside.
- 6.10 The proposed agricultural building would be located about 60m set back from Babylon Lane and the two public footpaths (KH564 and KH559A) and screened by the detached garage, main house and boundary planting of the host dwelling, namely The Vines, and roadside hedgerow.
- 6.11 At a maximum ridge height of 4.8m and a footprint of 9.1m x 12.1m, the new building is a modest agricultural structure siting close (approximately 25m) to the rear of the host dwelling and garage in accordance to Criterion 3 of DM36 that agricultural building should be located adjacent to an existing group of buildings, in order to mitigate against the visual impact of the development.
- 6.12 Whilst it is noted that the application site is an open agricultural field, the site is situated closest to the existing group of buildings, and provides a direct access to Babylon Lane. This situation would minimise any further hardstanding and access causing harm to the countryside.
- 6.13 The Agricultural Advisor commented that the original proposed metal-clad design may be overly industrialised in appearance and suggested a partly-open structure or timbered elevations. Officer discussions with the applicant have secured a revised material of the proposed building to timber elevations in natural colour.
- 6.14 Overall, it is acknowledged that the proposed development would be a new building within an open agricultural field. However, the building is considered to be a reasonable size for its purpose and siting in proximity to the existing group of building. The existing landscape features are considered adequate to ensure the visual impact of the development is minimised. The visual harm has to be balanced against the benefits and the aims of sustainable development to secure a long-term future for rural communities. The visual harm of the proposed development is considered to be outweighed by the agricultural benefits that the scheme would provide.
- Heritage**
- 6.15 A decision maker is required by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest.

- 6.16 The NPPF (February 2019) requires the impact on the significance of a designated heritage asset to be considered in terms of either "substantial harm" or "less than substantial harm" as described within NPPF paragraphs 195 to 196. National Planning Practice Guidance (NPPG) makes it clear that substantial harm is a high test, and recent case law describes substantial harm in terms of an effect that would vitiate or drain away much of the significance of a heritage asset.
- 6.17 Where it is considered that a proposal will lead to "...less than substantial harm to the significance of a designated heritage asset...", NPPF paragraph 196 states that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.18 Policy SP18 of the Local Plan relates to the historic environment and requires that, inter-alia, the characteristics of heritage assets are protected, and design is sensitive to heritage assets and their settings. Policy DM4 of the Local Plan also relates to development affecting designated heritage assets and requires applicants to ensure that new development affecting heritage assets conserve, and where possible enhance, the significance of the heritage asset.
- 6.19 The Grade II listed Ashurst Farmhouse lies approximately 38m to the north of the site. Some views of the proposal would be possible from the listed building and its setting. The Conservation Officer has confirmed that the proposed building would not have a harmful impact on the setting or significance of the listed building and raised no objection in heritage terms.
- 6.20 It is concluded that the proposal will lead to less than substantial harm to the significance of this designated heritage asset and the public benefits of the proposal outweigh any negative impact. The proposal would conserve the setting of the Listed Building.

Residential amenity

- 6.21 Policy DM1 of the adopted Local Plan advises that proposals will be permitted where they "respect the amenities of occupiers of neighbouring properties...by ensuring that development 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.
- 6.22 It is considered that the proposed development would be of a sufficient distance (about 25m) to the rear of the host dwelling, to not result in any overshadowing to the living spaces of its host dwelling.
- 6.23 It is acknowledged that the new building would be visible from its adjacent neighbouring property to the west, namely Ashurst Farm. The application site is adjacent to the rear garden and open agricultural field of this neighbour and separated by boundary fence and landscape. The new building would be 38m from the main house of this neighbour. Furthermore, the view of an agricultural building within the countryside is not out of keeping to the character of the countryside. I do not consider the proposal would result in any significant impact on outlook, or loss of privacy to neighbouring properties.

Highway safety

- 6.24 The site benefits from an existing vehicle access and the proposal does not include any proposed hardstanding. It is not considered the proposal would result in any significant impact upon highway safety.

Ecology

- 6.25 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"*. It is a requirement of the NPPF and legislation that all proposals result in a net biodiversity gain.
- 6.26 There is no indication that the proposal will lead to the loss of wildlife habitat. A planning condition is recommended seeking ecological enhancements on the site.

7. CONCLUSION

- 7.01 The development of an agricultural building at this location served by existing vehicle access would be necessary for the servicing of adjoining agricultural land. These benefits would outweigh any potential landscape harm and support the rural community.
- 7.02 The impact upon visual amenity is not significant given the modest scale and design of the proposal and its setting being in proximity to existing group of building.
- 7.03 For the reasons set out in this report, the development proposals would meet the requirement as set out in the planning policies and, as such, this report recommends approval subject to conditions.

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:
Proposed Block, Floor and Elevations Plans, No. ML/JO/5918 Rev A received on 8 Mar 2021
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 details for a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the development such as native species planting or installation of bat/bird nest boxes. The ecological enhancement measures need to be over and above any mitigation measures. The development shall be implemented in accordance with the approved details prior to first occupation and all features shall be maintained thereafter.
Reason: To protect and enhance the ecology and biodiversity on the site in the future.
- (5) A landscape and ecological management plan, 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 the first use of the approved building. Landscape and ecological management shall be carried out in accordance with the approved plan.

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

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

Reason: In the interests of amenity

- (7) The development hereby approved shall not commence above ground level until a landscape scheme designed in accordance with the principles of the Council's Landscape Guidelines (Maidstone Landscape Character Assessment Supplement 2012) has been submitted to and approved in writing by the local planning authority. The scheme shall use predominantly native species as appropriate and 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. It shall also provide details of replacement planting to mitigate any loss of amenity and biodiversity value, and include a plant specification, implementation details, a maintenance schedule and a [5] year management plan. [The landscape scheme shall specifically detail the tree line which is proposed to be retained and expanded as indicated by the applicants supporting statement and provide screening where possible to the dwellings to the north]. Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- (8) The approved landscaping scheme shall be in place at the end of the first planting and seeding season (October to February) following first use of the building hereby approved. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first use of the building, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.

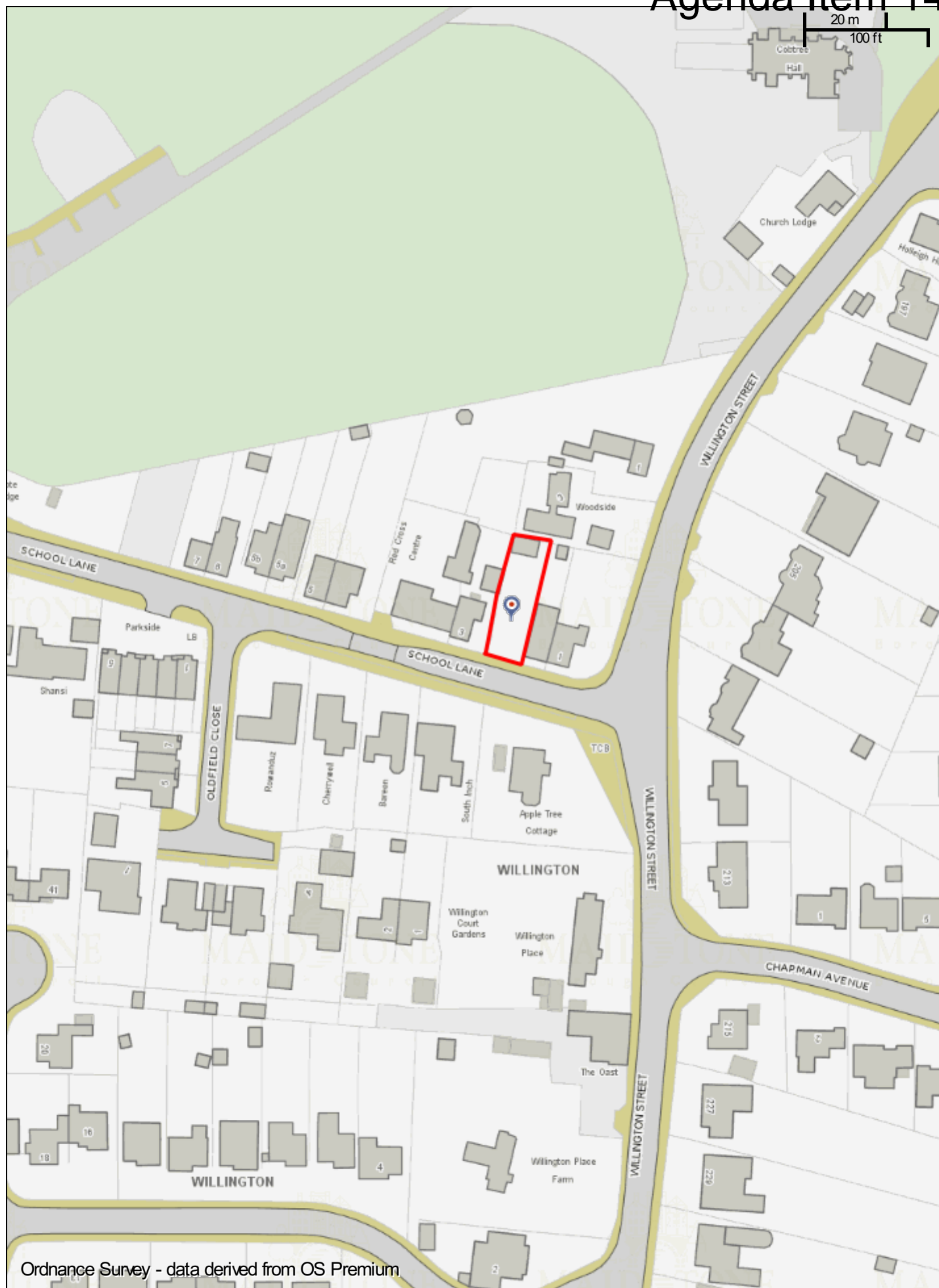
Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

Reason: In the interest of amenity.

- (9) No development shall commence above ground level until a copy of a letter from a person that is licensed with the Building Research Establishment (BRE) or other equivalent assessors as a BREEAM – Pre-Commencement (New build non-residential) assessor that the development is registered with BRE under BREEAM (either a 'standard' BREEAM or a 'bespoke' BREEAM) and a Design Stage Assessment Report showing that the development will achieve a BREEAM rating of not less than the standards equivalent to 'Very Good' has been submitted to and approved in writing by the Local Planning Authority or sufficient evidence submitted to and approved in writing by the Local Planning Authority to demonstrate why it is not technically feasible and viable to meet this standard.

Reason In the interests of sustainable building construction.

Case Officer: Michelle Kwok



Ordnance Survey - data derived from OS Premium

REFERENCE NO – 20/505808/FULL		
APPLICATION PROPOSAL Section 73 - Application for variation of condition 2 (materials) and minor material amendment to approved plans condition 9 (to allow changes to materials and fenestration, the addition of solar panels and replacement of rear gable with rear dormer) pursuant to 15/506025/FULL for - New attached single residential development.		
ADDRESS Land Adjacent 2 School Lane, Maidstone, Kent, ME15 8DU		
RECOMMENDATION Grant planning permission subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The amended materials and replacement rear dormer on the revised scheme is of an appropriate design, bulk and appearance.		
REASON FOR REFERRAL TO COMMITTEE The Applicant is related to an employee of Maidstone Borough Council		
WARD Shepway North	PARISH/TOWN COUNCIL	APPLICANT Mr M Cox AGENT Richard Architectural Designs
TARGET DECISION DATE 30/04/21 (EOT)	PUBLICITY EXPIRY DATE 15/02/21	

Relevant Planning History:

21/500756/NMAMD: To amend the incorrect description on the decision notice for permission 15/506025/FULL. The description of the development was incorrectly approved as 'New 'detached' single residential development' when the approved scheme was for an 'attached' dwelling – APPROVED

15/506025/FULL: New detached single residential development- APPROVED

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site lies within the urban area of Maidstone, comprises the side garden of 2 School Lane, being one of a pair of ragstone rendered semi detached properties sited a short distance back from the junction of School Lane with Willington Street.
- 1.02 The site was granted planning permission in 2015 under ref:15/506025/FULL for the erection of a new attached single residential development. The original permission (15/506025/FULL) was granted with the description of the development as "New detached single residential development", however, the permission was granted on revised scheme for an attached development with approved plans as listed under Condition 10 of the decision notice illustrating the revised attached scheme. This discrepancy has been amended by way of the granting of non-materials amended under ref: 21/500756/NMAMD.

2. PROPOSAL

- 2.01 This is a section 73 application to vary condition 2 and 9 of planning permission 15/506025/FULL to allow changes to materials and fenestration, the addition of solar panels and replacement of rear gable with a rear dormer.
- 2.02 Condition 2 of permission 15/506025/FULL relating to the use of facing materials states:
"Other than the timber cladding and railings the facing materials used in the development hereby permitted shall match those of the existing building at 2 School

Lane in relation to materials, style, colour, texture and, in the case of brickwork, bonding, coursing and pointing.

Reason: In the interests of visual amenity."

2.03 The approved plans as listed under condition 9 and proposed elevation drawings are shown below in Figure 1, 2 and 3. In response to the concerns raised regarding the use of full timber cladding to the new dwelling and excessive scale of the rear dormer, the Applicant provided revised scheme on 8 April 2021. In addressing these issues the current proposal in comparison to the previous approved scheme includes:

- The insertion of yellow brick section to the edge of the building and fenestrations to the front and forward side façade
- The rendering of the full yellow brickwork to the rear side and rear elevations
- Replacement of the rear gabled roof to a flat roof rear dormer
- Insertion of a ground floor side patio door and window, and a loft level side circular window
- Installation of solar panels on the roof

Figure 1. As approved and now proposed front elevation

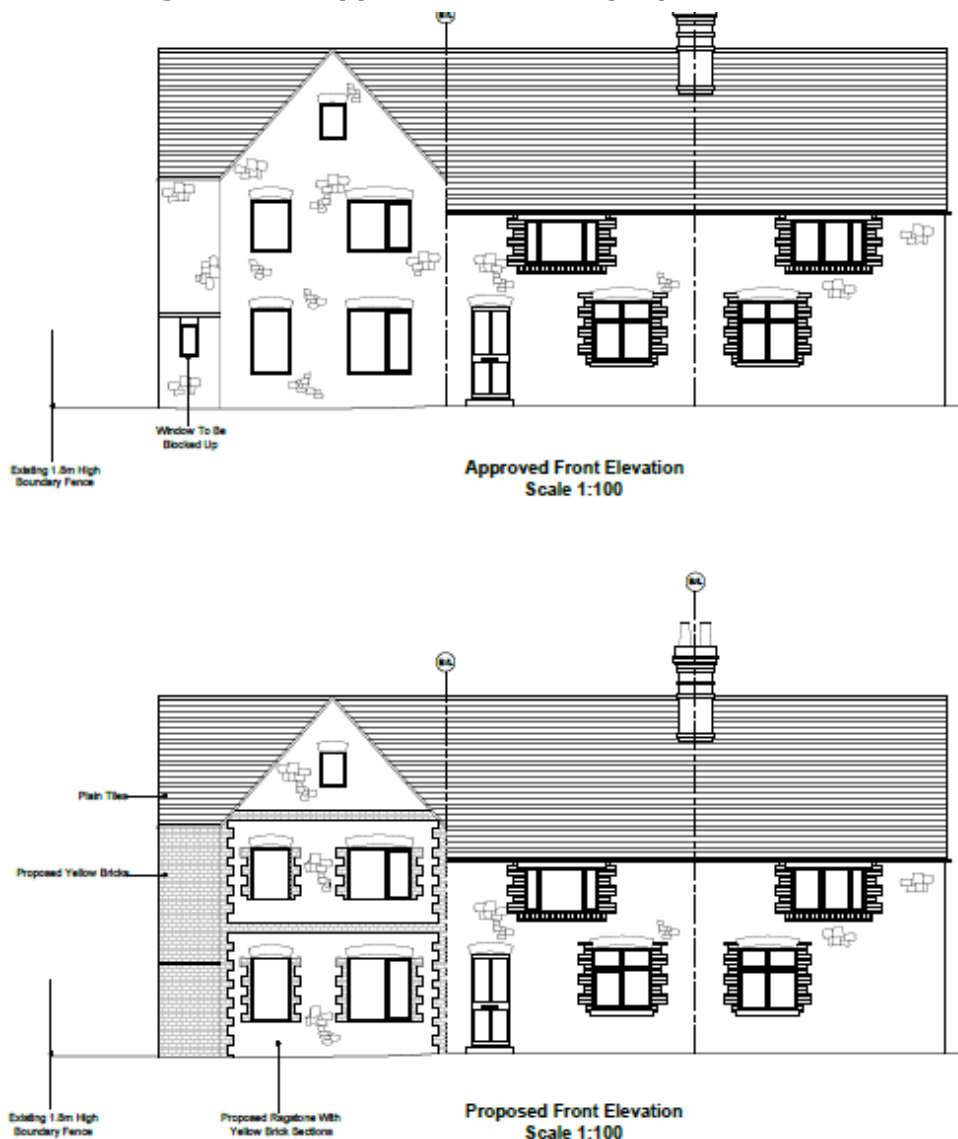
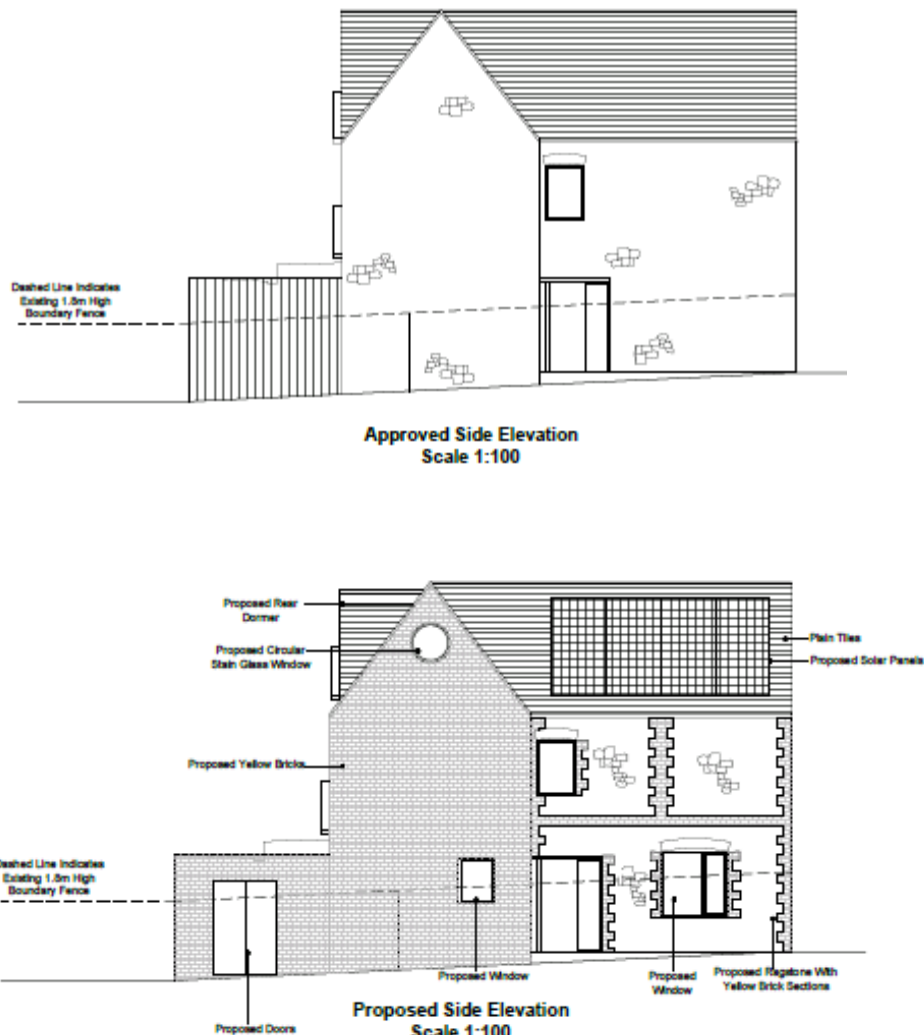


Figure 2. As approved and now proposed rear elevations



Figure 3. As approved and now proposed side elevations



3. **POLICY AND OTHER CONSIDERATIONS**

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

Maidstone Borough Local Plan 2017:
DM1- Principles of good design
DM2- Sustainable design

Supplementary Planning Documents:

- Maidstone Local Development Framework, Residential Extensions Supplementary Planning Document (adopted May 2009)

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 4 representations received from local residents objecting to the proposal raising the following (summarised) issues:

COMMENTS RECEIVED	OFFICER'S RESPONSE
<ul style="list-style-type: none"> ▪ The amended scheme with additional fenestration, floor space and elevation of the roof go beyond the remit of a S.73 application and should be encompassed within a full planning application. ▪ The proposed weatherboarding in place of the original ragstone is harmful to the visual amenity of the attached ragstone cottages and the wider streetscene ▪ The proposed side circular window is an incongruous architectural detail that is out of keeping with the character of the streetscene and adjacent dwellings ▪ The rear flat roof dormer with full height and width is an architectural travesty and also significantly overlook to adjacent residential private amenity space ▪ Neighbours were not being consulted on the revised scheme 	<ul style="list-style-type: none"> ▪ There is no statutory definition for what constitute a 'minor material amendment'. The assessment of this current S73 application on the amended proposal would be the same as it would be assessed under a full planning application. ▪ The Applicant has provided on revised scheme to retain the use of ragstone on the front and part side elevations as much as possible with the insertion of matching yellow brick to the host cottage. ▪ The design aspects of fenestration would be discussed in the appraisal section below. ▪ The Applicant has provided on revised scheme sufficient set back from eaves and set down from ridge for the rear dormer. The matter of overlooking would be discussed in the appraisal section below. ▪ There is no statutory requirement for further public consultation. Notwithstanding this situation, neighbours can still submit their comments and they will also be given opportunity to present their comment on Planning Committee if they wish to to ensure their representation are being considered for the determination of the application by Members.

5. CONSULTATIONS

5.01 KCC Highways

Does not meet the criteria to warrant involvement

6. APPRAISAL

Main Issues

- 6.01 The application seeks a minor material amendment to the previously approved application (15/506025/FULL). This to allow the amendment of condition 2 to allow a change in external materials and to condition 9 for the design of the replacement roof dormer, insertion and modification of fenestration and solar panel.
- 6.02 The principle of development for the new dwelling has been established and approved, the acceptability of the proposed amendment to the approved scheme will therefore be based on its visual and amenity impact subject to the criteria of DM1 and DM9 of the Local Plan.

Visual amenity

- 6.03 Local Plan Policy DM1 seeks to achieve high quality design in all development proposals, and to achieve this, the Council expects proposals to positively respond to, and where appropriate enhance the character of their surroundings. The key aspects of a development proposal are its scale, height, materials, detailing, mass, bulk and site coverage.
- 6.04 Local plan policy DM9 seeks to permit the extension of dwellings where the scale, height, form, appearance and siting of the proposal would fit unobtrusively with the existing building where retained and the character of the street scene and/or its context, the traditional boundary treatment of an area would be retained and, where feasible, reinforced, the privacy, daylight, sunlight and maintenance of a pleasant outlook of adjoining residents would be safeguarded; and sufficient parking would be provided within the curtilage of the dwelling without diminishing the character of the street scene.
- 6.05 The Applicant has stated in the submitted cover letter it is financially unviable to use full ragstone and Kent peg tiles for the implementation of the approved scheme. On further email correspondence, the Applicant has stated the construction of ragstone walls are basically solid wall, under building regulations now there must be a cavity wall which is not possible with a full ragstone wall so the new ragstone buildings will need to have brick sections with the ragstone infilling between to achieve a cavity wall. Given the financial and architectural restrictions, it is reasonable to find appropriate alternatives for the implementation of the approved new dwelling.
- 6.06 The replacement of the approved ragstone building to full timber cladding was originally submitted for consideration. The Applicant submitted a revised scheme on 8 April 2021 demonstrating the retention of ragstone to the front and side elevations with the insertion of matching yellow bricks of adjoining ragstone cottage to the edge of the fenestrations and buildings. It is acknowledged the attached ragstone cottage has yellow bricks around the fenestration, hence the insertion of matching yellow bricks is considered to be acceptable and in keeping with the character of the ragstone cottages and would not materially deviate from the approved scheme.
- 6.07 The approved scheme includes timber cladding to the extended ground floor part of the new dwelling. The proposed replacement of full matching yellow brickwork to the rear side and rear elevations is considered to be sympathetic to the pair of cottages which consists of yellow brickwork, and this section of full yellow brickwork building would be significantly set back from the front elevation and not highly visible from the streetscene.

- 6.08 In regard to the replacement of a flat roof rear dormer to the approved gabled roof, the Applicant has explained the reason for the amendment is due to restricted head height of the habitable room from the gabled roof. A flat roof dormer extending in full width and height to the roof was originally submitted, this original scheme is considered to be unacceptable with an appearance of a three storey flat at the rear.
- 6.09 Officer discussion with the applicant secured a revised scheme, the rear dormer would be set down from ridge, set back from eaves and set away from the side of the roof in accordance to guidance from the Residential Extensions Supplementary Planning Document (adopted May 2009). The loss of gabled roof is not considered to materially affect the overall character of the attached dwelling given it is to the rear where it is not visible from the street and would be constructed with hanging tiles matching with the roof tiles.
- 6.10 The use of solar panels for the new dwelling is supported in the NPPF that encourages the use of green energy. The solar panels would be installed to the side roof and would not result in any harmful visual impact to the host dwelling and wider streetscene.
- 6.11 The additional side circular stain glass window in the loft would be centrally positioned under the gabled roof. The new window is proportionate to the size of the roof and the use of stain glass is not an entirely irregular feature on period buildings. It would be to side of the building significantly set back from the front. The circular windows would not be harmful to the overall character of the building and streetscene.

Residential amenity

- 6.12 Concerns have been raised by neighbours in regards to overlooking from the patio windows on the rear dormer and the three side windows. The approved scheme, as shown in Figure 2, consist of a Juliette balcony window on the loft level.
- 6.13 The proposed patio window on the rear dormer, whilst it is slightly wider, it would share similar views to the approved scheme. The amended scheme would not result in loss of privacy to neighbouring amenity space over and above what has been approved.
- 6.14 Turning to the ground floor side windows, one of which would be obscure glazed serving a WC and the proposed side patio door would be screened by the 1.8m high boundary fence to the adjacent property.
- 6.15 Overall although the relationship with neighbouring properties would be altered no undue harm would result to residential amenity and there are no grounds to warrant refusal of the application on these grounds.

7. CONCLUSION

- 7.01 The impact upon visual amenity is not significant given the use of matching yellow brickwork which is in keeping to the attached pair of ragstone cottages. The replacement rear dormer is sympathetic to the roof form.
- 7.02 The proposal would assist in the provision of an appropriately design dwelling at this sustainable location in accordance with the national and local plan policies. I do not consider there are justifiable material planning reasons to withheld granting permission.

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 materials to be used in the development approved shall be as indicated on the approved Proposed Plans and Elevations, No. PA1443/01 Rev H received on 8 April 2021 matching to those of the existing building at 2 School Lane.

Reason: In the interests of visual amenity.

(3) 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 (which includes the installation of any windows other than already approved) and B to that Order shall be carried out without first obtaining the permission of the Local Planning Authority.

Reason: In the interests of visual amenity and to safeguard privacy.

(4) The dwelling hereby approved shall not be occupied until the parking area to serve the proposed dwelling shown on drawing no:091 rev A has first been provided. The parking area shall be retained at all times thereafter with no impediment to its use.

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

(5) The dwelling hereby approved shall not be occupied until the first floor window on the side elevation has first been fitted with obscured glazing and limiters installed to ensure that no part of the window can open more than 150mm in any direction, with the window retained as such permanently thereafter. No new windows or openings shall be formed on the side elevation of the dwelling.

Reason: In the interests of privacy.

(6) The area of the proposed access and parking area within 5 metres of the back edge of the public pavement highway shall be surfaced in a bound material.

Reason: In the interests of visual amenity and pedestrian safety.

(7) Any gates to the proposed new access shall not open over the adjacent highway and shall be set back at least 5.5 metres from the edge of the carriageway.

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

(8) The development shall not be occupied until the existing redundant crossover has been removed by raising the kerb and reinstating the footway in accordance with the requirements of the Highway Authority.

Reason: In the interests of the safety of pedestrians and vehicles.

(9) The development hereby approved shall be carried out in accordance with the following plans being:

Proposed Plans and Elevations, No. PA1443/01 Rev H received on 8 April 2021

Reason: In the interests of amenity.

(10) Access to the flat roof of the development hereby permitted shall be for maintenance or emergency purposes only, and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.

Reason: To safeguard the amenities and privacy of the occupiers of adjoining properties.

(11) Prior to first occupation of the dwelling a scheme for the enhancement of biodiversity on the site shall be in place that is in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the development such as

native species planting or installation of bat/bird nest boxes. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

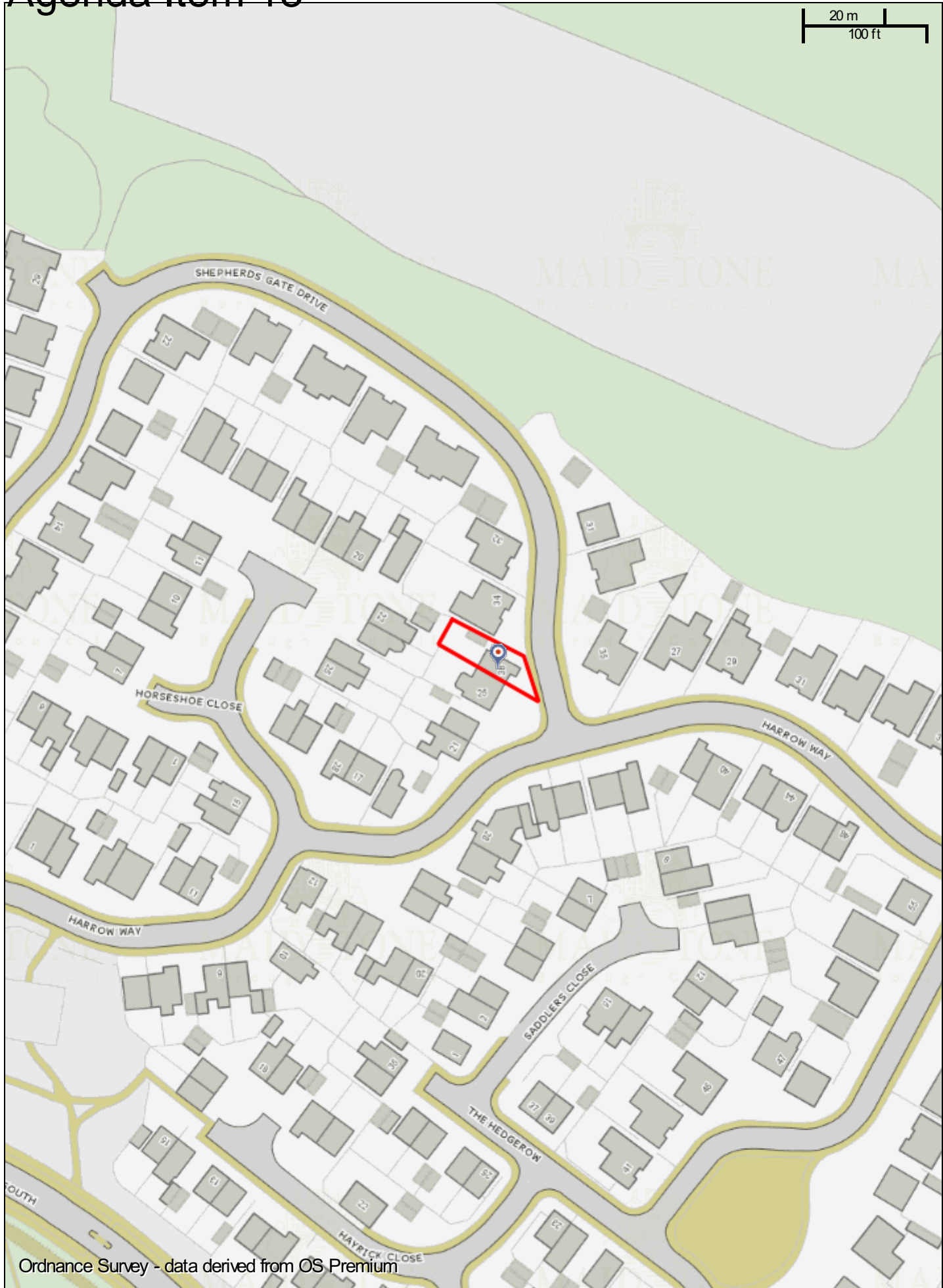
Reason: To protect and enhance the ecology and biodiversity on the site in the future.

(12) The dwelling hereby approved shall not be occupied until a minimum of one electric vehicle charging point has been installed 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.

Case Officer: Michelle Kwok

Agenda Item 15



Ordnance Survey - data derived from OS Premium

21/500267/FULL 36 Shepherds Gate Drive, Weaving, Maidstone, Kent, ME14 5UU

Scale: 1:1250

Printed on: 13/4/2021 at 16:28 PM by SummerF

REFERENCE NO - 21/500267/FULL		
APPLICATION PROPOSAL Demolition of the existing garage. Erection of a single storey side and rear extension (Resubmission of 20/505394/FULL).		
ADDRESS 36 Shepherds Gate Drive Weavering Maidstone Kent ME14 5UU		
RECOMMENDATION Approval		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal meets the requirements of the relevant Local Plan policies and the guidance contained within the Supplementary Planning Document Residential Extensions (2009)		
REASON FOR REFERRAL TO COMMITTEE The recommendation is contrary to the views of Boxley Parish Council and is presented to the Committee at their request.		
WARD Boxley	PARISH/TOWN COUNCIL Boxley	APPLICANT Mr Alan Morfey AGENT Westleigh Design
TARGET DECISION DATE 29/04/21		PUBLICITY EXPIRY DATE 15/02/21

Relevant Planning History

20/500789/LAWPRO - Lawful Development Certificate for a proposed loft conversion incorporating rear dormer and 2 velux roof lights to front slope. Approved 01.04.2020

20/505394/FULL - Demolition of existing detached garage, erection of a single storey rear extension and a part single storey, part two storey side extension. Withdrawn 07.01.2021

87/1302 - The erection of 175 dwellings with associated car parking spaces and garages together with layout of estate roads public open space and amenity area. Approved 13.04.1988

Enforcement History:

None.

Appeal History:

None.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site comprises a semi-detached 2-storey house located to the western side of the street, close to the junction with Harrow Way. The entrance to the property is situated on the northern elevation. There is also a driveway to this side of the house that leads to a detached garage. The loft conversion approved under reference 20/500789/LAWPRO has not been constructed to date.
- 1.02 Shepherds Gate Drive is part of a comprehensive housing development that features a range of housing designs and finishes with many of the properties having a staggered position in relation to one another. The neighbouring property to the north (34 Shepherds Gate Drive) is positioned such that its front elevation largely aligns with the rear elevation of the application property. The integral garage of this particular dwelling is adjacent to the boundary with the application site. To the

south is the adjoining half of this semi-detached pair (25 Harrow Way). This property has been the subject of a conservatory extension which is set in from the boundary. At present, the common boundary is defined by a timber fence of approximately 1.8m in height.

- 1.03 In terms of the Local Plan, Shepherds Gate Drive is located within the settlement of Weaving. The immediate locality is not subject to any specific designations within the local plan policies map.

2. PROPOSAL

- 2.01 This application seeks planning permission to add a single storey side and rear extension. This will see the demolition of the existing detached garage. The addition will be 3.05m in width to the side increasing to 8.25m as the addition meets the rear extension. The maximum length along the northern elevation is 9.2m. The elevation adjacent to the common boundary with no.25 Harrow Way will be 3.2m in length. The roof will be pitched with a maximum height to eaves of 2.8m and the maximum height will be 3.7m. The eastern elevation will feature a garage door and the western elevation facing into the garden will include a window; patio doors and 2 rooflights. The external surfaces will be finished in materials to match the existing property. The extension will provide a replacement garage together with an enlarged kitchen/breakfast room to the rear.
- 2.02 The application is accompanied by a parking plan which indicates the provision of 2 off-street parking spaces within the curtilage of the site.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017 DM1; DM9
Supplementary Planning Documents Residential Extensions (2009)
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 Two representations received from adjacent residents raising the following (summarised) issues:

34 Shepherds Gate Drive

- The extension would create a claustrophobic affect giving a significant amount of visual intrusion to the front aspect of our property;
- A north facing brick wall running 7m along our boundary and front door would be too dominant and overbearing and have a detrimental affect on our living environment and mental health;
- We will be faced by an ugly brick wall every time we come and go from our home and our upstairs bedroom window will also be adversely affected;
- The proposal is against Policy DM9 of the Maidstone Local Plan (2017) and saved policy H18;
- Building on the driveway up to the boundary is not in keeping with the intended character of the estate;

- The extension would be oversized for the plot;
- The development would set a precedent;
- The extension would reduce the amount of sunlight and skylight to the front of our plot and the hedge to the front of our plot would perish;

25 Harrow Way:

- The extent of the proposal will reduce light and overshadow us at the rear of our property, we will be 'penned in';
 - The noise of the works and likely subsequent interior modifications will impair our wellbeing;
 - The wall of the extension which is to the south of us is too close to the boundary to allow adequate access for maintenance and guttering may overhang our boundary;
 - Little consideration has been given to us as neighbours e.g. the siting of the flue for the wood burning stove is close to the rear wall of our property;
 - The extension may make our property more difficult to sell.
- 4.02 The issues raised in respect of noise during the construction period; potential impact on property prices; and future maintenance are not material planning considerations and therefore cannot be taken into account in the determination of this application. The other 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)

Boxley Parish Council

- 5.01 In spite of the reduction in height of the proposed extension it is still overly large for the site and a large increase in the existing house footprint. It is very out of keeping with the existing street scene. There are no similar extensions of this size and prominence to the front of the properties. It would set a precedent for similar extensions which would completely alter the character of the estate.
- 5.02 The reduction in height still makes the extension very detrimental to the neighbours at number 34. It would leave them with a brick wall to the front of the property which would adversely affect their outlook, against MBC's Local Plan Policy DM9 which states that 'the pleasant outlook of adjoining residents would be safeguarded'. It would overshadow their property blocking light. It would result in the death of their hedge which could not survive a building in such close proximity to their boundary.
- 5.03 This application goes against Local Plan Policy H18 which states developments 'will respect the amenities of adjoining residents regarding privacy, daylight, sunlight and maintenance of a pleasant outlook'.

6. APPRAISAL

Main Issues

- 6.01 The key issues for consideration relate to:

- The design and visual impact of the proposed extension;
- The impact upon the amenities of the neighbouring householders.

Design and Visual Impact

- 6.02 Shepherds Gate Drive and the adjoining Harrow Way are part of a housing development that dates from the late 1980s. There are a range of housing styles and the pattern of streets is, generally speaking, quite irregular with no rigid building lines. Many of the properties have a staggered relationship with one another and this is the case with the application site. 36 Shepherds Gate Drive forms one half of a semi-detached pair and whilst the eastern elevation of the property fronts onto the street, the entrance door to the dwelling is situated on its northern side. The adjoining half of the semi (no 25 Harrow Way) has its entrance on the eastern elevation fronting onto the highway. No.34 Shepherds Gate Drive which is directly to the north is a detached house that also has its entrance fronting the highway. At present, the front elevation largely aligns with the rear elevation of the application property.
- 6.03 The proposals will see the demolition of the existing detached garage which is positioned to the rear of the dwelling to facilitate the construction of a single storey side/rear extension. The front section of the extension will relate to a garage. The extension will not encompass the entire length of this elevation of the dwelling and therefore the existing entrance door will remain in its current position. Due to the uneven boundary line, the extension will be between 3m to 6m from the back edge of the footpath on Shepherds Gate Drive. The extension is designed with a hipped roof to the elevations that are visible in the streetscene and it is proposed to use materials to match.
- 6.04 Given the staggered arrangement of the dwellings along this part of Shepherds Gate Drive, the wider views towards the application property when looking southwards are of the 2-storey property and its entrance. The proposed extension will not alter this situation as the 2-storey dwelling will remain the dominant feature. The proposed extension is designed with a relatively modest roof form that is hipped towards the dwelling and furthermore, the materials will match the existing. The extension will not be visible in the views from Harrow Way looking northwards.
- 6.05 Characteristically, the informal arrangement of the dwellings in relation to one another is a key feature of the street pattern. Furthermore, houses with a garage to the side are also commonplace in the locality. On balance, given these characteristics, the proposal will not appear conspicuous in its setting and its single storey nature will also see that the extension does not dominate the dwelling. In addition, the existing garage has a more substantive roof form with a ridge height of 4.4m and its demolition will also free up more space towards the rear of the plot creating a more regular shaped garden. The resulting garden space is akin to many other dwellings in the locality and accordingly, the proposal would not appear to be an overdevelopment of the plot.
- 6.06 Whilst the issue of setting a precedent has been raised in the objections, this would be difficult to justify in an appeal situation given that every planning application must be considered on its individual merit. The lack of uniformity in the streetscene is arguably one of the key characteristics of this housing development in general and ultimately, the single storey nature of the extension with its hipped roof form and setback from the highway would see that it does not appear obtrusive in the general streetscene.
- 6.07 I therefore conclude on this issue that the proposal complies with the requirements of policy DM1 and DM9 together with the design guidance contained in the SPD Residential Extensions.

Impact on Neighbouring Amenities

- 6.08 Objections have been received from the occupants either side of the application site that raise a range of issues. In terms of no.34 Shepherds Gate Drive, this is a detached house located to the north of the application site. The property is arranged such that its integral garage is adjacent to the boundary with the application site and there is a driveway in front of this. The upper floor along this boundary features a window which the occupants note in their objection, relates to a bedroom. The proposed extension will not have an impact on any habitable rooms to the ground floor of no.34 as it is a garage that is adjacent to the boundary and proposed extension. It is suggested in the objection that the view when entering/leaving the property would be unpleasant but again, this could not substantiate a refusal given that the design and materials are reflective of the existing dwelling and the actual living conditions within the ground floor of no.34 will not be compromised. It would also be difficult to justify a refusal based upon the outlook from the upper floor bedroom window given that the proposed extension is single storey and could not be considered overbearing in relation to the first floor of the adjacent house. In addition, the existing view from this particular neighbouring window is largely towards the 2-storey elevation of the application property.
- 6.09 Policy DM9 requires that the privacy, daylight, sunlight and maintenance of a pleasant outlook of adjoining residents are safeguarded and in terms of the relationship with no.34, this would be the case given the particular relationship and layout of the dwellings.
- 6.10 The objector and Parish Council refer to saved Policy H18 however this is no longer applicable as it was replaced by Policy DM9 when the current Maidstone Borough Local Plan was adopted in 2017. It is my assessment that this scheme meets the requirements of Policy DM9.
- 6.11 The Parish Council and householders at no.34 also raise concerns in terms of the impact upon the established planting adjacent to the boundary. This is already overshadowed to a degree by the 2-storey elements of the application property and is situated such that it has a northern aspect. The proposed extension is entirely contained within the boundaries of the application site. In the circumstances, there would not be sufficient justification to consider a refusal on this basis.
- 6.12 In respect of the relationship with no.25 Harrow Way, these particular householders are concerned at the proximity of the extension to their boundary and that this will cause potential overhanging of guttering as well blocking light and causing overshadowing. This property has a window adjacent to the boundary and when applying the 45 degree rule, the proposed extension would not pass this test. It is however the case that 25 Harrow Way is situated to the south of the application site and therefore the level of sunlight from the direction of the application site being to the north is less significant. Given this orientation, I consider that the resulting relationships will be acceptable. The existing outlook from this particular window towards the application site is also of the boundary fence. I am also mindful that a very similar sized extension could be achieved under permitted development.
- 6.13 Since the initial submission, the applicant has amended the plans to remove a proposed log burner. This revision has therefore resolved the issue raised by the occupants of 25 Harrow Way in regard to this particular feature. Although the issue of overhanging guttering has been raised, no such features are indicated on the submitted plans. I do however recommend the inclusion of an informative on the

decision notice to remind the applicant that the granting of planning permission does not convey any rights of encroachment of the neighbouring boundary.

- 6.14 Ultimately, given the scale and proportions of the proposed extension together with the orientation of the dwellings, I consider that the resulting relationships will be acceptable.

Other Matters

- 6.15 A further requirement of Policy DM9 is the provision of adequate car parking within the curtilage of the site. The agent for the application has provided a block plan that details the provision of 2 off-street parking spaces and this is sufficient for this size of property in this type of location. I recommend that these parking spaces are the subject of a condition that requires their permanent retention to secure this position going forwards.
- 6.16 In accordance with Policy DM1, it is the case that residential extensions can provide good opportunities for the enhancement of biodiversity. Policy DM1 of the local plan sets out in point viii that proposals should 'protect and enhance any on-site biodiversity and geodiversity features where appropriate, or provide mitigation.'
- 6.17 Due to the nature of the proposal and the residential use of the site and the continued residential use, it is not considered appropriate/necessary to require any ecological surveys. However, it is considered appropriate to attach a condition requesting that on-site mitigation to enhance biodiversity and this can be provided in a range of ways, for example, bird boxes; bug hotels etc.

PUBLIC SECTOR EQUALITY DUTY

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

7. CONCLUSION

- 7.01 In balancing the details of the proposal against the objectives of the relevant Local Plan policies and the guidance contained within the SPD Residential Extensions, I conclude that this is an acceptable proposal. Whilst there have been significant objections received from the Parish Council and the adjacent householders, the assessments would indicate that there are no material reasons to consider a recommendation of refusal. I therefore recommend that this application is approved.

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: Site Location Plan; Existing Block Plan; Existing Ground and First Floor Plans 020121/1; Existing Elevations 020121/2; Existing Garage Elevation 020121/SK1; Proposed Block Plan; Proposed Ground and First Floor Plans 020121/3 (as amended 01.03.2021); Proposed Elevations 020121/4; Proposed Section 020121/5; Parking Plan 020121/SK2.

Reason: To clarify which plans have been approved.

- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Reason: To ensure a satisfactory appearance to the development.

- 4) The parking spaces indicated on drawing number 020121/SK2 shall be provided before the first occupation of the extensions hereby permitted and shall thereafter be kept available for such use. No garage door or other form of enclosure shall be installed within the first set of piers as shown on the above referenced drawing so as to restrict the parking of a car in this location. 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 provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

- 5) The extensions hereby approved shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through either integrated methods into the design and appearance of the extension by means such as swift bricks, bat tube or bricks, or through provision within the site curtilage such as bird boxes, bat boxes, bug hotels, log piles and hedgerow corridors. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

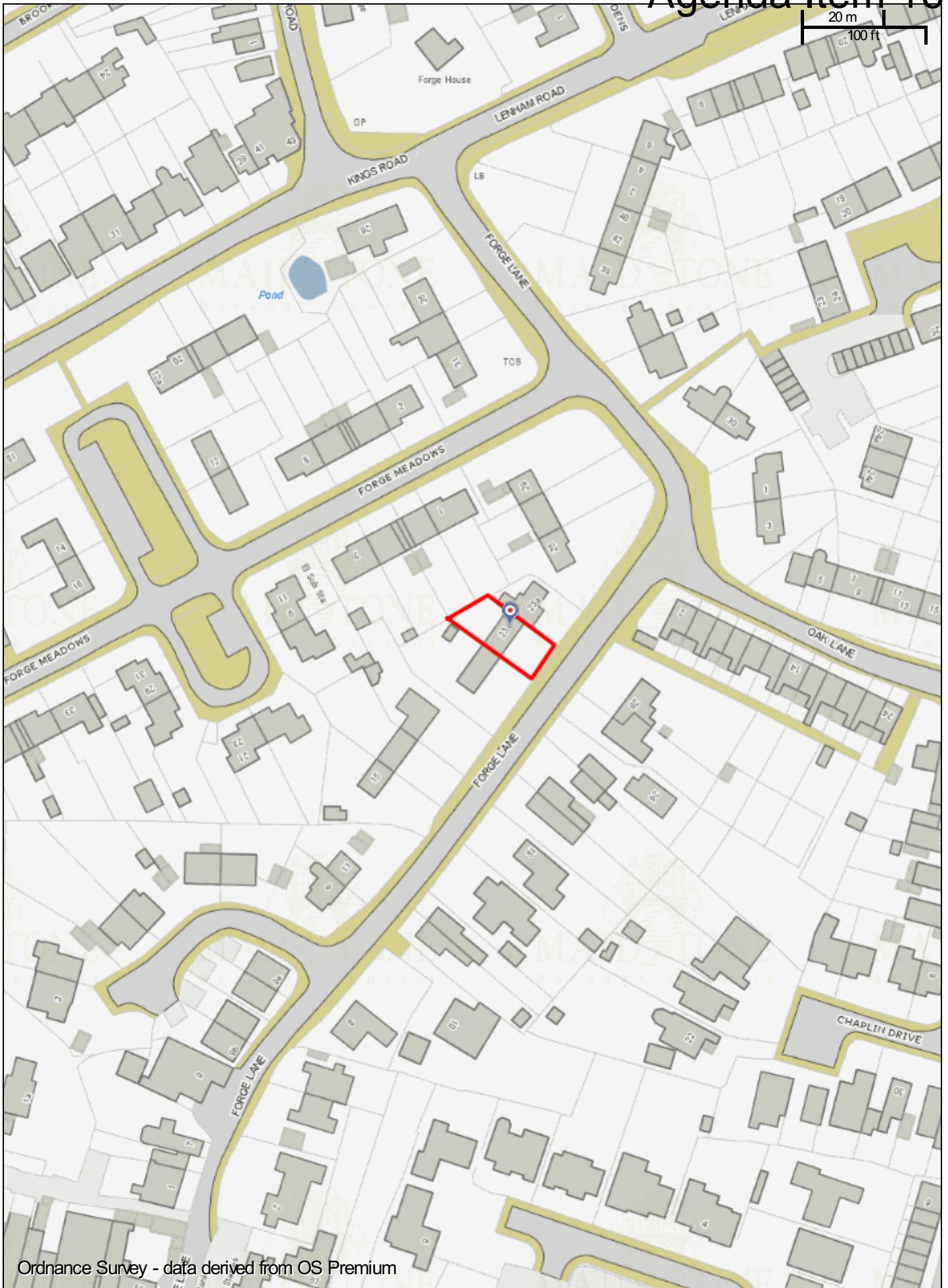
Reason: To protect and enhance the ecology and biodiversity on the site in the future.

INFORMATIVES

- 1) It is the responsibility of the developer to ensure, before the development hereby approved is commenced, that approval under the Building Regulations (where required) and any other necessary approvals have been obtained, and that the details shown on the plans hereby approved agree in every aspect with those approved under such legislation.
- 2) The grant of this permission does not convey any rights of encroachment over the boundary with the adjacent property in terms of foundations, eaves, guttering or external cladding, and any persons wishing to implement this permission should

satisfy themselves fully in this respect. Regard should also be had to the provisions of the Neighbour Encroachment and Party Wall Act 1995 which may apply to the project.

Case Officer: Georgina Quinn



Ordnance Survey - data derived from OS Premium

REPORT SUMMARY

REFERENCE NO - 21/500698/FULL		
APPLICATION PROPOSAL Proposed loft conversion with hip to gable, rear dormer and front rooflight windows (resubmission to 20/505849/FULL).		
ADDRESS 23 Forge Lane Headcorn Ashford Kent TN27 9QN		
RECOMMENDATION Approval subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal has been amended sufficiently for the works to not detrimentally impact the visual and residential amenity of the surrounding properties. The works would accord with relevant policies and residential extensions guidelines.		
REASON FOR REFERRAL TO COMMITTEE Headcorn Parish Council recommended refusal due to the extension appearing large and disproportionate to the existing dwelling and the impact on the amenity of the neighbouring properties and that this be referred to Planning Committee if officers are minded to recommend approval.		
WARD Headcorn	PARISH/TOWN COUNCIL Headcorn	APPLICANT Mr & Mrs Goates AGENT Richardson Architectural Designs
DECISION DUE DATE 07/04/21	PUBLICITY EXPIRY DATE 26/03/21	OFFICER SITE VISIT DATE 05/03/21

RELEVANT PLANNING HISTORY

14/500793/FULL Demolition of existing single garage to provide detached cottage with provision of parking for existing and proposed dwellings. REFUSED

14/505640/FULL Demolition of the existing single garage to provide 2 bedroom end of terrace cottage with provision of parking for the existing and proposed dwelling, including a new vehicle access. PERMITTED

16/500412/SUB Submission of details pursuant to planning permission 14/505640/FULL - to discharge Condition 2 - Materials, Condition 4 - Boundary Treatments and Condition 5 - Landscaping. PERMITTED

16/501445/FULL Removal of Condition 7 of planning permission 14/505640/FULL (Demolition of the existing single garage to provide 2 bedroom end of terrace cottage with provision of parking for the existing and proposed dwelling, including a new vehicle access) - Code 4 for Sustainable homes PERMITTED

20/505849/FULL Proposed loft conversion with hip to gable, rear dormer and front velux windows. REFUSED

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site comprises of a 2-storey dwelling located on the north-western side of Forge Lane. The site is located within the urban area of Headcorn with a Local Wildlife Site located 500m to the south-east of the site. The site benefits from

a shared driveway with No.23a suitable for several vehicles with no boundary definitions at the front of the property.

- 1.02 Planning permission was granted in 2015 for an end of terrace property which was erected and now forms 23a Forge Lane. The permission involved changes to the roof form of No.23 to join up with the new property creating additional roof space.

2.0 PROPOSAL

- 2.01 The proposal is a resubmission of a previously refused application for a loft conversion with hip to gable, a rear dormer and front rooflight windows. This was refused on the following ground;

The proposed rear dormer, by reason of its size, scale, bulk and roof form, would not appear subservient to the original dwelling and would dominate the appearance of the rear of the property creating an obtrusive feature that would harm the visual character of the host dwelling, contrary to the objectives of the National Planning Policy Framework 2019, Policies DM1 and DM9 of the Maidstone Borough Local Plan (2017) and the guidance set out in the Council's Supplementary Planning Document Residential Extensions (2009).

- 2.02 The current proposals have reduced the size of the rear dormer which now measures 6m in width, 2.3m in height and depth of 2.4m. The ridge line of the roof has been extended from 6.2m to 8.6m.
- 2.03 The application form confirms the proposed materials and finishes will match those used on the existing building.
- 2.04 The proposed dormer and velux windows would serve a study, bedroom and en-suite. The proposal seeks to increase the number of bedrooms from 3 to create an additional bedroom and study room.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Maidstone Borough Local Plan 2017:

DM1 Principles of Good Design

DM9 – Residential Extensions, Conversions and Redevelopment within built up area.

Residential Extensions Supplementary Planning Document (2009), KCC SPG4

4.0 LOCAL REPRESENTATIONS

8 neighbour representations received objecting on the following grounds;

- Overlooking
- Loss of privacy
- Visual appearance of existing property

- Overshadowing

5.0 CONSULTATIONS

- 5.01 Headcorn Parish Council recommended refusal due to the extension appearing large and disproportionate to the existing dwelling and the impact on the amenity of the neighbouring properties.

6.0 APPRAISAL

The key issues are:

- Design and visual impact and whether the previous grounds of refusal have been addressed
- Impact upon neighbouring amenities

Visual Impact

- 6.01 Policy DM9 states *Within the defined boundaries of the urban area, rural service centres and larger villages, proposals for the extension, conversion or redevelopment of a residential property which meet the following criteria will be permitted if:*
- i. The scale, height, form, appearance and siting of the proposal would fit unobtrusively with the existing building where retained and the character of the street scene and/or its context;*
 - ii. The traditional boundary treatment of an area would be retained and, where feasible, reinforced;*
 - iii. The privacy, daylight, sunlight and maintenance of a pleasant outlook of adjoining residents would be safeguarded; and*
 - iv. Sufficient parking would be provided within the curtilage of the dwelling without diminishing the character of the street scene.*
- 6.02 Paragraph 4.32 of the Residential Extensions Supplementary Planning Document states: *New dormers will not normally be allowed to front elevations in streets where there are none already. Roof lights, particularly on the front elevation, are a preferable alternative to the use of dormers or roof extensions. The number and size of roof windows should not visually dominate the roof plane. Roof windows need not be large, as more sunlight and daylight reaches a sloping roof than a wall. Roof windows should be designed and installed to have a minimum projection from the roof plane.*
- 6.03 The proposals seek the installation of three rooflights to the front elevation which are not considered to visually dominate or appear as overly large on the roof plane. As the application site is not within a conservation area, it is not considered reasonable to impose a condition requiring conservation style roof light (which have an almost flush appearance to the roof slope).
- 6.04 Paragraph 4.33 of the Residential Extensions supplementary planning document states: *Loft extensions are preferred on the back elevation in order to preserve the character of the street with paragraph 4.34 confirming 'where acceptable, dormer windows should be proportionate in scale to the roof plane and where there is a logical or symmetrical layout of doors and windows, should follow the vertical lines of these openings. They should never project above the original ridgeline and should be set back a minimum of 20 centimetres from the eaves to maintain the visual appearance of the roof line.*

- 6.05 The host property has a sizeable roof, and the proposed dormer extension has been proposed to the rear of the property, is set down off the main ridge line, has been set back a minimum of 20 centimetres from the eaves and has been set in from the sides of the main roof slope so as not to dominate the roof form. The proposed dormer now sits more comfortably within the roof slope as opposed to the previously refused scheme which dominated the roof slope and gave the appearance of a full second storey to the rear elevation. The window arrangement, whilst not following the vertical lines of the existing windows below, is considered acceptable being on the rear elevation with very limited visibility from any public vantage point. Materials are proposed which match the existing materials and these can be controlled by condition. I now consider the overall design of the proposal to be in keeping with the original roof form which does not overwhelm or destroy the character of the main dwelling. The proposed rooflights to the front of the dwelling are also considered to be visually acceptable.
- 6.06 I consider the proposal has now addressed the previous ground of refusal in design terms and complies with policies and guidelines within the residential extension SPD and would be acceptable in terms of design and materials.

Residential Amenity

- 6.07 Policy DM1 amongst other matters states *...respect the amenities of occupiers of neighbouring properties and uses and provide adequate residential amenities for future occupiers of the development by ensuring that development does not result in, 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.*
- 6.08 Paragraph 4.72 of the Residential Extensions Supplementary Planning Document states: *In order to safeguard the privacy of neighbours, the introduction of windows in extensions which would overlook windows of habitable rooms in any adjoining property at a close distance and would result in an unreasonable loss of privacy will not be permitted. For similar reasons, a window overlooking the private area immediately adjacent to the rear of an adjoining dwelling is also inappropriate. The Borough Council will normally calculate the private amenity area as a depth of 5 metres from the back of the property which, if it has been extended, will be measured from the back edge of the extension.*
- 6.09 In terms of the positioning of the proposed dormer, the rear elevation faces north-west which is more directed towards 3 & 5 Forge Meadows. The dormer would be sited 20-25m away from the properties to the rear (No's 3 & 5 Forge Meadows) who have objected on grounds of overlooking, loss of privacy and overshadowing issues. Given the distance set out above, it is not considered that an objection on overlooking could be sustained. It is also not considered that overlooking to any other of the nearby residential properties would warrant a refusal of the application for the same reasons as cited above. The proposal is too far from the properties to cause any overshadowing or loss of sunlight/daylight issues to any properties at the rear.
- 6.10 I am also mindful that the previous ground of refusal did not cite overlooking as a ground of objection and this was found to be acceptable. An objection raised on overlooking grounds now would be considered unreasonable as it was not previously raised.

- 6.11 In terms of the dormer, I do not consider that this would result in any adverse impacts in terms in terms of loss of daylight, outlook or loss of privacy in relation to the neighbouring properties.

Fallback position

- 6.12 I am also mindful of the fall-back position which exists with the current proposals in terms of permitted development rights which permit the construction of rear dormers (of a certain size), rooflights etc. on dwellinghouses. As I consider the proposals meet the development plan policies, I have not assessed these in detail as a planning application has been submitted for consideration.

Highways

- 6.13 In regard to the parking at the property, the number of bedrooms is increasing from 3 to 4 bedrooms, KCC Highways states a property of 4 or more bedrooms requires 3 spaces for parking requirements. The existing driveway is sufficient in size to accommodate 3 cars. The proposal would not create any additional harm to highway safety.

7.0 CONCLUSION

- 7.01 For the reasons set out in this report, it is considered that the development proposals would meet the requirements as set out in the planning policies and residential guidance SPD without material harm arising to the character of the host property or the amenity of surround residents. As such, I recommend approval subject to conditions.

8.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- (2) The materials to be used in the construction of the external surfaces of the building hereby permitted shall match those used in the existing building. For the avoidance of doubt, the rear dormer shall be tile hung with tiles that match the existing roof.

Reason: To ensure a satisfactory appearance to the development.

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

Site Location Plan – Received 10.02.21

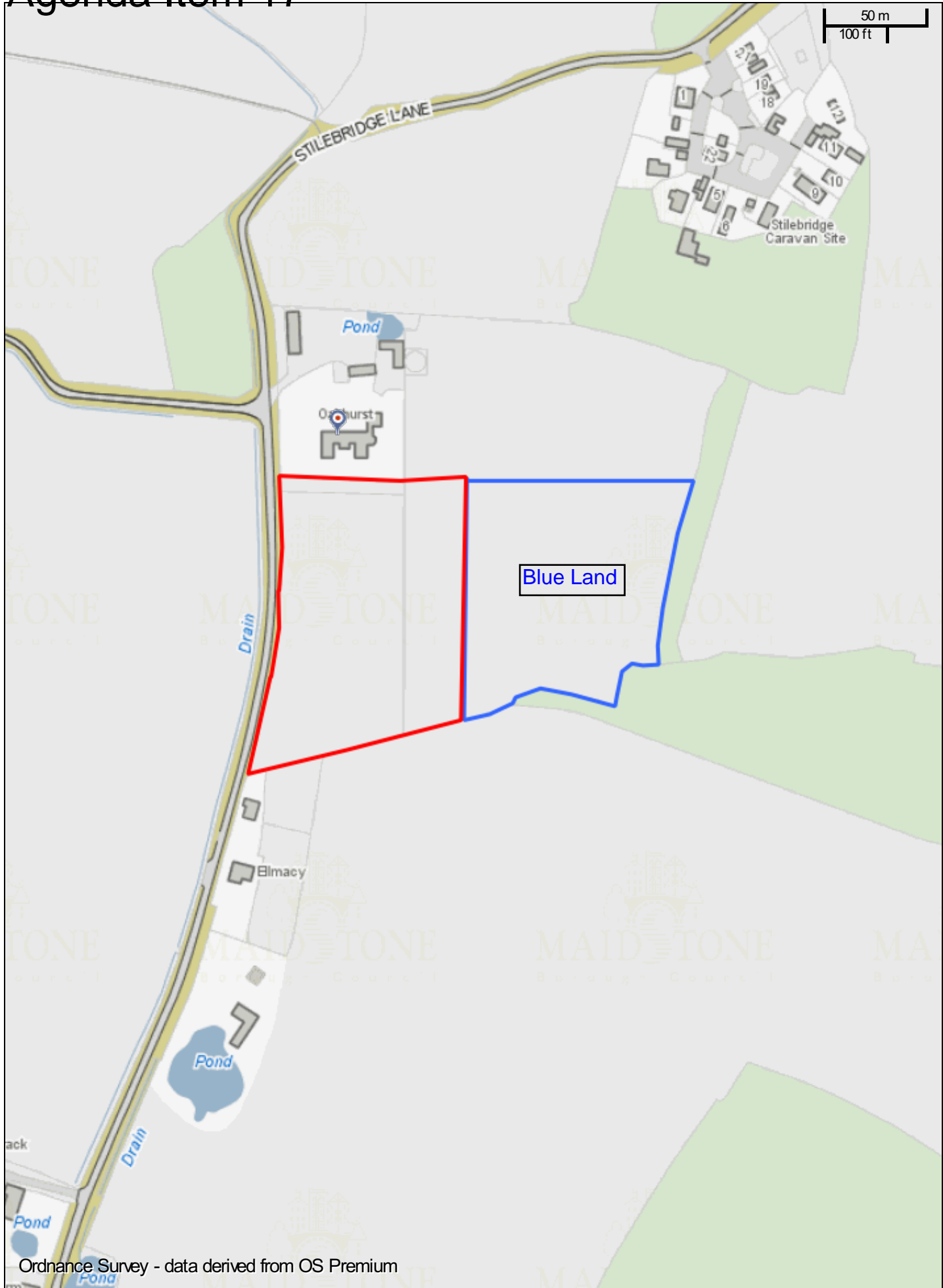
Existing and Proposed Plans and Elevations – Drawing Number RA1464/REV C/03 – Received 23.02.21

Reason: To clarify which plans have been approved.

Case Officer: Joanna Woods

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 17



Ordnance Survey - data derived from OS Premium

REFERENCE NO: 19/500271/FULL		
APPLICATION PROPOSAL: Change of use of land for the stationing of 18 holiday caravans with associated works including laying of hardstanding and bin store.		
ADDRESS: Oakhurst Stilebridge Lane Marden Tonbridge Kent TN12 9BA		
RECOMMENDATION: Subject to: conditions set out below, and prior completion of a legal agreement to secure head 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 matters set out in the recommendation and as resolved by the Planning Committee).		
<p>SUMMARY OF REASONS FOR RECOMMENDATION: At 5th Dec 2019 committee, Members of the Planning Committee resolved to grant permission for this application, finding it to be acceptable in terms of its location; residential amenity; highway safety, flood risk; biodiversity; foul and surface water disposal; Ancient Woodland impact; and viability of business, subject to appropriate conditions/informatives.</p> <p>At 5th Dec 2019 committee, Members of committee also found the proposal to be acceptable in terms of its potential landscape impact. However, this finding was based, in part, on advice that was subsequently found to be unlawful that the Committee could not require appropriate design details of the lodges to be provided nor exercise planning control over their design, either by deciding whether or not to grant permission, or by the imposition of conditions on any permission.</p> <p>Responding to this error of law, this report now addresses the scale, design and appearance of the caravans and the acceptability of these, and it is advised that suitable conditions can be imposed to secure details so as to properly exercise planning control at this planning application stage, notwithstanding the operation of the Caravan Sites and Control of Development Act 1960. Furthermore, this report assesses the submitted landscaping scheme and details of electric vehicle charging points. With these details secured, this must be considered alongside the previously proposed layout, and the submitted Visual Impact Assessment (that concludes the proposal will have a minimal impact on the landscape from public vantage points), which Members previously found acceptable.</p> <p>With everything considered, and in accordance with the relevant provisions of the Development Plan and NPPF, it remains the view that the proposal would not result in harm to the appearance of the landscape and the rural character of the countryside hereabouts; and that it is acceptable in terms of all other material planning considerations. A recommendation of approval of this application is therefore made on this basis.</p>		
REASON FOR REFERRAL TO COMMITTEE: On 15th July 2020, the High Court: <i>R (Patricia Shave) v MBC v Mr and Mrs P Body [2020] EWHC 1895 (Admin)</i> , quashed the planning permission that was issued on 13th December 2019. This application needs to be reconsidered by the Members of Planning Committee, as outlined in the report below.		
WARD: Marden & Yalding	PARISH COUNCIL: Marden	APPLICANT: Mr & Mrs P Body AGENT: Graham Simpkin
TARGET DECISION DATE: 31/05/21		PUBLICITY EXPIRY DATE: 22/02/21

Attached to this Committee report are the following appendices:

- APPENDIX A:** Planning Committee report for 26th November 2020
- APPENDIX B:** Urgent update for 26th November 2020 Planning Committee
- APPENDIX C:** Planning Committee report for 28th November 2019
- APPENDIX D:** Urgent update for 28th November 2019 Planning Committee
- APPENDIX E:** Planning Committee report for 30th May 2019
- APPENDIX F:** Urgent update for 30th May 2019 Planning Committee
- APPENDIX G:** Planning Committee Minutes for the three Planning Committees referenced

MAIN REPORT

1.0 Background information

- 1.01 The planning history associated to this application is set out in APPENDIX A (1.0 BACKGROUND INFORMATION).

2.0 Up to date position of application

- 2.01 In light of the decision being quashed by the High Court, Members are now required to reconsider the application afresh, the legal error about the design of the lodges having been corrected. This report will therefore address this issue of design, and Members should be made aware that there is now proposed the ability to control the design of the caravans in planning terms.
- 2.02 Since the High Court decision this planning application was reported back to Planning Committee on 26th November 2020 (APPENDIX A). At this Committee Members resolved to defer the application for the following reasons (APPENDIX G).

RESOLVED: That consideration of this application be deferred to seek:

- Details of the design of the caravans;*
- Details of electric vehicle charging points; and*
- Detailed landscaping plan.*

- 2.03 The applicant has subsequently submitted the following information:

- Elevations/floor plans of caravans*
- Written specification for electric vehicle charging points*
- Amended block plan (showing electric vehicle charging point)*
- Hard and soft landscaping plan*
- Draft Deed of Unilateral Undertaking*

- 2.04 For clarity, the relevant plans/documents for this proposal are:

- Drawing ref: 2763 01 Rev A (received 14.10.19) showing site location plan*
- Drawing ref: 04 Rev A (received 12.10.20) showing existing block plan*
- Drawing ref: 0397/21/B/1A (received 01.03.21) showing hard & soft landscaping plan*
- Drawing ref: 06 Rev A (received 09.04.21) showing proposed caravans*
- Drawing ref: 05 Rev H (received 27.01.21) showing proposed layout*
- Written specification for electric vehicle charging points (received 27.01.21)*
- Written agent statements responding to certain issues (Sept 2019 & Sept 2020)*
- Visual Impact Assessment (received 23.10.19)*
- Business Plan (received 24.09.19)*
- Updated Surface Water Drainage Strategy (ref: 4957_3731 SWDS – Oct 2019)*
- Flood Risk Assessment (ref: 3731 FRA – June 2018)*
- Ambient Environmental Assessment letter dated 13/02/19*
- Design & Access Statement (dated: Jan 2019)*
- Ecological Scoping Survey (March 2018)*
- Reptile Survey & Bat Tree Assessment (Oct 2018) & GCN Risk Assessment (June 2018)*

- 2.05 This report will focus on the resolved reasons for deferral that Members of the planning Committee made on 26th November 2020; and please note that the attached appendices remain relevant in the assessment of this proposal.

3.0 Up to date details of policy and other considerations

- Local Plan (2017): SS1, SP17, SP21, DM1, DM3, DM8, DM30, DM37, DM38
- Marden Neighbourhood Plan (2017-2031)
- Landscape Character Assessment (2012 amended July 2013)
- Maidstone Landscape Capacity Study: Sensitivity Assessment (Jan 2015)
- National Planning Policy Framework & National Planning Practice Guidance
- Natural England Standing Advice
- MHCLG National Design Guide

- 3.01 Please note that the policy/guidance references, as laid out in the attached remain relevant.
- 3.02 On 15th July 2020, Maidstone Borough Council resolved to adopt the Marden Neighbourhood Plan and this Plan forms part of the statutory development plan. This adopted Neighbourhood Plan seeks new development (inter alia): To be designed to integrate into their surroundings in the landscape, and contribute positively to the conservation and enhancement of that landscape; to provide a biodiversity net gain; to incorporate appropriate additional landscaping; to respect residential amenity; and to be based upon the principles of sustainable construction.
- 3.03 The MHCLG National Design Guide was first published on 1st October 2019 and has been considered in the assessment of this application.

4.0 Consultation responses

- 4.01 The consultation responses in the attached appendices remain relevant in the assessment of this proposal. The following is a summary of the responses received after this application was deferred on 26th November 2020.

	RESPONSES RECEIVED AFTER DEFERRAL IN NOV 2020
Local residents	<p>5 representations received raising the following concerns:</p> <ul style="list-style-type: none"> - Flood risk/drainage - Harm to character and appearance of countryside - Represents poor design - Unsustainable location - Highway safety - Residential amenity (including loss of privacy & general noise/disturbance) - Light pollution - There is no site office so potential for future development on site - Unilateral Undertaking is irrelevant - Alleged fallback position no longer exists - Development would set precedent for future development
Marden Parish Council	<ul style="list-style-type: none"> - Cllrs reviewed additional information and wish their previous comments to be reiterated and recommend refusal. - Information/photos received that area flooded again over past few months. - Design not in keeping or sympathetic with open countryside, contrary to Marden Neighbourhood Plan (MNP) Policy BE1. - Cabins not of sustainable construction and there is no evidence of sustainability on site layout, contrary to MNP Policy BE3. - Landscape scheme is contrary to MNP Policy NE5 as there is no evidence of significant number of native planting.
Landscape Officer	Submitted landscaping plan generally conforms to Council's landscape guidelines for landscape character area in which site is located.
Biodiversity Officer	Additional info submitted has been reviewed and again advise sufficient information has been provided to determine application. They continue to raise no objection in biodiversity terms (subject to previously recommended conditions) and are satisfied landscaping scheme would both safeguard the ancient woodland and act as enhancement for site's biodiversity.
KCC Flood Risk Officer	Have no further comments to make & refer back to their previous comments.

5.0 Landscaping and ecological matters

- 5.01 Since the application was reported to Planning Committee on 26th November 2020, a detailed landscaping plan (as requested by Members of the Planning Committee) has now been submitted. In general terms, the plan shows the retention of the existing front (western) boundary planting and the trees along the southern boundary; there will be additional planting along the 15m buffer to the Ancient Woodland; the boundaries of the site will be enhanced with mixed hedge and tree planting (including Oak); and the hardstanding will be of a permeable asphalt system. The Landscape Officer has reviewed the landscaping plan and is satisfied that it generally conforms to the Council's landscape guidelines for the landscape character area in which the site is located, and no objection has been raised on this matter. It is considered that the submitted landscaping scheme, with its native hedge and tree planting, would allow the proposal to positively integrate into the surrounding landscape.
- 5.02 The Biodiversity Officer has reviewed the additional information submitted since the last Planning Committee, and again advise that sufficient information has been provided to determine the planning application. They also continue to raise no objection to the proposal in biodiversity terms (subject to appropriate conditions and informative as previously recommended in terms of external lighting, precautionary measures for reptiles and Great Crested Newts, ecological enhancements, and bird breeding). Specific to the submitted landscaping plan, the Biodiversity Officer is satisfied that the scheme would both safeguard the ancient woodland and act as enhancement for the site's biodiversity.
- 5.03 It should also be highlighted again that the application site is more than 80m from the Ancient Woodland to the east of the site; the paddock to the east of the site will be managed by appropriate timber post and rail fencing to deter public access in this area; and the landscaping scheme will create a wildlife corridor around the site allowing good connectivity for wildlife movement.

6.0 Landscape impact, layout, scale and design

Landscape impact

- 6.01 In this respect, paragraphs 6.07 to 6.11 of the committee report presented on 30th May 2019 remains relevant and states:

6.07 - Within the Maidstone Landscape Capacity Study: Sensitivity Assessment, the proposal site is in the Staplehurst Low Weald landscape character area (44) that is considered to be sensitive to change. This assessment also states that development in this area could support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.

6.08 - It is accepted that the proposal would change the character of what is an open field. However, the site benefits from a mature, well-established hedgerow to the roadside boundary; the southern boundary also benefits from a well-established hedge and several individual trees; and the eastern (rear) boundary is entirely enclosed by Ancient Woodland. To the north, the site is largely screened by Oakhurst and its associated outbuildings; existing hedgerows; and by more Ancient Woodland and Stilebridge Caravan Park. In general terms, the surrounding road network is also lined with hedges/trees; existing built development provides some screening; and no public footpath comes within 200m of the proposal site. As such, it is considered that views of the proposal would be limited to short range views, particularly when passing the site along Stilebridge Lane; and any medium to long distance views of the development from any other public vantage point would be glimpsed.

6.09 - To further safeguard the character and appearance of the countryside, a suitable condition will also be imposed to secure the retention of the existing hedgerows along the southern and western boundaries of the site; for the retention of the existing trees within the site, as shown on the submitted plan; for further native planting within the 15m buffer zone to the ancient woodland; and for a mixed native hedge to be planted along the northern boundary of the site.

6.10 - *In accordance with the Maidstone Landscape Capacity Study, the proposal would conserve the existing Oak trees on the site; the landscaping scheme would seek new Oak tree planting; and existing hedgerows would be retained. External lighting could also be appropriately controlled by way of condition.*

6.11 - *It is therefore considered that the proposal would not appear prominent or visually intrusive in a landscape that is sensitive to change, and would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.*

6.02 Please note that since Planning Committee on 30th May 2019, a detailed landscaping plan has now been submitted (as discussed above).

6.03 The submitted Visual Impact Assessment (VIA) concludes that the proposal would have a minimal impact on the landscape from public vantage points, and this conclusion is agreed with. The Landscape Officer is also satisfied that the VIA is an appropriate level study for this proposal. Whilst some of the landscape details in the VIA are not up to date, as it is not intended to be a full LVIA and only an assessment of public viewpoints, the Landscape Officer considers it to be an acceptable submission on this basis. Furthermore, as set out above, the Landscape Officer raises no objection to the submitted landscaping scheme that will be secured by way of an appropriate condition.

6.04 The amended layout further safeguards the visual amenity of the countryside, by keeping the static caravans and associated built works away from the rearmost part of the site, where the land level does rise; by reducing the number of caravans (from originally submitted); and by showing a detailed landscaping scheme to further mitigate the visual impact of the development.

Layout

6.05 The submitted plans show the proposed layout, including the location of the 18 static caravans (and not 20 caravans as previously proposed); the hardstanding/parking; the bin store location; retained and new landscaping; and where external lighting will be positioned. The application site has also been reduced in size (from 2ha to 1.18ha), with the paddock area to the east no longer part of the proposal.

6.06 One of the reasons for deferral at the 26th November 2020 was to seek details of electric vehicle charging points on the site. The amended layout plan (and submitted written specification) now details two such charging points in the visitor parking area. In accordance with Local Plan policy, and in the interests of sustainability, a suitable condition will be imposed to secure this provision.

6.07 To be clear, any future development outside the red outline would require planning permission. The proposed layout would now restricts development to the front of the site, preventing the sprawl of development across the site and retaining a sense of openness at the rear. The level of hardstanding has been restricted to the access road (permeable asphalt system) and the caravan bases. The layout also provides a significant buffer from the proposal to the Ancient Woodland beyond. For these reasons, the layout is considered to be acceptable.

6.08 No details of a lighting strategy have been submitted. However, the submitted plans show the location of the external lighting and states that the lighting will be of low level lighting bollards (125mm high). The Environmental Protection Team and the Biodiversity Officer raise no objection on this matter, and there is no reasonable justification to refuse the application on this basis. As previously recommended, in order to safeguard the character and appearance of the countryside, as well as to mitigate against the potential adverse effects on bats, specific details of external lighting can be appropriately controlled by way of condition.

Scale and design parameters

- 6.09 It remains the case that the static caravans proposed will be within the lawful definition of a caravan as set out under Section 29 of the Caravan Sites and Control of Development Act 1960 (as secured by way of recommended condition 2). For reference, a caravan under this definition can be up to 20m in length and 6.8m in width; with the overall internal head height being 3.05m.
- 6.10 The sole reason why the previous decision was quashed was because Members were previously advised it was not justified for the local planning authority to seek more design details of the caravans because planning permission was only required for the change of use of the land to station or accommodate them for holiday purposes. The High Court decision found that this advice amounted to an error of law and the Committee should not have been advised that they could not require design details or exercise planning control over the design of proposed caravans.
- 6.11 This single error of law will now be considered. As requested by Members of the Planning Committee on 26th November 2020, details of the design of the caravans has now been submitted for consideration. All of the caravans will be of the same design, scale and appearance. Each caravan will have a footprint measuring 6m by 13.5m; and with a pitched roof, the ridge height would stand some 4m in height from ground level. The roofs will be profiled interlocking tile effect roofing (grey in colour); and the external elevations will be of timber-effect horizontal weatherboarding (brown in colour). The external finish of the caravans is considered to be sympathetic and subdued, and in keeping with the rural context of the site; and with the benefit of existing and proposed planting, the caravans would blend into the landscape and would not appear so visually incongruous or dominant from any public vantage point as to warrant refusal.
- 6.12 To safeguard the scale, design and appearance of the caravans, an appropriate condition will be imposed to ensure that the caravans on the site are in accordance with the submitted plans; and that the external materials of each caravan will be submitted to and approved in writing by the local planning authority prior to any caravan being brought onto the site. The agent previously agreed to the submission of details prior to any caravan being brought onto the site.

Summary

- 6.13 The Landscape Officer states that extensive, large scale, or visually intrusive development would be inappropriate here; that development should respect local vernacular in scale, density & materials; and that cited specific landscape character attributes should be conserved/enhanced.
- 6.14 It is now understood how many caravans there will be on the site; where they will be located; what scale they will be; and what design and appearance they will be, all of which can be secured by way of appropriate conditions and retained for the lifetime of the development. Furthermore, the submitted landscaping scheme will ensure the retention of the existing hedgerows along the western and southern boundaries of site; the planting of new trees (including Oak); the retention of existing trees (including Oak); and the planting of new mixed native hedgerows. The proposal also conserves the existing field pattern. This would be in accordance with the Council's Landscape Character Area guidelines for the Staplehurst Low Weald Area (44), which advises (inter alia):
- New development should respect local vernacular in scale, density and materials
 - Conserve abundance of oak as dominant species, and plant new oaks within pasture
 - Conserve & enhance hedgerows, ensuring they are correctly managed and gaps replanted
 - Conserve & enhance small scale field pattern and sense of enclosure
 - *Encourage native hedgerows around commercial developments*

- 6.15 For the reasoning set out in the previous committee reports along with the additional considerations as stated above, the layout, scale and design of the proposal is considered to respect the local vernacular of the area; the positive attributes of this landscape character area would be conserved and enhanced; and it remains the view that the proposal would not appear cramped, prominent or visually intrusive. As such, it is considered that the proposal would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.

7.0 Other matters

- 7.01 Paragraphs 6.03 to 6.11 of APPENDIX A covers the matters of: The viability of the proposal; sustainability in terms of location; highway safety; and Environmental Impact Assessment (EIA) development. These paragraphs remain relevant to the assessment of this application and no objection continues to be raised to the proposal on these matters.
- 7.02 For clarification purposes, whilst the Highways Officer considered the 'worst case scenario', in terms of permitted development rights on the site, they were very clear that whilst it was a balanced decision: *Holiday lets typically generate fewer vehicle movements than dwellings anyway, and I would not expect the proposed static caravans to generate a significant number of car movements that could be considered to have a severe or detrimental impact on highway safety on Stilebridge Lane or the junctions that serve it. On balance, provided the conditions are attached as agreed, I don't believe we have any further cause to object.*
- 7.03 The conditions previously suggested by the Highways Authority are still recommended (including restricting touring caravans on the site).
- 7.04 The issue of residential amenity has been addressed in previous committee reports. However, it should be reiterated that the nearest property to the south of the application site is Ellmacy, which is more than 40m from the south-western corner of the site, and the main garden area for this property is to the south of the house, more than 50m away. There is an annexe building within the curtilage of Ellmacy, approved under 17/503597. The approved plans show that the annexe should be some 15m from the northern boundary of Ellmacy. This building is ancillary accommodation incidental to the main dwelling, and not a separate dwelling, with the occupants sharing some facilities within the main house and the existing garden area. A storage building at Oakhurst, under the prior notification process (18/505576), also has permission to be converted into a single dwelling. This property is separated from the site by Oakhurst itself and would be more than 40m from the application site. To the south of Ellmacy is Stilebridge Barn (more than 70m from the site); the caravans on Stilebridge Lane Caravan Site are more than 120m to the north-east of the site; and no other residential property would be within 200m of the application site. To clarify, Little Tilden Farm (to the south of Oakhurst) is some 225m from the application site. It remains the view that the proposal will not have an unacceptable impact in residential amenity terms
- 7.05 In terms of flood risk and surface water drainage, the finished floor levels of the caravans in Flood Zone 2 will still be raised 150mm above surrounding ground levels. KCC as the Lead Local Flood Authority, continue to raise no objection to the proposal, subject to the previously recommended conditions that have been duly recommended; and the Environment Agency has previously raised no objection.
- 7.06 Representations have been made commenting that the Caravan and Camping Club has suspended the applicant's exempt caravan site status and that this means the 'fallback' position has gone.

- 7.07 In response, reference is again made to paragraph 61 of the High Court decision that covers permitted development rights as a fallback position:

The Claimant complains that paragraph 6.01 of the report to the Committee meeting on 30 May 2019 advised members that the site had permitted development rights for use as a camping site for up to 28 days in any year. It is pointed out by the Claimant that this right does not apply to the use of land as a caravan site. But the short answer is that the report did not suggest otherwise. It is impossible to say that the report was misleading, let alone significantly misleading in some way which was material to the decision. Ms. Olley was entirely right not to place any emphasis on this point.*

**This is an error - the paragraph being referred to is 6.05 of 30 May committee report*

- 7.08 The representations received from Marden Parish Council and local residents, as a result of the most recent re-consultation, have been considered in the assessment of this application. It should be noted here that the proposal has been considered on its own merits, based on the submission for tourism use. If approved and there is a reported breach of the permission, then it would be a matter for the Planning Enforcement Team to investigate at that time. Furthermore, any future planning applications for development on the site will be assessed at the time against current policy/guidance. It is also argued that each application should be considered on its own merits; and it is not considered reasonable in this instance to refuse the application on the grounds that it may set a precedent for future development in the area.

8.0 Conditions and Heads of Terms

- 8.01 Paragraph 8.31 of the Maidstone Local Plan states: *In order to prevent the creation of isolated residential uses in rural areas, which would conflict with the aims of sustainable development, a holiday occupancy condition will be attached to any planning permissions.* Such a condition is recommended.

- 8.02 As previously set out in APPENDIX A, the submitted criticisms relating to the imposed holiday occupation condition was rejected by The Honourable Mr Justice Holgate, as set out in paragraphs 59 and 60 of the High Court Decision which state:

Para 59 - Ms. Olley stated that she was not contending that the condition was legally uncertain. Instead, she maintained that the condition was irrational and the officer's report misled the members about its effect.

Para 60 - There is no merit in these arguments. The condition did not need to define "holiday" or duration of stay in order to avoid irrationality or to be otherwise lawful. It is impossible to say that condition 3 fails the third test of validity set out in Newbury District Council v Secretary of State for the Environment [1981] AC 578, namely that it is so unreasonable that no reasonable planning authority could have imposed it. The condition makes it clear that no lodge may be occupied as the sole or main residence of the occupier. An occupier must reside wholly or mainly elsewhere. The register provides a suitable mechanism to enable the local authority to check on compliance with the condition and take enforcement action.

- 8.03 Please note that this holiday occupation condition, and those conditions (and informatives) as previously imposed are still recommended, including the following as resolved by the planning Committee on 5th December 2019:

- Further amendment of condition 3 (originally condition 4) (Holiday Occupancy) to include mechanism to effectively record use of the caravans;
- Add condition requiring provision of owl boxes to protect/enhance biodiversity; and
- Add informative reminding applicant/future occupiers this is tourist not permanent residential development and explaining that it cannot be for full time residential occupation.

- 8.04 Furthermore, it remains that conditions are recommended to restrict touring caravans using the site; and to control the scale, design and appearance of the caravans on the site. A condition will also be added to secure the provision of electric vehicle charging points for low-emission plug-in vehicles.

- 8.05 The applicant has also voluntarily agreed to enter into a legal agreement that removes permitted development rights under Schedule 2, Part 5, Class C, of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), on the 'blue land' as outlined on drawing reference: 04 Rev A received 12th October 2020. This legal agreement runs with the land and would prevent the use of this land by members of certain recreational organisations (such as the Caravan and Camping Club) without the need for planning permission. This will allow the local planning authority to consider the impacts of any future attempt to extend the caravan site into this area.

9.0 Conclusion

- 9.01 Since the deferral of this application at committee on 30th May 2019, the proposal site area has been significantly reduced (with layout, surfacing, and lighting shown); the number of caravans proposed has been reduced from 20 to 18; the submission has addressed the issue of Ancient Woodland protection; a Business Plan has been submitted; the submission includes a landscaping scheme and a Visual Impact Assessment; details of electric vehicle charging points have been submitted; and details of the scale, design and appearance of the caravans have been provided.
- 9.02 At the 5th December 2019 committee, Members of the Planning Committee resolved to grant permission of the application, considering there to be no grounds to object to the proposal in terms of its location; residential amenity; highway safety, flood risk; biodiversity; foul and surface water disposal; Ancient Woodland impact; the viability of the business, subject to appropriate conditions/informatives. This resolution to grant planning permission is still material and as it stands, there is considered to be no reasonable justification to refuse planning permission. Furthermore, it still remains acceptable to impose a holiday occupancy condition to any permission, preventing use of any unit as a permanent encampment.
- 9.03 At the 5th December 2019 committee, Members of the committee also considered there to be no grounds to object to the proposal in terms of potential landscape impact, but this was based on the advice that it was not justified to seek more design details of the caravans. Addressing this advice, which the High Court found to be erroneous, this report now sets out the scale, design and appearance of the caravans. With these details being secured by way of appropriate conditions, this must be considered alongside the previously proposed layout, the comprehensive landscaping scheme, and the submitted Visual Impact Assessment (that concludes the proposal will have a minimal impact on the landscape from public vantage points).
- 9.04 With everything considered, and in accordance with the relevant provisions of the Development Plan and the NPPF, it remains the view that the proposal would not result in harm to the appearance of the landscape and the rural character of the countryside hereabouts; and that the proposal is acceptable in terms of all other material planning considerations. A recommendation of approval of this application is therefore made on this basis.

10. Recommendation

Subject to:

The conditions set out below, and the prior completion of a legal agreement to secure the head 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. To remove permitted development rights under Schedule 2, Part 5, Class C, of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), on the 'blue land' as outlined on drawing reference: 04 Rev A received 12th October 2020.

Conditions:

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

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

2. No more than 18 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time;

Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.

3. The development hereby approved shall only be occupied by caravans of a scale, appearance, and design that are in accordance with drawing ref: 06 Rev A; and prior to any caravan being brought onto the application site, the external materials of each caravan shall be submitted to and approved in writing by the local planning authority. The development hereby approved shall be carried out in accordance with the approved details, and shall be in place before being brought onto the site, and maintained as such for the duration of each caravan's time on the site.

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

4. All caravans permitted at the site shall be occupied for bona fide holiday purposes only and no such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names, main home addresses and the duration of stay of all the owners/occupiers of each individually occupied caravan on the site, and this information shall be made available at all reasonable times upon request to the local planning authority. Relevant contact details (name, position, telephone number, email address and postal address) of the operators of the caravan park, who will keep the register and make it available for inspection, shall also be submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to the first occupation of any of the approved caravans with the relevant contact details subsequently kept up to date at all times;

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), and except for what is shown on the approved plans, no fencing, walling and other boundary treatments shall be erected within or around the site;

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

6. If the use hereby approved ceases, all caravans, buildings, structures, hardstanding, and equipment brought on to the land, and all works undertaken to it in connection with the use, shall be removed within 2 months of cessation of the use, and the land shall be restored to its condition before the development took place;

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

7. The finished floor level of the caravans shall be no less than 150mm above surrounding ground levels;

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

8. The development hereby approved shall be carried out in accordance with the submitted hard and soft landscaping scheme, as shown on drawing ref: 05 Rev H.

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.

9. All planting, seeding or turfing and hardstanding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any caravan. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of the site, die or become so seriously damaged or diseased that their long-term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.

10. Prior to the first occupation of any static caravan, all of the fencing (as shown on drawing reference: 05 Rev H) shall be erected and retained as such for the duration of the development hereby approved;

Reason: To protect existing trees, new planting, and ancient woodland; and in the interests of biodiversity.

11. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS5837:2012 has 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 caravans, 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 or within the 15m buffer zone from the ancient woodland (as shown on drawing ref: 05 Rev D); and no alterations shall be made to the siting of the barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site;

Reason: To ensure the protection of existing trees and hedges and to avoid compaction of ground within the 15m buffer zone.

12. The development hereby approved shall not commence 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 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 at a rate of 1.7l/s (unless otherwise agreed with the Local Planning Authority and Lead Local Flood Authority) and 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.

13. Prior to the first occupation of any caravan on the site, details of a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, shall be submitted to and approved by the local planning authority. This report shall demonstrate 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 the National Planning Policy Framework.

14. Prior to the first occupation of any caravan on the site, details of the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal, shall be submitted to and approved in writing by the local planning authority. These details shall include the size of individual cess pits and/or septic tanks and/or other treatment systems, and shall also specify exact locations on site plus any pertinent information as to where each system will discharge to;

Reason: To safeguard against ground/water course pollution, and to protect the interest features of the River Beult Site of Special Scientific Interest and the adjacent Ancient Woodland.

15. Prior to the first occupation of the caravans hereby approved, details of the external lighting scheme (temporary and/or permanent), shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - a) Measures to shield and direct light from light sources so as to prevent light pollution;
 - b) Identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance to routes used to forage and commute;

- c) Show where external lighting will be installed (in accordance with drawing ref: 05 Rev H)
- d) so that it can be clearly demonstrated that areas to be lit will not disturb bat activity.

The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the character and appearance of the countryside and to mitigate against potential adverse effects on bats.

16. Prior to the commencement of the development hereby approved (including site clearance), details of precautionary measures for reptiles and great crested newts (GCN), including habitat manipulation and creating/improving reptile and GCN habitat, shall be submitted to and approved by the local planning authority. The approved details will be implemented prior to the occupation of the caravans and thereafter retained as such thereafter;

Reason: To safeguard protected species.

17. Prior to the commencement of the development hereby approved (including site clearance), a Site Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The SMP shall include details of:

- (a) Routing of construction and delivery vehicles to and from the site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries, with special provision for the proposed caravans
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management/signage

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

Reason: In the interests of highway safety.

18. The vehicle parking spaces and turning facilities as shown shall be permanently retained for parking and turning and shall not be used for any other purpose;

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

19. Any gates at the vehicular access to the site must be set back a minimum of 5 metres from the highway boundary;

Reason: In the interests of highway safety.

20. Prior to the first occupation of the caravans hereby approved, the first 5 metres of the vehicle access from the edge of the highway shall be of a bound surface and shall be maintained as such thereafter;

Reason: In the interests of highway safety.

21. Prior to the first use of the site as a holiday park, details of owl boxes to be installed within the site (to include manufacturer, location, number and height from ground level) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the subsequently approved details, and the owl boxes shall be installed prior to the first use (occupation) of any caravans hereby approved and maintained as such thereafter;

Reason: To protect and enhance biodiversity.

22. The application site shall not be open to touring caravans and motorhomes at any time;

Reason: In the interests of highway safety.

23. Prior to the first occupation of the development hereby approved, there shall be a minimum of two operational electric vehicle charging points on the site for low-emission plug-in vehicles that shall be maintained as such thereafter.

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

24. The development hereby permitted shall be carried out in accordance with the following approved documents/plans references: 06 Rev A received 09/04/21; 05 Rev H received 27/01/21; 0397/21/B/1A received 01/03/21; 04 Rev A received 12.10.20; 2763 01 A received 14/10/19; and Ambient Surface Water Drainage Strategy received 24/10/19;

Reason: For then avoidance of doubt.

Informative(s):

1. In order to protect future occupants at times of flood risk, the applicant is strongly advised to sign up to the Environment Agency's flood warning service prior to the occupation of any caravan on the site. This can be done via the following link:
<https://www.gov.uk/sign-up-for-flood-warnings>
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent and has shown that nesting birds are not present.
3. In terms of lighting and to mitigate against potential adverse effects on bats, the applicant is advised to refer to the Bat Conservation Trust's Bats and Lighting in the UK guidance.
4. Due to changes in legislation that came into force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer now deemed to be public could be crossing the 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.
5. The applicant is advised to consult a local Designing Out Crime Officer (DOCO), or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.
6. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at:

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highwayboundary-enquiries>

7. The applicant is reminded that any additions to the caravans, such as decking and verandas, would then take the caravans out of the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and planning permission would be required for each structure.
8. The applicant/future occupants are reminded that the development permits tourist accommodation only and cannot therefore be used for full time residential occupation. For example, individuals cannot live on the site for 6 months say and then go travelling for 6 months, as essentially this would be their permanent home. Condition 4 requires the caravans to be occupied for bona fide holiday accommodation only and not occupied as a person's sole or main place of residence.
9. Southern Water advise that no new soakaways, swales, ponds, watercourses, associated attenuation tanks or any other surface water retaining or conveying features should be located within 5 metres of a public or adoptable gravity sewer, rising main or water main. For further advice, please contact Southern Water at: SouthernWaterPlanning@southernwater.co.uk

Case Officer: Kathryn Altieri

REFERENCE NO: 19/500271/FULL		
APPLICATION PROPOSAL: Change of use of land for stationing of 18 holiday caravans with associated works including laying of hardstanding and bin store.		
ADDRESS: Oakhurst, Stilebridge Lane, Marden, TN12 9BA		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to planning conditions		
<p>SUMMARY OF REASONS FOR RECOMMENDATION: At 5th Dec 2019 committee, Members of the Planning Committee resolved to grant permission for this application, finding it to be acceptable in terms of its location; residential amenity; highway safety, flood risk; biodiversity; foul and surface water disposal; Ancient Woodland impact; and viability of business, subject to appropriate conditions/informatives.</p> <p>At 5th Dec 2019 committee, Members of committee also found the proposal to be acceptable in terms of its potential landscape impact. However this finding was based, in part, on advice that was subsequently found to be unlawful that the Committee could not require appropriate design details of the lodges to be provided nor exercise planning control over their design, either by deciding whether or not to grant permission, or by the imposition of conditions on any permission.</p> <p>Responding to this error of law, this report now addresses the scale and design of the caravans and the acceptability of these, and it is advised that a suitable condition can be imposed to secure details so as to properly exercise planning control at this planning application stage, notwithstanding the operation of the Caravan Sites and Control of Development Act 1960. With these details secured, this must be considered alongside the previously proposed layout, comprehensive landscaping scheme, and the submitted Visual Impact Assessment (that concludes the proposal will have a minimal impact on the landscape from public vantage points), which Members previously found acceptable.</p> <p>With everything considered, and in accordance with the relevant provisions of the Development Plan and NPPF, it remains the view that the proposal would not result in harm to the appearance of the landscape and the rural character of the countryside hereabouts; and that it is acceptable in terms of all other material planning considerations. A recommendation of approval of this application is therefore made on this basis.</p>		
REASON FOR REFERRAL TO COMMITTEE: On 15 th July 2020, the High Court: <i>R (Patricia Shave) v Maidstone Borough Council v Mr and Mrs P Body [2020] EWHC 1895 (Admin)</i> , quashed the planning permission that was issued on 13 th December 2019. This application needs to be reconsidered by the Members of Planning Committee, as outlined in the report below.		
WARD: Marden & Yalding	PARISH COUNCIL: Marden	APPLICANT: Mr & Mrs P Body AGENT: Graham Simpkin
TARGET DECISION DATE: 30/11/20		PUBLICITY EXPIRY DATE: 05/11/20

Attached to this Committee report are the following appendices:

APPENDIX A:	Planning Committee report for 5 th December 2019
APPENDIX B:	Urgent update for 5 th December 2019 Planning Committee
APPENDIX C:	Planning Committee report for 30 th May 2019
APPENDIX D:	Urgent update for 30 th May 2019 Planning Committee
APPENDIX E:	Planning Committee Minutes for both Committees referenced

MAIN REPORT

1.0 BACKGROUND INFORMATION

- 1.01 This planning application was first presented to Planning Committee on 30th May 2019 and at this Committee, Members resolved to defer the application for the reasons as set out in APPENDIX E (published Minutes).

1.02 The applicant subsequently submitted the following information:

- Amended site location plan reducing the area of the planning unit
- Amended layout plan showing proposed caravans and associated works kept to the western (roadside) half of the site. Layout has reduced number of caravans to 18 instead of 20; and it shows an extension of new planting along the southern and northern boundaries
- Written statement responding to certain issues raised by Members
- Visual Impact Assessment (VIA)
- Business Plan
- Updated Surface Water Drainage Strategy

1.03 The application was then reported back to Planning Committee on 5th December 2019 and Members resolved to grant planning permission and the decision was issued on 13th December 2019.

1.04 On 15th July 2020, the High Court Judgement: *R (Patricia Shave) v Maidstone Borough Council v Mr and Mrs P Body [2020] EWHC 1895 (Admin)*, quashed this decision. Paragraph 66 of the High Court decision states:

The claim is allowed but only on the single legal error I have identified as to the power of the planning authority to control design. I reject all the other grounds advanced. The upshot is that the grant of planning permission dated 13th Dec 2019 must be quashed.

1.05 The 'single legal error', is in terms of design and is discussed in paragraphs 39-55 of the High Court decision. Of particular note:

Para 44 - *It is plain that there was some concern within the Planning Committee about the details of the design. At the meeting on 30 May 2019 the members resolved to defer their consideration of the application, so that details not only of the "actual layout" but also of the "scale and design parameters" could be obtained. The only information on that subject which was provided in the officer's report to the committee's meeting on 5 December 2019 was summarised in paragraphs 3.05 and 3.06 (quoted in paragraph 17 above). The members were told:-*

- (i) Maximum size of each lodge, reflecting the definition in s.13 of Caravan Sites Act 1968;*
- (ii) That it was not justified for the planning authority to seek more details of the lodges because planning permission was only required for the change of use of the land to station or accommodate the lodges for holiday purposes; and*
- (iii) That planning permission would be required for any additions to the lodges as defined in (i) above, for example, decking or verandas.*

Paras 45 & 46 - *Points (i) and (iii) had previously been set out in paragraph 2.02 of the officer's report to the committee meeting on 30 May 2019 and so plainly would have been taken into account by them when they asked for future information on design. In any event, strictly speaking point (iii) was irrelevant to the application which was before the members, the scope of which was defined by point (i). It was the design of the development the subject of the application about which the members sought more information. It was therefore solely point (ii) which sought to explain why that information was not being provided. In effect, the committee was told that it could not control design beyond the dimensions given in paragraph 3.05 of the officer's report when determining the planning application for the proposed change of use.*

Para 48 - *I have reached the firm conclusion that point (ii) involved an error of law. The nature of the planning application before the council did not prevent the authority from exercising further planning control over the design of the proposed holiday lodges.*

Para 55 - *Accordingly, it was an error of law for the Committee to be advised that the planning authority could not require appropriate design details to be provided, and so could not exercise planning controls in relation to the design of the lodges, by deciding whether or not to grant permission or by the imposition of conditions on any permission.*

2.0 UP TO DATE POSITION OF APPLICATION

- 2.01 In light of the decision being quashed by the High Court, Members are now required to reconsider the application afresh, the legal error about the design of the lodges having been corrected. This report will therefore address this issue of design, and Members should be made aware that there is now proposed the ability to control the design of the caravans in planning terms. The report will also assess the previous reasons for deferral (in May 2019) and all other relevant planning matters.
- 2.02 For clarity, the relevant plans/documents for this proposal are:
- Drawing ref: 2763 01 Rev A (received 14.10.19) showing reduced area of planning unit
 - Drawing ref: 04 Rev A (received 12.10.20) showing reduced area of planning unit
 - Drawing ref: 05 Rev F (received 12.10.20) showing layout of 18 caravans and extension of new planting along southern and northern boundaries
 - Written agent statements responding to certain issues (Sept 2019 & Sept 2020)
 - Visual Impact Assessment (received 23.10.19)
 - Business Plan (received 24.09.19)
 - Updated Surface Water Drainage Strategy (ref: 4957_3731 SWDS – Oct 2019)
 - Flood Risk Assessment (ref: 3731 FRA – June 2018)
 - Ambient Environmental Assessment letter dated 13/02/19
 - Design & Access Statement (dated: Jan 2019)
 - Ecological Scoping Survey (March 2018)
 - Reptile Survey and Bat Tree Assessment Report (Oct 2018)
 - Great Crested Newt Risk Assessment (June 2018)
- 2.03 The agent has confirmed the plans are accurate and reflect the location of the existing (retained) access, as well as making clear as to the extent of the site outline. Furthermore, the agent's response to the High Court decision states that the applicant provided references to the intended design of lodges in para 4.4 of D&A Statement, specifically the use of weatherboarding with wood stained finish; and they believe the decision is clear that the design of the lodges can be controlled by condition. The applicant has no objection to placing further control on the design of lodges by seeking details prior to the commencement of works.

3.0 PERMITTED DEVELOPMENT RIGHTS

- 3.01 Paragraph 61 of the High Court decision states:

The Claimant complains that paragraph 6.01 of the report to the Committee meeting on 30 May 2019 advised members that the site had permitted development rights for use as a camping site for up to 28 days in any year. It is pointed out by the Claimant that this right does not apply to the use of land as a caravan site. But the short answer is that the report did not suggest otherwise. It is impossible to say that the report was misleading, let alone significantly misleading in some way which was material to the decision. Ms. Olley was entirely right not to place any emphasis on this point.*

**This is an error - the paragraph being referred to is 6.05 of 30th May committee report*

4.0 CONSULTATION RESPONSES

- 4.01 A summary of the original consultation responses can be found in APPENDIX C to this report. The following is a summary of the responses received after this application was deferred in May 2019 and those received following public re-consultation on 15th October 2020. Responses will be discussed in more detail further on in this report where considered necessary.

	RESPONSES RECEIVED AFTER DEFERRAL IN MAY 2019	RESPONSES RECEIVED AFTER OCT 2020 RECONSULTATION
Local residents	<p>10 received raising concerns over:</p> <ul style="list-style-type: none"> - Impact upon character of area - Flood risk - Surface water/foul sewage disposal - Inaccuracy of submitted plans - Validity of submitted Business Plan - Location not appropriate for proposed use/no demand for tourist use here - Potential development to east half of site - Site to be used as permanent residential - Highway safety/traffic generation - Biodiversity impacts 	<p>15 received raising concerns over:</p> <ul style="list-style-type: none"> - Site not used by touring caravans - Highway safety/traffic generation - Flood risk/foul water disposal - Visual/landscape harm (inc. design) - No requirement for development - Impact on residential amenity - Site to be used as permanent residential - Unsustainable development - Biodiversity impacts - No employment benefit - Should be refused due to HC decision - Inaccurate plans - Impact: Ancient Woodland & SSSI

	RESPONSES RECEIVED AFTER DEFERRAL IN MAY 2019	RESPONSES RECEIVED AFTER OCT 2020 RECONSULTATION
Cllr Burton	No further comments received.	No further comments received.
Marden Parish Council	<p>Wish for application to be refused as:</p> <ul style="list-style-type: none"> - Residents expressed concern relating to water run-off/flooding risk - Site in flood zone ½, on narrow country lane known to flood - Business Plan does not appear robust to support application - Development contrary to DM38 	<p>Wish for application to be refused as:</p> <ul style="list-style-type: none"> - Local residents express concern relating to water run-off and flooding risk – Site is in flood zone 2. - Site entrance on narrow country lane and known to flood. - Business Plan not robust to support development – contrary to Policy DM38.
KCC Highways	Has no further comment to make.	Resident concerns over perceived use of site is acknowledged. However, we must assume existing worst case scenario, and feasibly site could be at maximum capacity under its license tomorrow and that would be perfectly permissible. We could not realistically sustain objection on anecdotal evidence of site being rarely used. In any case, holiday lets typically generate fewer vehicle movements than dwellings, and I would not expect proposal to generate significant number of car movements that could be considered to have severe or detrimental impact on highway safety on Stilebridge Lane or junctions that serve it. On balance I do not believe we have any further cause to object.
Env Agency	Has no further comment to make.	Has no further comment to make.
Env Protect Team	Has no further comment to make.	Continue to raise no objection.
KCC SUDS	Raise no objection subject to previously recommended conditions.	Has no further comment to make.
Landscape Officer	Raise no objection.	Original comments remain unchanged. In terms of JR, issues relating to design matters are not something normally commented on except in relation to visual/landscape character. In that context, I can only reiterate that extensive, large scale or visually intrusive

		development would be inappropriate; development should respect local vernacular in scale, density & materials; & cited specific landscape character attributes should be conserved/enhanced.
Biodiversity Officer	Advises sufficient info has been provided to determine application.	Previous response remains relevant and has no further comment to make.
Natural England	Continues to raise no objection.	Continues to raise no objection.
Agriculture Advisor	Has no further comment to make.	No further comments received.
Southern Water	Previous comments remain unchanged and valid – No objection raised.	Previous comments remain unchanged and valid – No objection raised.
Kent Police	Extended planting zone & new native hedgerow will offer additional defensive planting once established – Previous comments remained valid.	Has no additional comment to make.
Upper Medway Internal Drainage Board		No representations received.
Scottish Gas		No representations received.
UK Power Networks		Raise no objection.

5.0 LANDSCAPE IMPACT, LAYOUT, SCALE AND DESIGN

Landscape impact

- 5.01 In this respect, paragraphs 6.07 to 6.11 of the committee report presented on 30th May 2019 remains relevant and states:

6.07 - *Within the Maidstone Landscape Capacity Study: Sensitivity Assessment, the proposal site is in the Staplehurst Low Weald landscape character area (44) that is considered to be sensitive to change. This assessment also states that development in this area could support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.*

6.08 - *It is accepted that the proposal would change the character of what is an open field. However, the site benefits from a mature, well-established hedgerow to the roadside boundary; the southern boundary also benefits from a well-established hedge and several individual trees; and the eastern (rear) boundary is entirely enclosed by Ancient Woodland. To the north, the site is largely screened by Oakhurst and its associated outbuildings; existing hedgerows; and by more Ancient Woodland and Stilebridge Caravan Park. In general terms, the surrounding road network is also lined with hedges/trees; existing built development provides some screening; and no public footpath comes within 200m of the proposal site. As such, it is considered that views of the proposal would be limited to short range views, particularly when passing the site along Stilebridge Lane; and any medium to long distance views of the development from any other public vantage point would be glimpsed.*

6.09 - *To further safeguard the character and appearance of the countryside, a suitable condition will also be imposed to secure the retention of the existing hedgerows along the southern and western boundaries of the site; for the retention of the existing trees within the site, as shown on the submitted plan; for further native planting within the 15m buffer zone to the ancient woodland; and for a mixed native hedge to be planted along the northern boundary of the site.*

6.10 - *In accordance with the Maidstone Landscape Capacity Study, the proposal would conserve the existing Oak trees on the site; the landscaping scheme would seek new Oak tree planting; and existing hedgerows would be retained. External lighting could also be appropriately controlled by way of condition.*

6.11 - *It is therefore considered that the proposal would not appear prominent or visually intrusive in a landscape that is sensitive to change, and would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.*

- 5.02 The submitted Visual Impact Assessment (VIA) concludes that the proposal would have a minimal impact on the landscape from public vantage points, and this conclusion is agreed with. The Landscape Officer is also satisfied that the VIA is an appropriate level study for this proposal. Whilst some of the landscape details in the VIA are not up to date, as it is not intended to be a full LVIA and only an assessment of public viewpoints, the Landscape Officer considers it to be an acceptable submission on this basis.
- 5.03 Furthermore, the Landscape Officer commented on the amended plans in November 2019 that: *Proposed soft landscaping is an improvement on original scheme with introduction of landscaped & extended native buffer to Ancient Woodland & new native hedgerow planting.* The proposed landscaping remains unchanged and will be secured by way of condition. In addition, the amended layout further safeguards the visual amenity of the countryside, by keeping the static caravans and associated built works away from the rearmost part of the site, where the land level does rise; by reducing the number of caravans; and by showing a more comprehensive landscaping scheme (as explained above) to further mitigate the visual impact of the development.

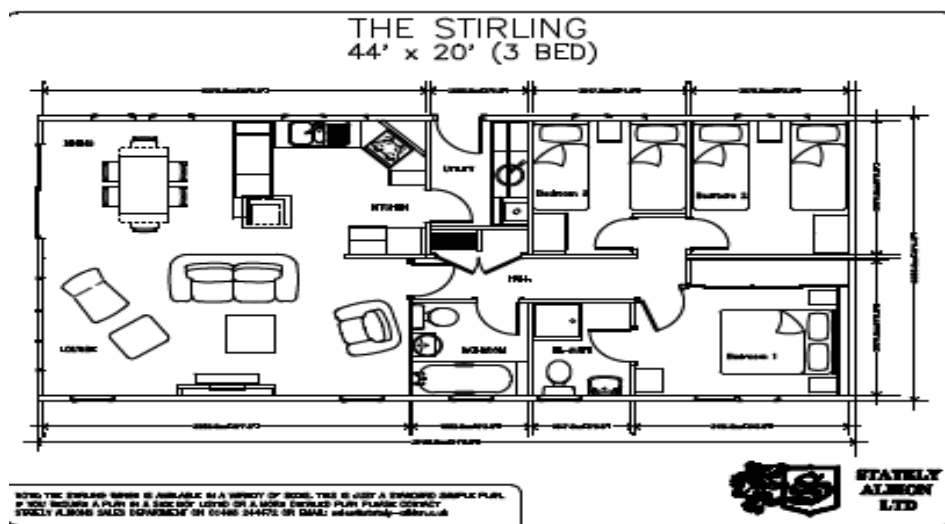
Layout

- 5.04 The submitted plans show the proposed layout, including the location of the 18 static caravans (and not 20 caravans as previously proposed); the hardstanding/parking; the bin store location; retained and new landscaping; and where external lighting will be positioned. The application site has also been reduced in size (from 2ha to 1.18ha), with the paddock area to the east no longer part of the proposal.
- 5.05 To be clear, any future development outside the red outline would require planning permission. The proposed layout would now restrict development to the front of the site, preventing the sprawl of development across the site and retaining a sense of openness at the rear. The level of hardstanding has been restricted to the access road and the caravan bases, with all parking areas being of grasscrete to further soften the appearance of the development. The layout also provides a significant buffer from the proposal to the Ancient Woodland beyond (over 65m away). For these reasons, the layout is considered to be acceptable.
- 5.06 No details of a lighting strategy have been submitted. However, the agent has confirmed the location of the external lighting and stated that it would be of low level lighting bollards (125mm high). The Environmental Protection Team and the Biodiversity Officer continue to raise no objection on this matter, and there is no reasonable justification to refuse the application on this basis. As previously recommended, and to safeguard the character and appearance of the countryside, as well as to mitigate against the potential adverse effects on bats, specific details of external lighting can be appropriately controlled by way of condition.

Scale and design parameters

- 5.07 It remains the case that the static caravans proposed will be within the lawful definition of a caravan as set out under Section 29 of the Caravan Sites and Control of Development Act 1960. For reference, a caravan under this definition can be up to 20m in length and 6.8m in width; with the overall internal head height being 3.05m.

- 5.08 The sole reason why the previous decision was quashed was because Members were previously advised it was not justified for the local planning authority to seek more design details of the caravans because planning permission was only required for the change of use of the land to station or accommodate them for holiday purposes. The High Court decision found that this advice amounted to an error of law and the Committee should not have been advised that they could not require design details or exercise planning control over the design of proposed caravans.
- 5.09 This single error of law will now be considered. The applicant has chosen not to submit specific design details of each caravan at this stage, as such details are unknown to them. Indeed, for example five of the caravans will be sold to private owners who will reasonably want to select their own caravans. Notwithstanding this, the agent has submitted an **indicative** caravan layout (relating to a 3-bed 'Stirling Lodge' (measuring 13.4m x 6.1m); and a 3D drawing of a 2-bed 'Stirling Lodge' (measuring 11.5m x 6.1m), to give an idea of the design, scale and appearance of the caravans. This detail is shown below. Furthermore, in general terms the agent has confirmed that all caravans will be clad in weatherboarding with a wood stained finish. This choice of external finish is considered to be traditional and subdued, and in keeping with the rural context of the site; and with the benefit of existing and proposed planting, the caravans would blend into the landscape and would not appear so visually incongruous or dominant from any public vantage point as to warrant refusal.



- 5.10 To safeguard the scale and appearance of the caravans, in terms of securing the weatherboarding cladding (and appropriate finish), an appropriate condition will be imposed; and this is agreeable to the applicant. This is considered to be an acceptable approach, and in line with the High Court decision where it states:

*Para 53 - Mr. Atkinson referred to Esdell Caravan Parks Limited v Hemel Hempstead Rural District Council [1966] 1 QB 895 for the analysis by the Court of Appeal of the overlapping nature of the controls available under planning legislation and the 1960 Act. But there is no authority, nor is there anything in the legislation, to support the proposition that design (other than overall dimensions) cannot be taken into account and controlled when determining an application for planning permission to allow land to be used for the stationing of "caravans", whether by refusing it **or by granting it subject to the imposition of conditions on the permission.***

*Para 55 - Accordingly, it was an error of law for the Committee to be advised that the planning authority could not require appropriate design details to be provided, and so could not exercise planning controls in relation to the design of the lodges, by deciding whether or not to grant permission **or by the imposition of conditions on any permission.***

Summary

- 5.11 The Landscape Officer reiterates that extensive, large scale, or visually intrusive development would be inappropriate here; that development should respect local vernacular in scale, density & materials; and that cited specific landscape character attributes should be conserved/enhanced.

- 5.12 It is understood how many caravans there will be on the site; where they will be located; and what scale they will be. It is also known that the caravans will be clad in weatherboard with a timber stain, and that this appearance can be secured by way of an appropriate condition and retained for the lifetime of the development. Furthermore, the recommended landscaping condition will ensure the retention of the existing hedgerows along the western and southern boundaries of site; the planting of new trees (including Oak); the retention of existing trees (including Oak); and the planting of new mixed native hedgerows. The proposal also conserves the existing field pattern. This would be in accordance with the Council's Landscape Character Area guidelines for the Staplehurst Low Weald Area (44), which advises (inter alia):

- New development should respect local vernacular in scale, density and materials
- Conserve abundance of oak as dominant species, and plant new oaks within pasture
- Conserve & enhance hedgerows, ensuring they are correctly managed and gaps replanted
- Conserve & enhance small scale field pattern and sense of enclosure
- Encourage native hedgerows around commercial developments

- 5.13 For the reasoning set out in the 30th May 2019 committee report along with the additional considerations as stated above, the layout, scale and design of the proposal is considered to respect the local vernacular of the area; the positive attributes of this landscape character area would be conserved and enhanced; and it remains the view that the proposal would not appear cramped, prominent or visually intrusive. As such, it is considered that the proposal would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.

6.0 OTHER MATTERS STILL RELEVANT

Further details of landscaping and ecological enhancements

- 6.01 As set out in the committee report for 30th May 2019 committee, the Biodiversity Officer has advised that sufficient information has been provided to determine the planning application; and they continue to raise no objection to the proposal in biodiversity terms (subject to appropriate conditions as previously recommended in

terms of external lighting, precautionary measures for reptiles and Great Crested Newts, and ecological enhancements).

- 6.02 As well as the already proposed additional planting along the 15m buffer to the Ancient Woodland, the proposal has now removed the eastern part of the site from the application, and it has extended the area of new planting along the southern boundary of the site. The now removed paddock to the east of the site, and this new planting will be managed by appropriate timber post and rail fencing to deter public access in this area. This not only goes above and beyond what is required to protect the adjacent Ancient Woodland, but creates a wildlife corridor around the boundary that also extend westwards to provide a habitat link to the pond and ditch network on the road frontage. With the planted buffer zone along the eastern and southern boundaries, the retained front boundary hedge, and the new native hedge along the northern boundary, the connectivity around the whole site for wildlife is a significant enhancement. The proposal also continues to include the retention of the mature Oak trees close to the southern boundary, and the recommended landscaping condition will help secure their retention. The Landscape Officer is also of the view that the proposed soft landscaping is an improvement on the original scheme.

Viability of proposal

- 6.03 Whilst relevant policy and guidance does not require applicants to set out the future commercial viability of such a proposal, key points taken from the submitted Business Plan are as follows:
- 5 caravans will be sold to private owners in order to recoup capital spend
 - 13 caravans will be owned and operated as hire fleet by site owner
 - Caravans to be sold on 50yr leasehold for which there will be annual service charges of £3,000 per caravan (to cover maintenance and management)
 - Layout will be in accordance with fire regulations and site licencing
 - In terms of marketing and managing, site owners will be assisted by Hoseasons
 - Visit Britain believes tourism sector will grow at annual rate of 3.8% through to 2025
 - Holiday parks had strong years of trading given improvements in wider economy
- 6.04 Furthermore, in terms of the local market, the Business Plan argues that within Kent there is an obvious demand for tourist facilities. The proposal site is in proximity to Tunbridge Wells, Tonbridge and Maidstone that all have their own draw; the site is also close enough for visitors to explore the High Weald AONB and the Kent Downs AONB if they so wish; and there is also a wide range of outdoor leisure activities in the locality, such as golf courses; public rights of way; fishing; horse riding facilities etc. The Business Plan also understands there to be limited sites in close proximity to the proposal site that offers high quality self-catering accommodation. The Business Plan then calculates development potential over a 3yr period, and this predicts a capital return on development in 2yrs, with the annual rental income for the site being circa. £375,000 once established by year 3. There is no clear evidence to dispute the findings of the Business Plan and it is considered unreasonable to object to the proposal on these grounds, particularly when applicants are not required in policy terms to set out the future viability of such tourist uses in the countryside.
- 6.05 It should be stressed again that Local Plan policy seeks to support small scale employment opportunities to help the rural economy (be it for individuals or larger businesses where other staff are employed), including holiday caravan sites (subject to certain criteria); and the Council is committed to supporting and improving the economy of the borough and providing for the needs of businesses, by supporting the expansion of existing tourism related businesses in the countryside.

Sustainability in terms of location

6.06 Paragraph 3.16 of the 5th December 2019 Committee report stated:

The site is also not considered to be so unsustainable, in terms of its location, given that it is only some 0.5miles from the A229; and the NPPF does state that planning decisions should recognise that sites to meet local business in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. The NPPF is also clear that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside, which this proposal is considered to do.

6.07 The view remains that the proposal is not objectionable on location grounds; and for reference, the submitted criticisms of this matter was rejected by The Honourable Mr Justice Holgate and relevant references to the High Court decision are set out:

Paras 34 - The fact that one councillor happened to say during the committee's debate "we haven't looked at the sustainability of this site" would appear to be referable to that person's view on the discussion on that topic which had so far taken place during the meeting. It certainly could not be taken as an indication of any lack of understanding on the part of members about the principles of sustainable development. Nor could it be treated as a valid criticism of the officer's reports, because paragraph 3.16 of the report to the meeting on 5 December 2019 did address sustainability:-

"The site is also not considered to be so unsustainable, in terms of its location, given that it is only some 0.5miles from the A229; and the NPPF does state that planning decisions should recognise that sites to meet local business in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. The NPPF is also clear that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside, which this proposal is considered to do."

Para 35 and 36 - Paragraph 40 of the Claimant's skeleton complains that the officers misled members of the committee into thinking that a permanent development could be "sited anywhere in the countryside, whereas policy expects such sites to be adjacent to or well related to a sustainable settlement." That is a most unfair reading of the officer's report. It did not do any such thing. It adequately and fairly summarised the broad effect of the NPPF, including the reference to development sometimes being located "beyond existing settlements", something which the criticism in paragraph 40 of the Claimant's skeleton overlooks. There was no legal requirement for the report to refer also to the types of development which is encouraged in the last sentence of paragraph 84 of the NPPF, "where suitable opportunities exist." Unfortunately, this and other complaints raised typify the excessively legalistic criticism of officer's reports which is deprecated in many of the authorities. Furthermore paragraph 3.16 should not be read in isolation, but in the context of the further information which on 30 May 2019 the committee resolved to seek and which was subsequently provided. Such matters were summarised in paragraph 3.14 of the officer's report to the meeting on 5 December 2019. Sustainability takes into account the nature of the development proposed.

Paras 37 - There is no merit at all in the complaint that the officer's report was inconsistent with the officer's delegated decision to refuse permission on 6 December 2019 for an application at Romany Stables at another location off Stilebridge Lane for permission to expand a traveller site, on the basis that that location was not sustainable. In her oral submissions Ms. Olley said that she was not trying to rely on the consistency principle in North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137, yet that is precisely what paragraph 40 of her skeleton alleged. If that was not the point, it is difficult to see what other legal error could have been pursued. The short point is that the Romany Stable proposal was for a form of permanent residential occupation and the report stated that the location would have been treated as being sufficiently sustainable if the intended occupants had had "gypsy and traveller status", but it was determined that they did not. This was not a comparable set of circumstances engaging the consistency principle.

Para 38 - For all these reasons the complaints in relation to the treatment of sustainability must be rejected.

Highway safety

- 6.08 The submission has confirmed the layout of the static caravans, and has seen a reduction in the number of static caravans on the site to 18 from that originally submitted. The Highways Authority has reviewed the new information, considered what is possible in terms of permitted development rights, and continues to raise no objection on highway safety grounds, subject to the retention of the shown turning area and the imposition of their previously recommended conditions.

- 6.09 It should be noted here that paragraph 65 of the High Court decision states:

Although, it forms no part of the challenge, or indeed my decision, I have also noted paragraph 6.13 of the officer's report to the meeting on 5 December 2019. The highways authority considered that a significant factor in favour of the proposal was that it was for lodges in situ and so there would no longer be touring caravans going to and from the site. This reflects a point relied upon by the developer in the Design Access and Planning Statement. The highway authority envisaged that a condition would be imposed to ensure that the "caravans" to be stationed on site would exclude the "touring" variety and be restricted to lodges. So far as I can see that was not reflected in the permission granted and so the quashing of the decision will enable the control of that aspect to be considered as well.

- 6.10 At Planning Committee on 5th December 2019, it was resolved to delete such a condition given the reduction of the red line boundary to the application site. On reflection, restricting touring caravans on the site is considered to be in the interests of highway safety.

Environmental Impact Assessment (EIA) development

- 6.11 The proposal falls within Schedule 2 of the EIA Regulations 2017. As previously confirmed, a Screening Opinion has been adopted on behalf of Maidstone Borough Council on 3rd December 2019 and an EIA is not required for the development. The submitted criticisms surrounding this issue were rejected by The Honourable Mr Justice Holgate and relevant references in the High Court decision are set out:

Para 23 - On 3 December 2019 duly authorised officers issued a screening opinion that the harm from the proposal "is considered to be localised and... therefore... the development is not so significant or wide ranging as to warrant an ES". Ms. Olley confirmed that the Claimant does not challenge the legality of that opinion or suggest that there has been any breach of the 2017 Regulations. The fact that the negative screening opinion was not issued until 3 December 2019 does not give rise to any error of law.

Para 24 - Ms. Olley drew attention to paragraph 6.27 of the officer's report in May 2019, which stated that "the proposal is not Environmental Impact Assessment development." She pointed out that no screening opinion had been issued at that stage, but accepted that that statement in the officer's report did not vitiate MBC's decisions in December 2019 to grant planning permission. The key point is that the requirements of the 2017 Regulations for a lawful screening decision to be made were satisfied by 3 December 2019, before the decision to grant planning permission was taken and the decision notice issued.

Paras 25 - Ms. Olley pointed to the "urgent update" provided to the Planning Committee for its meeting on 5 December 2019 which stated that a negative screening opinion had been adopted on behalf of MBC. She pointed out that the Council's pre-action protocol response dated 6 January 2020 had incorrectly said that the screening opinion had been put before members, whereas in fact they had been told nothing more than that a negative screening opinion had been issued. But Ms. Olley accepted that there was no legal requirement for the members to be given any details about the screening opinion. This was a delegated decision for officers to take and, as the Claimant accepted, that decision is not open to legal criticism. The error in the letter of 6 January 2020 is unfortunate, but, as Ms. Olley accepts, does not render the grant of permission unlawful. Ultimately, she made, as I understood it, a generalised assertion that there had been a public law error because of the manner in which this aspect had been reported to members. In my judgment it is impossible to say that the members were misled in any relevant, let alone any significant way which could possibly have

affected their determination of the application for planning permission, applying the principles set out in [28] below.

Para 26 - *Ground 1 must be rejected.*

Miscellaneous

- 6.12 There also remains no objection to the proposal in terms of residential amenity, for the reasons previously set out in the 30th May 2019 committee report. In terms of flood risk and surface water drainage, the finished floor levels of the caravans in Flood Zone 2 will still be raised 150mm above surrounding ground levels. To clarify, KCC as the Lead Local Flood Authority, has reviewed the amended Surface Water Drainage Strategy Report by 'Ambiental' (dated Oct 2019) which updates the strategy to reflect the proposed layout, and they have no objections to make subject to the previously recommended conditions that have been duly recommended. All other matters addressed in paragraphs 6.25-6.27 of 30th May Committee report remain relevant; and to clarify, a condition has been recommended to seek details of the proposed method of foul sewage treatment prior to the occupation of any caravan.
- 6.13 The representations received from Marden Parish Council and local residents, as a result of re-consultation, have been considered in the assessment of this application. It should be noted here that the proposal has been considered on its own merits, based on the submission for tourism use. If approved and there is a reported breach of the permission, then it would be a matter for the Planning Enforcement Team to investigate at that time.

7.0 CONDITIONS AND HEADS OF TERMS

- 7.01 The submitted criticisms relating to the imposed holiday occupation condition was rejected by The Honourable Mr Justice Holgate, as set out in paragraphs 59 and 60 of the High Court Decision which state:

Para 59 - Ms. Olley stated that she was not contending that the condition was legally uncertain. Instead, she maintained that the condition was irrational and the officer's report misled the members about its effect.

Para 60 - There is no merit in these arguments. The condition did not need to define "holiday" or duration of stay in order to avoid irrationality or to be otherwise lawful. It is impossible to say that condition 3 fails the third test of validity set out in Newbury District Council v Secretary of State for the Environment [1981] AC 578, namely that it is so unreasonable that no reasonable planning authority could have imposed it. The condition makes it clear that no lodge may be occupied as the sole or main residence of the occupier. An occupier must reside wholly or mainly elsewhere. The register provides a suitable mechanism to enable the local authority to check on compliance with the condition and take enforcement action.

- 7.02 Please note that this holiday occupation condition, and those conditions (and informatives) as previously imposed are still recommended, including the following as resolved by the planning Committee on 5th December 2019:
- *Further amendment of condition 3 (originally condition 4) (Holiday Occupancy) to include mechanism to effectively record use of the caravans;*
 - *Add condition requiring provision of owl boxes to protect/enhance biodiversity; and*
 - *Add informative reminding applicant/future occupiers this is tourist not permanent residential development and explaining that it cannot be for full time residential occupation.*
- 7.03 Furthermore, for the reasons set out above, further conditions are also recommended to restrict touring caravans using the site; and to control the design/appearance of the caravans on the site.

- 7.04 The applicant has also voluntarily agreed to enter into a legal agreement that removes permitted development rights under Schedule 2, Part 5, Class C, of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), on the 'blue land' as outlined on drawing reference: 04 Rev A received 12th October 2020.

8.0 CONCLUSION

- 8.01 Since the deferral of this application at committee on 30th May 2019, the proposal site area has been significantly reduced (with layout, surfacing, and lighting shown); the number of caravans proposed has been reduced from 20 to 18; the proposal has shown more landscaping, provided a Visual Impact Assessment, and addressed the issue of Ancient Woodland protection; and a Business Plan has been submitted.
- 8.02 At the 5th December 2019 committee, Members of the Planning Committee resolved to grant permission of the application, considering there to be no grounds to object to the proposal in terms of its location; residential amenity; highway safety, flood risk; biodiversity; foul and surface water disposal; Ancient Woodland impact; the viability of the business, subject to appropriate conditions/informatives. This resolution to grant planning permission is still material and as it stands, there is considered to be no reasonable justification to refuse planning permission. Furthermore, it still remains acceptable to impose a holiday occupancy condition to any permission, preventing use of any unit as a permanent encampment.
- 8.03 At the 5th December 2019 committee, Members of the committee also considered there to be no grounds to object to the proposal in terms of potential landscape impact, but this was based on the advice that it was not justified for them to seek more design details of the caravans. Addressing this advice, which the High Court found to be erroneous, this report now sets out the scale and design parameters of the caravans and the acceptability of these parameters, and it is advised that a suitable condition can be imposed to secure these details. With these details secured, this must be considered alongside the previously proposed layout, comprehensive landscaping scheme, and the submitted Visual Impact Assessment (that concludes the proposal will have a minimal impact on the landscape from public vantage points) .
- 8.04 With everything considered, and in accordance with the relevant provisions of the Development Plan and the NPPF, it remains the view that the proposal would not result in harm to the appearance of the landscape and the rural character of the countryside hereabouts; and that the proposal is acceptable in terms of all other material planning considerations. A recommendation of approval of this application is therefore made on this basis.

8.0 RECOMMENDATION:

Subject to:

The conditions set out below, and the prior completion of a legal agreement to secure the head 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. To remove permitted development rights under Schedule 2, Part 5, Class C, of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), on the 'blue land' as outlined on drawing reference: 04 Rev A received 12th October 2020.

Conditions:

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

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

2. No more than 18 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time;

Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.

3. Prior to any caravan being brought onto the application site, the scale, appearance, and design details of each caravan shall be submitted to and approved in writing by the local planning authority. These details shall demonstrate that each caravan meets the legal definition of a caravan, as defined in Section 29 of the Caravan Sites and Control of Development Act 1960; and that each caravan will be timber clad and dark stained. The development hereby approved shall be carried out in accordance with the approved details, and shall be in place before being brought onto the site, and maintained as such for the duration of its time on the site.

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

4. All caravans permitted at the site shall be occupied for bona fide holiday purposes only and no such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names, main home addresses and the duration of stay of all the owners/occupiers of each individually occupied caravan on the site, and this information shall be made available at all reasonable times upon request to the local planning authority. Relevant contact details (name, position, telephone number, email address and postal address) of the operators of the caravan park, who will keep the register and make it available for inspection, shall also be submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to the first occupation of any of the approved caravans with the relevant contact details subsequently kept up to date at all times;

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), and except for what is shown on the approved plans, no fencing, walling and other boundary treatments shall be erected within or around the site;

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

6. If the use hereby approved ceases, all caravans, buildings, structures, hardstanding, and equipment brought on to the land, and all works undertaken to it in connection with the use, shall be removed within 2 months of cessation of the use, and the land shall be restored to its condition before the development took place;

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

7. The finished floor level of the caravans shall be no less than 150mm above surrounding ground levels;

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

8. In accordance with drawing ref: 05 Rev F, and prior to the first occupation of any caravan on the site, details of a scheme of hard and soft landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and long-term management, shall be submitted to and approved in writing by the Local Planning Authority. The site falls within Landscape Area 44 (Staplehurst Low Weald), and the landscaping scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment (2012) and shall include:

- a) Location, species (to include Oak) and size of all new native trees and shrubs to be planted within the 15m buffer zone to the ancient woodland and the extended planting zone as shown on submitted plans;
- b) Retention of existing hedgerows along western and southern boundaries of site;
- c) Retention of existing trees within site as shown on the submitted plans;
- d) Details of a mixed native hedgerow that includes Hazel, to be planted in a double staggered row (45cm between plants in row and 30cm between rows) along the northern boundary of site;
- e) Details of grasscrete and how it would be laid for all of the parking spaces on site.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any caravan. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of a property, die or become so seriously damaged or diseased that their long-term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of ancient woodland.

10. Prior to the first occupation of any static caravan, all of the fencing (as shown on drawing reference: 05 Rev F) shall be erected and retained as such for the duration of the development hereby approved;

Reason: To protect existing trees, new planting, and ancient woodland; and in the interests of biodiversity.

11. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS5837:2012 has 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 caravans, 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 or within the 15m buffer zone from the ancient woodland (as shown on drawing ref: 05 Rev D); and no alterations shall be made to the siting of the barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site;

Reason: To ensure the protection of existing trees and hedges and to avoid compaction of ground within the 15m buffer zone.

12. The development hereby approved shall not commence 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 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 at a rate of 1.7l/s (unless otherwise agreed with the Local Planning Authority and Lead Local Flood Authority) and 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.

13. Prior to the first occupation of any caravan on the site, details of a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, shall be submitted to and approved by the local planning authority. This report shall demonstrate 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 the National Planning Policy Framework.

14. Prior to the first occupation of any caravan on the site, details of the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal, shall be submitted to and approved in writing by the local planning authority. These details shall include the size of individual cess pits and/or septic tanks and/or other treatment systems, and shall also specify exact locations on site plus any pertinent information as to where each system will discharge to;

Reason: To safeguard against ground/water course pollution, and to protect the interest features of the River Beult Site of Special Scientific Interest and the adjacent Ancient Woodland.

15. Prior to the first occupation of the caravans hereby approved, details of the external lighting scheme (temporary and/or permanent), shall be submitted to and approved in writing by the local planning authority. These details shall include:

- a) Measures to shield and direct light from light sources so as to prevent light pollution;
- b) Identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance to routes used to forage and commute;
- c) Show where external lighting will be installed (in accordance with drawing ref: 05 Rev F)
- d) so that it can be clearly demonstrated that areas to be lit will not disturb bat activity.

The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the character and appearance of the countryside and to mitigate against potential adverse effects on bats.

16. Prior to the commencement of the development hereby approved (including site clearance), details of precautionary measures for reptiles and great crested newts (GCN), including habitat manipulation and creating/improving reptile and GCN habitat, shall be submitted to and approved by the local planning authority. The approved details will be implemented prior to the occupation of the caravans and thereafter retained as such thereafter;

Reason: To safeguard protected species.

17. Prior to the commencement of the development hereby approved (including site clearance), a Site Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The SMP shall include details of:

- (a) Routing of construction and delivery vehicles to and from the site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries, with special provision for the proposed caravans
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management/signage

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

Reason: In the interests of highway safety.

18. The vehicle parking spaces and turning facilities as shown shall be permanently retained for parking and turning and shall not be used for any other purpose;

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

19. Any gates at the vehicular access to the site must be set back a minimum of 5 metres from the highway boundary;

Reason: In the interests of highway safety.

20. Prior to the first occupation of the caravans hereby approved, the first 5 metres of the vehicle access from the edge of the highway shall be of a bound surface and shall be maintained as such thereafter;

Reason: In the interests of highway safety.

21. Prior to the first use of the site as a holiday park, details of owl boxes to be installed within the site (to include manufacturer, location, number and height from ground level) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the subsequently approved details, and the owl boxes shall be installed prior to the first use (occupation) of any caravans hereby approved and maintained as such thereafter;

Reason: To protect and enhance biodiversity.

22. The application site shall not be open to touring caravans and motorhomes at any time;

Reason: In the interests of highway safety.

23. The development hereby permitted shall be carried out in accordance with the following approved documents/plans references: 05 Rev F and 04 Rev A received 12.10.20; and 2763 01 A received 14/10/19; and Ambiantal Surface Water Drainage Strategy received 24/10/19;

Reason: For then avoidance of doubt.

Informative(s):

1. In order to protect future occupants at times of flood risk, the applicant is strongly advised to sign up to the Environment Agency's flood warning service prior to the occupation of any caravan on the site. This can be done via the following link: <https://www.gov.uk/sign-up-for-flood-warnings>
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent and has shown that nesting birds are not present.
3. In terms of lighting and to mitigate against potential adverse effects on bats, the applicant is advised to refer to the Bat Conservation Trust's Bats and Lighting in the UK guidance.

4. Due to changes in legislation that came into force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer now deemed to be public could be crossing the 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.
5. The applicant is advised to consult a local Designing Out Crime Officer (DOCO), or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.
6. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at:
<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highwayboundary-enquiries>
7. The applicant is reminded that any additions to the caravans, such as decking and verandas, would then take the caravans out of the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and planning permission would be required for each structure.
8. The applicant/future occupants are reminded that the development permits tourist accommodation only and cannot therefore be used for full time residential occupation. For example, individuals cannot live on the site for 6 months say and then go travelling for 6 months, as essentially this would be their permanent home. Condition 3 requires the caravans to be occupied for bona fide holiday accommodation only and not occupied as a person's sole or main place of residence.
9. Southern Water advise that no new soakaways, swales, ponds, watercourses, associated attenuation tanks or any other surface water retaining or conveying features should be located within 5 metres of a public or adoptable gravity sewer, rising main or water main. For further advice, please contact Southern Water at: SouthernWaterPlanning@southernwater.co.uk

Case Officer: Kathryn Altieri

Item 16, Pages 51-108

Oakhurst, Stilebridge Lane,
Marden, TN12 9BA

PLANNING APPLICATION: 19/500271/FULL

- KCC Flood and Water Management Team has provided further comments making their final position clear on this planning application. The comments are as follows:

Since the Judicial review, the LLFA have received an enquiry from nearby residents of whom have raised flood risk concerns to the neighbouring houses from this proposed development. We provided a response on 19 Oct 2020 and we seek to provide further clarification for the LPA and residents.

Stilebridge Lane and the surrounding area is a sensitive location because of its inherent risks of flooding. The fields to the West and North have been highlighted to be within flood zones 2 and 3 with parts of flood zone 2 encroaching on to site. In addition to the fluvial flood risk, Stilebridge Lane and the site itself has been flagged to be at "high" risk of surface water flooding, mostly corresponding/ arising from the existing ditches. It is therefore imperative that any development does not exacerbate the existing situation, but this does not preclude proposed development from a flood risk perspective. The Surface Water Drainage Strategy report by Ambiental shows multiple existing ditches alongside Stilebridge Lane and one to the north and south of the site. The directions of flow shown on Figure 3 (Page 6) do not reflect actual ground levels. We would expect that no contributions from the developed area to flow southwards from the development. We indicated this in a response to local residents on the 9 Sept 2020.

Apart from this specific detail, the report presented conforms to our standard/requirements for runoff rates for new developments. These drainage issues need consideration on detailed design and should be addressed as further detail on the proposed development is forthcoming.

In 2018 we advised for planning conditions to be attached to this application should consent be granted. It is our view that these conditions are still required.

To summarise, KCC continue to raise no objection to the proposal and the suggested conditions referred to are still included as part of the recommendation.

THE RECOMMENDATION REMAINS UNCHANGED

REFERENCE NO: 19/500271/FULL		
PROPOSAL: Change of use of land for stationing of 18 holiday caravans with associated works including laying of hardstanding and bin store.		
ADDRESS: Oakhurst Stilebridge Lane Marden Tonbridge Kent TN12 9BA		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: The proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant.		
REASON FOR REFERRAL TO COMMITTEE: - Councilor Burton has called application in given level of local resident interest		
WARD: Marden	PARISH COUNCIL: Marden	APPLICANT: Mr & Mrs P Body AGENT: Graham Simpkin Planning
TARGET DECISION DATE: 13.01.2020		PUBLICITY EXPIRY DATE: 08.11.19

MAIN REPORT

1.0 BACKGROUND INFORMATION

1.01 This planning application was presented to Planning Committee on 30th May 2019 and the original report and urgent update is found in APPENDICES A and B. Members resolved to defer the application for the following reasons (taken from the published minutes):

- *Seek further information to assess the visual impact, the potential level of harm, the details of the mitigation and the benefits arising, this to include:*
- *Details of layout including hard & soft landscaping and associated facilities & lighting;*
- *Details of scale and design parameters;*
- *Details demonstrating both local & longer distance views & how it can be mitigated;*
- *More details in terms of landscaping, including net gain for biodiversity with incorporation of hedgerow trees reflecting Council's Landscape Character Assessment Guidance in proposed mixed native hedgerow along northern boundary of site, extension of Ancient Woodland buffer westward to provide habitat link to pond and ditch network on road frontage and fencing along AW buffer;*
- *Details of lighting strategy; and*
- *Clarification in terms of sustainability (role of rural tourism), economic benefits and business model, including identification of need for this type of use, model for occupation (i.e. whether these would be short-let units managed by site owners) and information about how site and landscape and ecology elements would be managed.*

1.02 The applicant has submitted the following:

- *Amended site location plan reducing the area of the planning unit*
- *Amended layout plan showing proposed caravans and associated works kept to the western (roadside) half of the site. Layout has reduced number of caravans to 18 instead of 20; and it shows an extension of new planting along the southern and northern boundaries*
- *Written statement responding to certain issues raised by Members*
- *Visual Impact Assessment (VIA)*
- *Business Plan*
- *Updated Surface Water Drainage Strategy*

2.0 RECONSULTATION RESPONSES

2.01 **Local representations:** 10 further representations received raising concerns over:

- *Impact upon character of area*
- *Flood risk*
- *Surface water drainage and foul sewage disposal*
- *Inaccuracy of submitted plans*
- *Validity of submitted Business Plan*
- *Location not appropriate for proposed use/no demand for tourist use here*
- *Potential development to eastern half of site*
- *Site will be used as permanent residential*
- *Highway safety/traffic generation*
- *Biodiversity impacts*

2.02 **Councillor Burton:** No further comments have been received.

2.03 **Marden Parish Council:** Has reviewed additional information and still wishes for application to be refused. In summary their further views are:

- *Residents have expressed concern relating to water run-off and flooding risk*
- *Site is in flood zone 1/2, on narrow country lane known to flood*
- *Business Plan does not appear sufficiently robust to support application*
- *Development is contrary to Policy DM38 of Local Plan*

2.04 **KCC Highways:** Has no further comment to make.

2.05 **Environment Agency:** Has no further comment to make.

2.06 **Environmental Protection Team:** No additional comments to make.

2.07 **KCC SUDS:** Raise no objection subject to previously recommended conditions.

2.08 **Landscape Officer:** Raises no objection.

2.09 **Biodiversity Officer:** Has reviewed further information and continues to advise sufficient information has been provided to determine the planning application.

2.10 **Natural England:** Continue to raise no objection.

2.11 **Agricultural Advisor:** Has no further comment to make.

2.12 **Southern Water:** Previous comments remain unchanged and valid.

2.13 **Kent Police:** Extended planting zone and new native hedgerow will offer additional defensive planting once established - Previous comments remain valid.

3.0 ASSESSMENT

Details of layout

3.01 The agent has submitted an amended site location plan and proposed block plan that definitively sets out the application site and the proposed layout, including the static caravans; hardstanding/parking; the bin store location; landscaping; and where external lighting will be positioned. The amended layout also shows 18 caravans and not 20 as previously proposed.

- 3.02 As can be seen, the application site has been reduced in size (from 2ha to 1.18ha), with the paddock area to the east no longer part of the proposal's planning unit.
- 3.03 To be clear, any future development outside the red outline would require planning permission. The proposed layout would now restrict development to the front of the site, preventing the sprawl of development across the site and retaining a sense of openness at the rear. The level of hardstanding has been restricted to the access road and the caravan bases, with all parking areas being of grasscrete to further soften the appearance of the development. The layout also provides a significant buffer from the proposal to the Ancient Woodland beyond (over 65m). For these reasons, the layout is considered to be acceptable.
- 3.04 No details of a lighting strategy have been submitted. However, the agent has confirmed the location of the external lighting and stated that it would be of low level lighting bollards (125mm high). With more information submitted, the Environmental Protection Team and the Biodiversity Officer continue to raise no objection on this matter, and there is no reasonable justification to refuse the application on this matter. As previously recommended, and to safeguard the character and appearance of the countryside, as well as to mitigate against the potential adverse effects on bats, specific details of external lighting can be appropriately controlled by way of condition.

Details of scale and design parameters

- 3.05 The additional information that has been submitted confirms that the proposed static caravans would not exceed the definition of a caravan as set out in the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960. To reiterate, a caravan under this definition can be up to 20m in length and 6.8m in width; with the overall height being 3.05m. Provided the static caravans meet this definition, planning application is only required for the change of use of the land in this respect, and so it is not justified to request further plans/details of the static caravans.
- 3.06 An additional informative will also be imposed reminding the applicant that any additions to the caravans, such as decking and verandas, would take the caravans out of the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and planning permission would be required for each structure.

Details of landscaping and ecological enhancements

- 3.07 As set out in the original committee report, the Biodiversity Officer has advised that sufficient information has been provided to determine the planning application; and they continue to raise no objection to the proposal in biodiversity terms (subject to appropriate conditions as previously recommended in terms of external lighting, precautionary measures for reptiles and Great Crested Newts, and ecological enhancements).
- 3.08 As well as the already proposed additional planting along in the 15m buffer to the Ancient Woodland, the proposal has now removed the eastern part of the site from the planning unit, and it has extended the area of new planting along the southern boundary of the site. The now left out paddock to the east of the site, and this new planting will be managed by appropriate timber post and rail fencing to deter public access in this area. This not only goes above and beyond what is required to protect the adjacent Ancient Woodland, but creates a wildlife corridor around the boundary

that also extend westwards to provide a habitat link to the pond and ditch network on the road frontage. With the planted buffer zone along the eastern and southern boundaries, the retained front boundary hedge, and the new native hedge along the northern boundary, the connectivity around the whole site for wildlife is a significant enhancement. The proposal will still also include the retention of the mature Oak trees close to the southern boundary; and it is considered reasonable to request a detailed landscaping scheme by way of an appropriate condition. The Landscape Officer is also of the view that the proposed soft landscaping is an improvement on the original scheme.

Further details in terms of visual impact and mitigation

- 3.09 As stated in the original committee report:
"The site benefits from a mature, well-established hedgerow to the roadside boundary; the southern boundary also benefits from a well-established hedge and several individual trees; and the eastern (rear) boundary is entirely enclosed by Ancient Woodland. To the north, the site is largely screened by Oakhurst and its associated outbuildings; existing hedgerows; and by more Ancient Woodland and Stilebridge Caravan Park. In general terms, the surrounding road network is also lined with hedges/trees; existing built development provides some screening; and no public footpath comes within 200m of the proposal site. As such, it is considered that views of the proposal would be limited to short range views, particularly when passing the site along Stilebridge Lane; and any medium to long distance views of the development from any other public vantage point would be glimpsed."
- 3.10 The now submitted Visual Impact Assessment (VIA) concludes that the proposal would have a minimal impact on the landscape from public vantage points, and this conclusion is accepted. The Landscape Officer is satisfied that the VIA is an appropriate level study for this proposal. Whilst some of the landscape details in the VIA are not up to date, as it is not intended to be a full LVIA and only an assessment of public viewpoints, the Landscape Officer considers it to be an acceptable submission on this basis.
- 3.11 In addition, the amended layout further safeguards the visual amenity of the countryside, by keeping the static caravans and associated built works away from the rearmost part of the site, where the land level does rise; by reducing the number of caravans; and by showing a more comprehensive landscaping scheme (as explained above) to further mitigate the visual impact of the development.
- 3.12 With everything considered, it remains the view that the proposal would not appear prominent or visually intrusive, and it would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.

Viability of proposal and sustainability

- 3.13 Whilst relevant policy and guidance does not require applicants to set out the future commercial viability of such a proposal, key points taken from the submitted Business Plan are as follows:
- 5 caravans will be sold to private owners in order to recoup capital spend
 - 13 caravans will be owned and operated as hire fleet by site owner
 - Caravans to be sold on 50yr leasehold for which there will be annual service charges of £3,000 per caravan (to cover maintenance and management)
 - Layout will be in accordance with fire regulations and site licencing
 - In terms of marketing and managing, site owners will be assisted by Hoseasons

- *Visit Britain believes tourism sector will grow at annual rate of 3.8% through to 2025*
- *Holiday parks had strong years of trading given improvements in wider economy*

- 3.14 Furthermore, in terms of the local market, the Business Plan argues that within Kent there is an obvious demand for tourist facilities. The proposal site is in proximity to Tunbridge Wells, Tonbridge and Maidstone that all have their own draw; the site is also close enough for visitors to explore the High Weald AONB and the Kent Downs AONB if they so wish; and there is also a wide range of outdoor leisure activities in the locality, such as golf courses; public rights of way; fishing; horse riding facilities etc. The Business Plan also understands there to be limited sites in close proximity to the proposal site that offers high quality self-catering accommodation. The Business Plan then calculates development potential over a 3yr period, and this predicts a capital return on development in 2yrs, with the annual rental income for the site being circa. £375,000 once established by year 3. There is no clear evidence to dispute the findings of the Business Plan and it is considered unreasonable to object to the proposal on these grounds, particularly when applicants are not required in policy terms to set out the future viability of such tourist uses in the countryside.
- 3.15 It should be stressed again that Local Plan policy seeks to support small scale employment opportunities to support the rural economy; and the Council is committed to supporting and improving the economy of the borough and providing for the needs of businesses, by supporting the expansion of existing tourism related businesses in the countryside.
- 3.16 The site is also not considered to be so unsustainable, in terms of its location, given that it is only some 0.5miles from the A229; and the NPPF does state that planning decisions should recognise that sites to meet local business in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. The NPPF is also clear that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside, which this proposal is considered to do.

Other matters

- 3.17 The additional information has confirmed the layout of the static caravans, and has seen a reduction in the number of static caravans on the site to 18 (that will still remain in situ). The Highways Authority has reviewed the new information and continues to raise no objection on highway safety grounds, subject to the retention of the shown turning area and the imposition of their previously recommended conditions.
- 3.18 There also remains no objection to the proposal in terms of residential amenity, and in terms of flood risk and surface water drainage; and the finished floor levels of the 4/5 caravans in Flood Zone 2 will still be raised 150mm above surrounding ground levels. To clarify, KCC as the Lead Local Flood Authority has reviewed the amended Surface Water Drainage Strategy Report by 'Ambiental' (dated October 2019 and received 24/10/19), which updates the strategy to reflect the latest proposed block plan, and has no objections to make subject to the previously recommended conditions that have been duly imposed. All other matters raised in the original committee report remain relevant and acceptable.

- 3.19 The representations received from Marden Parish Council and local residents, as a result of reconsultation, have been considered in the assessment of this application. It should be noted here that the proposal has been considered on its own merits, based on the submission details for a tourism use. If approved and there is a reported breach of the permission, then it would be a matter for the Planning Enforcement Team to investigate at that time.

4.0 CONCLUSION

- 4.01 It is considered that the proposal's location is appropriate, and its scale (in terms of its reduced site area and number of static caravans), is acceptable. The proposal will now also provide further, more comprehensive, landscaping that will benefit both the amenity and biodiversity of the site and the surrounding area. It is still considered that the proposal would not have an unacceptable impact upon the living conditions of local residents; and no objection continues to be raised in terms of highway safety; flood risk; and in terms of Ancient Woodland protection. A holiday occupancy condition will also be attached to any permission, preventing use of any unit as a permanent encampment. In accordance with Local Plan policy DM38, the proposal would not result in unacceptable loss in amenity of area; and it would be unobtrusively located and well screened by existing and proposed native planting. So, with everything considered, the proposal is still considered to be acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. A recommendation of approval of this application is therefore made on this basis.

5.0 RECOMMENDATION – GRANT planning permission subject to following conditions:

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

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. No more than 18 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time;

Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.
3. The site shall not be open to touring caravans and tents at any time;

Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.
4. All caravans permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority with details of the relevant contact at the operators of the caravan park (name, position, telephone number, email address and postal address) who will keep the register and make it available for inspection submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to first occupation

of any of the approved caravans with the relevant contact subsequently kept up to date at all times;

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), and except for what is shown on the approved plans, no fencing, walling and other boundary treatments shall be erected within or around the site;

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

6. If the use hereby approved ceases, all caravans, buildings, structures, hardstanding, and equipment brought on to the land, and all works undertaken to it in connection with the use, shall be removed within 2 months of cessation of the use, and the land shall be restored to its condition before the development took place;

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

7. The finished floor level of the caravans shall be no less than 150mm above surrounding ground levels;

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

8. In accordance with drawing ref: 2763 05 E (received 24/10/19) and prior to the first occupation of any caravan on the site, details of a scheme of hard and soft landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and long-term management, shall be submitted to and approved in writing by the Local Planning Authority. The site falls within Landscape Area 44 (Staplehurst Low Weald), and the landscaping scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment (2012) and shall include:

- a) Location, species (to include Oak) and size of all new native trees and shrubs to be planted within the 15m buffer zone to the ancient woodland and the extended planting zone as shown on submitted plans;
- b) Retention of existing hedgerows along western and southern boundaries of site;
- c) Retention of existing trees within site as shown on the submitted plans;
- d) Details of a mixed native hedgerow that includes Hazel, to be planted in a double staggered row (45cm between plants in row and 30cm between rows) along the northern boundary of site;
- e) Details of grasscrete and how it would be laid for all of the parking spaces on site.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any caravan. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of a property, die or become so seriously damaged or diseased that their long-term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of ancient woodland.

10. Prior to the first occupation of any static caravan, all of the fencing (as shown on drawing reference: 2763 05E) shall be erected and retained as such for the duration of the development hereby approved;

Reason: To protect existing trees, new planting, and ancient woodland; and in the interests of biodiversity.

11. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS5837:2012 has 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 caravans, 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 or within the 15m buffer zone from the ancient woodland (as shown on drawing ref: 05 Rev D); and no alterations shall be made to the siting of the barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site;

Reason: To ensure the protection of existing trees and hedges and to avoid compaction of ground within the 15m buffer zone.

12. The development hereby approved shall not commence 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 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 at a rate of 1.7l/s (unless otherwise agreed with the Local Planning Authority and Lead Local Flood Authority) and 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.

13. Prior to the first occupation of any caravan on the site, details of a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, shall be submitted to and approved by the local planning authority. This report shall demonstrate 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 (July 2018).

14. Prior to the first occupation of any caravan on the site, details of the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal, shall be submitted to and approved in writing by the local planning authority. These details shall include the size of individual cess pits and/or septic tanks and/or other treatment systems, and shall also specify exact locations on site plus any pertinent information as to where each system will discharge to;

Reason: To safeguard against ground/water course pollution, and to protect the interest features of the River Beult Site of Special Scientific Interest and the adjacent Ancient Woodland.

15. Prior to the first occupation of the caravans hereby approved, details of the external lighting scheme (temporary and/or permanent), shall be submitted to and approved in writing by the local planning authority. These details shall include:
- a) Measures to shield and direct light from light sources so as to prevent light pollution;
 - b) Identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance to routes used to forage and commute;
 - c) Show where external lighting will be installed (in accordance with drawing ref: 2763 05 E) so that it can be clearly demonstrated that areas to be lit will not disturb bat activity.

The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the character and appearance of the countryside and to mitigate against potential adverse effects on bats.

16. Prior to the commencement of the development hereby approved (including site clearance), details of precautionary measures for reptiles and great crested newts (GCN), including habitat manipulation and creating/improving reptile and GCN habitat, shall be submitted to and approved by the local planning authority. The approved details will be implemented prior to the occupation of the caravans and thereafter retained as such thereafter;

Reason: To safeguard protected species.

17. Prior to the commencement of the development hereby approved (including site clearance), a Site Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The SMP shall include details of:
- (a) Routing of construction and delivery vehicles to and from the site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries, with special provision for the proposed caravans
 - (d) Provision of wheel washing facilities
 - (e) Temporary traffic management/signage

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

Reason: In the interests of highway safety.

18. The vehicle parking spaces and turning facilities as shown shall be permanently retained for parking and turning and shall not be used for any other purpose;

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

19. Any gates at the vehicular access to the site must be set back a minimum of 5 metres from the highway boundary;

Reason: In the interests of highway safety.

20. Prior to the first occupation of the caravans hereby approved, the first 5 metres of the vehicle access from the edge of the highway shall be of a bound surface and shall be maintained as such thereafter;

Reason: In the interests of highway safety.

21. The development hereby permitted shall be carried out in accordance with the following approved plan references: 2763 05 E received 24/10/19 and 2763 01 A received 14/10/19; and Ambiantal Surface Water Drainage Strategy received 24/10/19;

Reason: To safeguard the character and appearance of the countryside, in the interests of protecting biodiversity, existing trees and ancient woodland, in the interests of highway safety and drainage, and to safeguard the enjoyment of their properties by existing and prospective occupiers.

INFORMATIVES

1. In order to protect future occupants at times of flood risk, the applicant is strongly advised to sign up to the Environment Agency's flood warning service prior to the occupation of any caravan on the site. This can be done via the following link: <https://www.gov.uk/sign-up-for-flood-warnings>
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent person and has shown that nesting birds are not present.
3. In terms of lighting and to mitigate against potential adverse effects on bats, the applicant is advised to refer to the Bat Conservation Trust's Bats and Lighting in the UK guidance.
4. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer now deemed to be public could be crossing the 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.
5. The applicant is advised to consult a local Designing Out Crime Officer (DOCO), or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.
6. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at: <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>
7. The applicant is reminded that any additions to the caravans, such as decking and verandas, would then take the caravans out of the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and planning permission would be required for each structure.

Case Officer: Kathryn Altieri

Item 11, Pages 20-43

**Oakhurst, Stilebridge Lane,
Marden, TN12 9BA**

PLANNING APPLICATION : 19/500271/FULL

- The proposal falls within Schedule 2 of the Environmental Impact Regulations 2017. A Screening Opinion has been adopted on behalf of Maidstone Borough Council and an Environmental Impact Assessment is not required for the development.
- 1 representation has been made by a local resident raising concerns over the following, summarised, issues:
 - Flood risk/drainage/sewage treatment
 - Visual harm it will cause to countryside/cramped form of development
 - Environment Impact Assessment is required
 - Highway safety
 - Application does not demonstrate need for such a use or that it will be viable

These issues have been addressed in the committee report and this urgent update.

Recommendation remains unchanged

REFERENCE NO 19/500271/FULL		
APPLICATION PROPOSAL Change of use of land for the stationing of 20 holiday caravans with associated works including laying of hardstanding and bin store.		
ADDRESS Oakhurst Stilebridge Lane Marden Tonbridge Kent TN12 9BA		
RECOMMENDATION GRANT PLANNING PERMISSION subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant.		
REASON FOR REFERRAL TO COMMITTEE Councilor Burton has called application in given level of local resident interest.		
WARD Marden	PARISH/TOWN COUNCIL Marden	APPLICANT Mr & Mrs P Body AGENT Graham Simpkin Planning
TARGET DECISION DATE 03/06/19		PUBLICITY EXPIRY DATE 30/01/19

Relevant planning history

- MA/11/1037 – Keeping of horses & erection of stable block & hay barn - Approved

1.0 Site description

- 1.01 Oakhurst is a detached residential property located on the eastern side of Stilebridge Lane, close to the junction with Tilden Lane. The proposal site is an area of land to the immediate south of Oakhurst (some 2.3ha in area), with road access into the site from the south-western corner.
- 1.02 The western (front) part of the proposal site is currently used by the Caravan and Camping Club (its website states that the site can accommodate up to 5 caravans or motorhomes and up to 10 trailer tents or tents). The eastern part has been used for horse grazing. The road side (western) boundary is in Flood Zone 2 and the eastern boundary is adjacent to Ancient Woodland. The River Beult (Site of Special Scientific Interest), is some 335m to the north of the site. For the purposes of the Maidstone Local Plan (2017) the proposal site is within the countryside.

2.0 Proposal

- 2.01 This application is for the change of use of the land for the stationing of 20 holiday caravans, with associated works including hardstanding and parking. The 20 caravans will be moved on to the site and remain in situ, and so guests will not be towing caravans; and no other caravans, touring caravans, or tent pitches will go on the site. The Caravan Site Licence will deal with all of the health and safety requirements under separate legislation.

- 2.02 The application states that the 20 caravans will fall within the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and no further plans/details are required in this respect. For reference, a caravan under this definition can be up to 20m in length and 6.8m in width; with the overall height being 3.05m (measured internally from the floor at the lowest level to the ceiling at the highest level). Any additions to the caravans, such as verandas, would then take the caravans out of this definition and planning permission would be required for each structure.

3.0 Policy and other considerations

- Maidstone LP: SS1, SP17, SP21, DM1, DM3, DM8, DM30, DM37, DM38
- National Planning Policy Framework (2019)
- National Planning Practice Guidance
- Natural England Standing Advice
- Maidstone Landscape Character Assessment & Maidstone Landscape Capacity Study: Sensitivity Assessment

4.0 Local representations: 15 representations received raising concerns over:

- *Caravans being lived in permanently;*
- *Flood risk/surface water drainage/foul sewage disposal;*
- *Highway safety/traffic generation;*
- *Light pollution/impacts upon ecology*
- *Impact upon trees/ancient woodland*
- *Commercial viability of business/need for such development;*
- *Visual impact;*
- *Not a sustainable location;*
- *Impact upon residential amenity (noise, odours, general disturbance);*
- *Impact upon setting of Grade II listed building (Little Tilden Farm)*
- *Loss of agricultural land*

5.0 Consultations

- 5.01 **Councillor Burton:** Wishes to see application reported to Planning Committee if recommendation is for approval;

- 5.02 **Marden Parish Council:** Wish to see application refused but has not requested for it to be reported to Planning Committee. In summary their views are as follows:
- *Introduction of vulnerable usage in Flood Zone 2*
 - *Proposal would result in adverse impact on highway safety*
 - *Would have adverse visual impact on countryside*
 - *Noise and light pollution resulting from use would be detrimental to amenity of the area*

If minded to approve, Cllrs recommend following conditions:

- *To prohibit any permanent occupancy;*
- *To provide low level lighting scheme;*
- *Provide further information and mitigation of protected species;*
- *Provide specific and detailed method of foul water disposal;*
- *Provision of landscaping scheme;*
- *Provision of ecology assessment;*
- *Applicant to demonstrate adequate access arrangements and vision splays.*

- 5.03 **KCC Highways:** Raise no objection.

- 5.04 **Environment Agency:** Raise no objection.

- 5.05 **Environmental Protection Team:** Raise no objection in terms of noise, air quality, sewage and land contamination.
- 5.06 **KCC SUDS:** Raise no objection.
- 5.07 **Landscape Officer:** Raise no objection.
- 5.08 **Biodiversity Officer:** Advises sufficient information has been provided to determine planning application.
- 5.09 **Natural England:** Raise no objection.
- 5.10 **Agricultural Advisor:** Raise no objection.
- 5.11 **Southern Water:** Raise no objection.
- 5.12 **Kent Police:** Raise no objection.

6.0 Appraisal

Main issues

- 6.01 Local Plan policy SS1 seeks to support small scale employment opportunities in appropriate locations to support the rural economy; and policy SP21 sets out that the Council is committed to supporting and improving the economy of the borough and providing for the needs of businesses, by (inter alia): *Supporting proposals for expansion of existing economic development premises in the countryside, including tourism related development, provided scale and impact of development is appropriate for its countryside location, in accordance with policy DM37.*
- 6.02 Local Plan policy DM37 also supports the expansion of existing businesses in the rural area provided certain criteria are met; and Local Plan policy DM38 allows for holiday caravan sites in the countryside provided they:
 - i. Would not result in unacceptable loss in amenity of area. In particular, impact on nearby properties and appearance of development from public roads will be of importance; and*
 - ii. Site would be unobtrusively located and well screened by existing or proposed vegetation and would be landscaped with indigenous species.*
- 6.03 The proposal is also subject to the normal constraints of development in the countryside under the Maidstone Local Plan. Local Plan policy SP17 states that new development in the countryside will not be permitted unless it accords with other policies in the Local Plan, and would not result in harm to the character and appearance of the area or in terms of residential amenity. Local Plan policy DM30 states (inter alia) that new development should maintain, or where possible, enhance the local distinctiveness of an area; and ensure that associated traffic levels are acceptable.
- 6.04 Furthermore, Local Plan policy seeks new development to respect the amenities of occupiers of neighbouring properties; and avoid inappropriate development within areas at risk from flooding (LP policy DM1); and to protect areas of Ancient Woodland from inappropriate development and avoid significant adverse impacts as a result of development. Indeed, policy DM3 relates to how development should protect areas of Ancient Woodland from inappropriate development and to avoid significant adverse impacts as a result of development.
- 6.05 Please note that the proposal site could be used for camping (without restriction of numbers) for 28 days in total of any calendar year without requiring planning permission under Class 4, Part B of the GPDO.

- 6.06 The key issues for this application are considered to be what impacts the proposal would have upon the character and appearance of the area (including Ancient Woodland impacts); its highway safety and residential amenity impacts; flood risk; and what impact it would have upon the adjacent ancient woodland and biodiversity. Other material planning considerations will then also be addressed.

Visual impact

- 6.07 Within the Maidstone Landscape Capacity Study: Sensitivity Assessment, the proposal site is in the Staplehurst Low Weald landscape character area (44) that is considered to be sensitive to change. This assessment also states that development in this area could support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.
- 6.08 It is accepted that the proposal would change the character of what is an open field. However, the site benefits from a mature, well-established hedgerow to the roadside boundary; the southern boundary also benefits from a well-established hedge and several individual trees; and the eastern (rear) boundary is entirely enclosed by Ancient Woodland. To the north, the site is largely screened by Oakhurst and its associated outbuildings; existing hedgerows; and by more Ancient Woodland and Stilebridge Caravan Park. In general terms, the surrounding road network is also lined with hedges/trees; existing built development provides some screening; and no public footpath comes within 200m of the proposal site. As such, it is considered that views of the proposal would be limited to short range views, particularly when passing the site along Stilebridge Lane; and any medium to long distance views of the development from any other public vantage point would be glimpsed.
- 6.09 To further safeguard the character and appearance of the countryside, a suitable condition will also be imposed to secure the retention of the existing hedgerows along the southern and western boundaries of the site; for the retention of the existing trees within the site, as shown on the submitted plan; for further native planting within the 15m buffer zone to the ancient woodland; and for a mixed native hedge to be planted along the northern boundary of the site.
- 6.10 In accordance with the Maidstone Landscape Capacity Study, the proposal would conserve the existing Oak trees on the site; the landscaping scheme would seek new Oak tree planting; and existing hedgerows would be retained. External lighting could also be appropriately controlled by way of condition.
- 6.11 It is therefore considered that the proposal would not appear prominent or visually intrusive in a landscape that is sensitive to change, and would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.

Highway safety implications

- 6.12 The Highways Authority has reviewed the application and considered the vehicle movements associated with such uses as permissible, notwithstanding the limitations that the nature of Stilebridge Lane presents.
- 6.13 The Highways Authority states a significant factor in considering the change of use of the site would be to recognise that towing caravans/motorhomes would no longer be coming and going from the site, as the accommodation will already be in situ; and that this can be ensured by way of an appropriate condition. This would leave only private cars using Stilebridge Road in association with the proposal and the Highways Authority confirm that they would have no grounds to object to the application in this respect. There will of course be an initial exception with the caravans coming onto the site, but the Highways Authority is satisfied that the impact of this could be feasibly mitigated by a Site Management Plan.

- 6.14 The Highways Authority has considered the nature of Stilebridge Lane, in terms of available passing widths and forward visibility; and they have also noted that the road is served at both ends by junctions which fall below current highway standards. However, despite the limitations this presents to current road users, the personal injury accident record (which provides KCC's evidence base in such judgements) does not suggest that these issues present an overbearing impact on road safety or that they will be significantly exacerbated by the proposals as they stand. No objection is raised in terms of parking provision.
- 6.15 With everything considered, the Highways Authority raise no objection to the proposal on highway safety grounds subject to the imposition of conditions including for the submission of a Site Management Plan.

Residential amenity

- 6.16 The applicant lives at Oakhurst, the property to the immediate north of the site. The next nearest residential property is Ellmacy. Whilst there is extant planning permission for the erection of an annexe to the north of Ellmacy, the main house is more than 40m from the south-western corner of the site, and the main garden area for this property is to the south of the house, more than 50m away from the proposal site. Beyond this is Stilebridge Barn; the caravans on Stilebridge Lane Caravan Site are some 120m to the north-east of the site; and no other residential property would be within 200m of the site.
- 6.17 When considering the intended use of the site and the separation distances from it and any residential property, the noise generated by the proposal (including vehicle movements to and from the site) will be acceptable in residential amenity terms, and the Environmental Protection Team has also raised no objection in terms of noise. It is also considered that most of the vehicle movements to and from the site would be by private motor vehicles only, coming from the A229 to the north-east of the site and not passing the nearest houses to the site. No objection is therefore raised to the proposal in terms of general noise and disturbance, and there is no reason to believe that odours from the site would create an unacceptable living environment for any local resident.

Flood risk/surface water drainage

- 6.18 The western (front) boundary of the site is within Flood Zone 2; and the proposed layout shows 4/5 of the caravans within this, with the rest of the site being in Flood Zone 1. In accordance with the revised NPPF and its Technical Guidance, sites used for holiday caravans are classified as 'More Vulnerable'. Such development in Flood Zone 2 is acceptable subject to a specific warning and evacuation plan; and subject to the Sequential and Exception Tests being applied. Furthermore, local planning authorities should also ensure that flood risk is not increased elsewhere, and should only consider development in flood risk areas to be appropriate where informed by a site-specific Flood Risk Assessment (FRA).
- 6.19 The applicant has submitted a Flood Risk Assessment (FRA), and a further letter (from Ambient Environmental Assessment) has provided further flood risk information. The submitted details confirm that the floor levels of the caravans will be raised 150mm above surrounding ground levels, and this can be secured by way of an appropriate condition.
- 6.20 In terms of the Sequential and Exception Tests, whilst no alternative sites have been discussed as part of this application, the Environment Agency has reviewed the submitted details and they are satisfied that the proposal would not pose a risk to property; and that future occupants would remain safe for the development's lifetime without increasing flood risk elsewhere (when allowances for climate change are taken into consideration). Furthermore, the development would provide a small scale employment opportunity to help support the rural economy;

and it must be stressed again that the majority of the site falls within Flood Zone 1, where these tests are not required.

- 6.21 It is noted that the surrounding access roads to the site are located within Flood Zones 2/3; and with regards to a specific warning and evacuation plan, the application states that the applicant will sign up to the EA Flood Warning/Alert Service. This would ensure that future occupants of the site would be safe and have time to evacuate the site if necessary, avoiding the need of emergency egress and access. Furthermore, the majority of the site falls outside Flood Zones 2/3 and the floor levels of the caravans would be raised as accepted by the Environment Agency, so there is also the potential for future occupants to safely 'sit-out' any flood event.

- 6.22 The application also includes a Surface Water Drainage Strategy and as the lead local flood authority, KCC have reviewed the application. No objection is raised to the proposal, subject to appropriate pre-commencement conditions requiring a detailed sustainable surface water drainage scheme for the site, and a verification report pertaining to the surface water drainage system. With this all considered, the balanced view is that the proposal is acceptable in flood risk terms.

Biodiversity and ancient woodland implications

- 6.23 The Biodiversity Officer has advised that sufficient information has been provided to determine the planning application and they have raised no objection to the proposal in biodiversity terms. This is subject to appropriate conditions for details to be submitted of any external lighting scheme to mitigate against potential adverse effects on bats; of precautionary measures for reptiles and Great Crested Newts, including habitat manipulation and creating/improving reptile and GCN habitat; and of what ecological enhancements are to be incorporated into the scheme.

- 6.24 The Biodiversity Officer and the Landscape Officer both highlighted the need to protect the ancient woodland to the east of the proposal site. The submission details show the required 15m buffer-zone that is to be planted with native shrub species. Appropriate conditions can be imposed to ensure this buffer-zone planting is carried out and that public access should be prevented in this area.

Other matters

- 6.25 There is no indication that any agricultural business would be affected by the current proposal. The Agricultural Advisor, having regard to the relatively small extent of the land; its current use; and its likely quality, considers that the proposal would not involve a significant loss of agricultural land in planning policy terms, and so no objection is raised in this respect.

- 6.26 Foul sewage will be disposed of via a package treatment plant. Southern Water has raised no objection to the proposal; and the Environmental Protection Team also raise no objection in this respect subject to the submission of its details. Natural England has also raised no objection but comment that without appropriate mitigation the proposal could harm the interest features for which the River Beult Site of Special Scientific Interest (SSSI) has been notified. With this considered and in order to mitigate against potential adverse effects in relation to foul sewage disposal, a suitable condition will be imposed requesting further details.

- 6.27 No objection is raised in terms of refuse storage, air quality, and land contamination; the proposal would not have a harmful impact upon the setting of any listed building, given its scale, nature and the separation distances; and the proposal is not Environmental Impact Assessment development.

- 6.28 The issues raised by Marden Parish Council, Councillor Burton, and local residents have been considered in the determination of this application. It should also be

noted that potential future breaches of planning would be investigated by the Planning Enforcement team as and when necessary; and the future commercial viability of the proposed business is not a material planning consideration in the assessment of this application.

- 6.29 Please note that the applicant has agreed to the imposition of all of the pre-commencement of works conditions.

7.0 Conclusion

- 7.01 The proposal would not be obtrusive and would not result in an unacceptable loss in the amenity of the area, in terms of its visual impact and its impact upon the living conditions of local residents; and existing landscaping will be retained and the site will enhanced by further native planting. Furthermore, no objection is raised in terms of highway safety; flood risk; biodiversity; and in terms of Ancient Woodland protection. A holiday occupancy condition will also be attached to any permission, preventing use of any unit as a permanent encampment. As such, the proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. A recommendation of approval of this application is therefore made on this basis.

8.0 Recommendation - GRANT planning permission subject to following conditions:

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

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

2. No more than 20 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time;

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

3. The site shall not be open to touring caravans and tents at any time;

Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.

4. All caravans permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority;

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fencing, walling and other boundary treatments shall be erected within or around the site;

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

6. If the use hereby approved ceases, all caravans, buildings, structures,

hardstanding, and equipment brought on to the land, and all works undertaken to it in connection with the use, shall be removed within 2 months of cessation of the use, and the land shall be restored to its condition before the development took place;

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

7. The finished floor level of the caravans shall be no less than 150mm above surrounding ground levels.

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

8. Prior to the first occupation of any caravan on the site, details of a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and long-term management, have been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment (2012) and shall include:
- a) Location, species (to include Oak) and size of all new trees and shrubs to be planted;
 - b) Native planting within the 15m buffer zone to the ancient woodland (as shown on drawing ref: 05 Rev A);
 - c) Details of how the buffer zone will be delineated to prevent public access;
 - d) The retention of the existing hedgerows along the western and southern boundaries of the site;
 - e) The retention of the existing trees within the site (as shown on drawing ref: 05 Rev A);
 - f) Details of a mixed native hedgerow along the northern boundary of the site.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any caravan. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of a property, die or become so seriously damaged or diseased that their long-term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of ancient woodland.

10. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS5837:2012 has 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 caravans, 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 or within the 15m buffer zone from the ancient woodland (as shown on drawing ref: 05 Rev A); and no alterations shall be made to the siting of the barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus

materials have been removed from the site;

Reason: To ensure the protection of existing trees and hedges and to avoid compaction of ground within the 15m buffer zone.

11. The development hereby approved shall not commence 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 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 at a rate of 1.7l/s (unless otherwise agreed with the Local Planning Authority and Lead Local Flood Authority) and 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.

12. Prior to the first occupation of any caravan on the site, details of a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, shall be submitted to and approved by the local planning authority. This report shall demonstrate 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 (July 2018).

13. Prior to the first occupation of any caravan on the site, details of the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal, shall be submitted to and approved in writing by the local planning authority. These details shall include the size of individual cess pits and/or septic tanks and/or other treatment systems, and shall also specify exact locations on site plus any pertinent information as to where each system will discharge to;

Reason: To safeguard against ground/water course pollution, and to protect the interest features of the River Beult Site of Special Scientific Interest.

14. Prior to the first occupation of the caravans hereby approved, details of the external lighting scheme (temporary and/or permanent), shall be submitted to and approved in writing by the local planning authority. These details shall include:
- a) Measures to shield and direct light from the light sources so as to prevent light pollution;
 - b) Identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance to routes used to forage and commute;
 - c) Show where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb bat activity.

The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the character and appearance of the countryside and to mitigate against potential adverse effects on bats.

15. Prior to the commencement of the development hereby approved (including site clearance), details of precautionary measures for reptiles and great crested newts (GCN), including habitat manipulation and creating/improving reptile and GCN habitat, shall be submitted to and approved by the local planning authority. The approved details will be implemented prior to the occupation of the caravans and thereafter retained as such thereafter;

Reason: To safeguard protected species.

16. Prior to the first occupation of the caravans hereby approved, details for a scheme for the enhancement of biodiversity on the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first occupation of the caravans and all features shall be maintained thereafter.

Reason: In the interests of biodiversity enhancement.

17. Prior to the commencement of the development hereby approved (including site clearance), a Site Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The SMP shall include details of:
- (a) Routing of construction and delivery vehicles to and from the site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries, with special provision for the proposed caravans
 - (d) Provision of wheel washing facilities
 - (e) Temporary traffic management/signage

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

Reason: In the interests of highway safety.

18. The vehicle parking spaces and turning facilities as shown shall be permanently retained for parking and turning and shall not be used for any other purpose;

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

19. Any gate(s) at the vehicular access to the site must be set back a minimum of 5 metres from the highway boundary;

Reason: In the interests of highway safety.

20. Prior to the first occupation of the caravans hereby approved, the first 5 metres of the vehicle access from the edge of the highway shall be of a bound surface and shall be maintained as such thereafter;

Reason: In the interests of highway safety.

21. The development hereby permitted shall be carried out in accordance with the following approved plan references: Site location plan (01);

Reason: To safeguard the character and appearance of the countryside, in the interests of protecting biodiversity, existing trees and ancient woodland; and to safeguard the enjoyment of their properties by existing and prospective occupiers.

INFORMATIVES

1. In order to protect future occupants at times of flood risk, the applicant is strongly advised to sign up to the Environment Agency's flood warning service prior to the occupation of any caravan on the site. This can be done via the following link: <https://www.gov.uk/sign-up-for-flood-warnings>
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent person and has shown that nesting birds are not present.
3. In terms of lighting and to mitigate against potential adverse effects on bats, the applicant is advised to refer to the Bat Conservation Trust's Bats and Lighting in the UK guidance.
4. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer now deemed to be public could be crossing the 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.
5. The applicant is advised to consult a local Designing Out Crime Officer (DOCO), or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.
6. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at:

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

Case Officer: Kathryn Altieri

Item 17, Pages 59-71

Oakhurst, Stilebridge Lane,
Marden, TN12 9BA

Reference number: 19/500271/FULL

- **Amend condition 4 to read:**

*All caravans permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority **with details of the relevant contact at the operators of the caravan park (name, position, telephone number, email address and postal address) who will keep the register and make it available for inspection submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to first occupation of any of the approved caravans with the relevant contact subsequently kept up to date at all times;***

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.

- **Amend condition 8 to read:**

*Prior to the first occupation of any caravan on the site, details of a scheme of **hard and soft** landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and long-term management, have been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principle's established in the Council's adopted Landscape Character Assessment (2012) and shall include:*

- a) Location, species (to include Oak) and size of all new trees and shrubs to be planted;*
- b) Native planting within the 15m buffer zone to the ancient woodland (as shown on drawing ref: 05 Rev A);*
- c) Details of how the buffer zone will be delineated to prevent public access;*
- d) The retention of the existing hedgerows along the western and southern boundaries of the site;*
- e) The retention of the existing trees within the site (as shown on drawing ref: 05 Rev A);*
- f) Details of a mixed native hedgerow along the northern boundary of the site;*
- g) Scaled plan showing the extent and type of hardsurfacing within the site.***

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.

- **Amend condition 13 to read:**

Prior to the first occupation of any caravan on the site, details of the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal, shall be submitted to and approved in writing by the local planning authority. These details shall include the size of individual cess pits and/or septic tanks and/or other treatment systems, and shall also specify exact locations on site plus any pertinent information as to where each system will discharge to;

*Reason: To safeguard against ground/water course pollution, and to protect the interest features of the River Beult Site of Special Scientific Interest **and the adjacent Ancient Woodland.***

Recommendation remains unchanged.

APPENDIX G.

PLANNING COMMITTEE MINUTES FOR 19/500271: Oakhurst, Stilebridge Lane

26th NOVEMBER 2020

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

In presenting the application, the Senior Planning Officer advised the Committee that whilst not mentioned in the report, it was acknowledged that in July 2020, the Council resolved to adopt the Marden Neighbourhood Development Plan and it now formed part of the statutory Development Plan for the Borough. However, it was considered that the adoption of this document did not alter the recommendation set out in the report.

The Chairman read out statements on behalf of Mrs Shave, an objector, and Councillor Mannington of Marden Parish Council.

The Democratic Services Officer read out a statement on behalf of Graham Simpkin Planning, agent for the applicant.

Councillor D Burton (Visiting Member) addressed the meeting.

RESOLVED: That consideration of this application be deferred to seek:

- Details of the design of the caravans;
- Details of electric vehicle charging points; and
- A detailed landscaping plan.

Voting: 11 – For 0 – Against 0 – Abstentions

Note: Councillor Harwood left the meeting before the voting on this application (7.20 p.m.).

30th MAY 2019

All Members except Councillors Adkinson, Kimmance, Parfitt-Reid, Spooner and Vizzard stated they had been lobbied. Committee considered report and urgent update report of the Head of Planning and Development.

In presenting the report, the Major Projects Manager advised the Committee that, in addition to the amendments proposed in the urgent update report, he needed to add a drawing that was missed off the approved drawing list and a condition to the effect that notwithstanding the illustrative layout, no caravans will be sited in the approved areas of soft landscaping.

Ms Whittaker, an objector, Councillor Mannington of Marden Parish Council, Mr Nicholls, for the applicant, and Councillor D Burton (Visiting Member) addressed the meeting.

RESOLVED: That consideration of this application be deferred to: Seek further information to assess visual impact, potential level of harm, details of the mitigation and benefits arising, this to include:

- Details of actual layout of site including hard & soft landscaping & any associated facilities & lighting;
- Details of the scale and design parameters;
- Further detail of demonstrating both local and longer distance views and how these can be mitigated;
- More details in terms of landscaping, including a net gain for biodiversity with incorporation of hedgerow trees reflecting Council's Landscape Character Assessment Guidance in proposed mixed native hedgerow along northern boundary of site, extension of Ancient Woodland buffer westward to provide habitat link to pond and ditch network on Stilebridge Lane frontage and fencing along Ancient Woodland buffer (Chestnut spine);
- Details of lighting strategy; and
- Clarification in terms of sustainability (role of rural tourism), economic benefits and business model, including identification of need for this type of use, model for occupation (for example, whether these would be short-let units managed by the site owners) and info about how site and landscape and ecology elements would be managed.

Voting: 11 – For 1 – Against 1 – Abstention

5th DECEMBER 2019

All Members except Councillors Harwood and Perry stated that they had been lobbied. Committee considered report and urgent update report of the Head of Planning and Development.

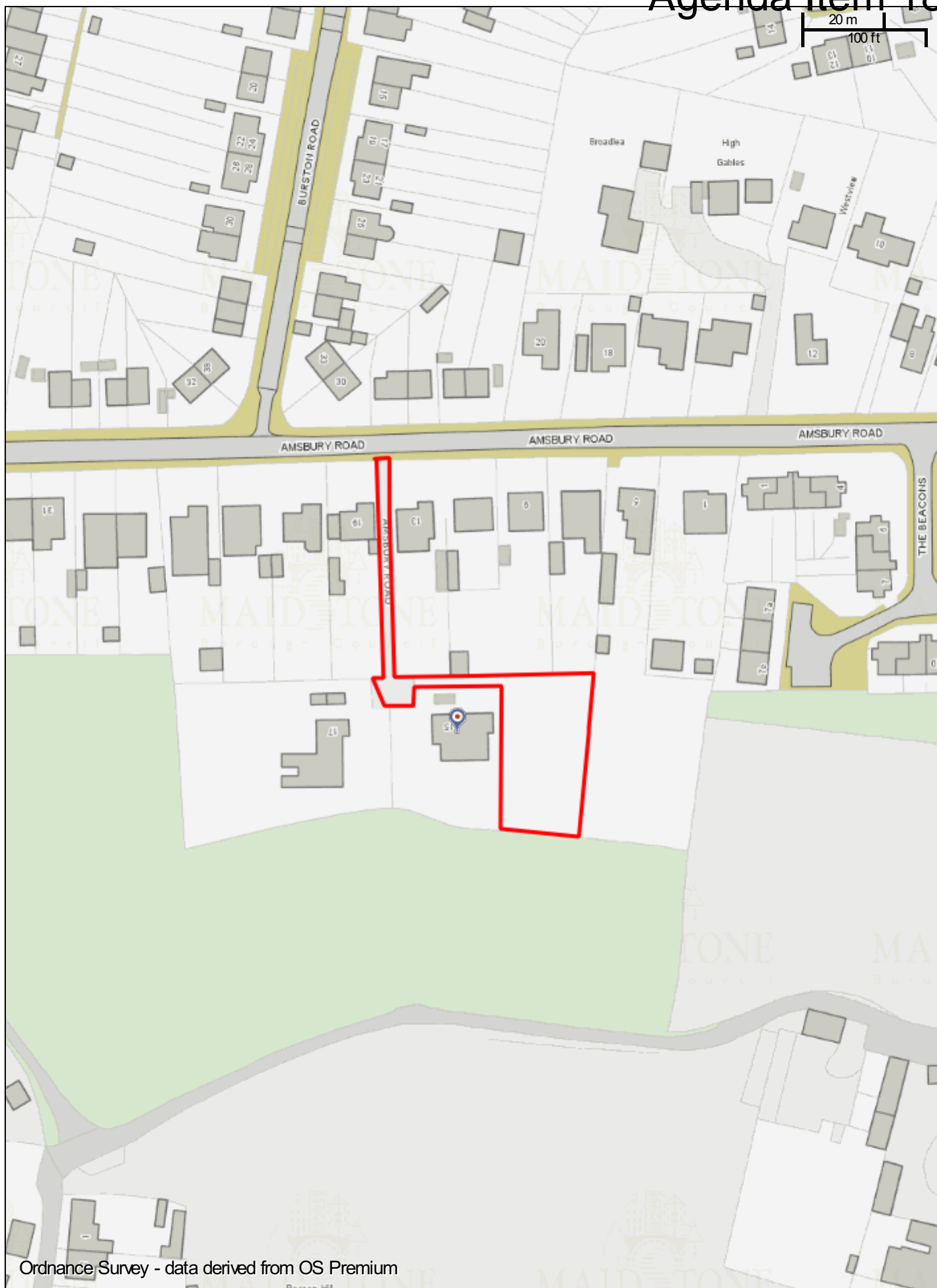
In presenting the application, the Development Manager circulated a revised site location plan with an amended red line boundary. He also sought the Committee's agreement to the deletion of recommended condition 3 which had been superseded due to the reduction of the red line boundary. Mr Cooper, an objector, Councillor Mannington of Marden Parish Council, Mr Nicholls, for the applicant, and Councillor D Burton (Visiting Member) addressed the meeting.

During the discussion on the application, the Development Manager advised the Committee that he wished to amend the first line of recommended condition 3 (originally condition 4) to read: *All caravans permitted at the site shall be occupied for bona fide holiday purposes only.*

RESOLVED:

1. Permission be granted subject to conditions and informatives set out in report as amended by Development Manager at meeting with deletion of condition 3 (Touring Caravans and Tents) and;
 - (a) The further amendment of condition 3 (originally condition 4) (Holiday Occupancy) to include a mechanism to effectively record the use of the caravans;
 - (b) An additional condition requiring the provision of owl boxes within the site to protect and enhance biodiversity; and
 - (c) Additional informative reminding applicant/future occupiers that this is a tourist rather than a permanent residential development and explaining that it cannot be for full time residential occupation.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended and additional conditions and the additional informative.

Voting: 7 – For 2 – Against 0 – Abstentions



Ordnance Survey - data derived from OS Premium

20/505710/FULL 15 Amsbury Road, Coxheath, Maidstone, Kent, ME17 4DW
 Scale: 1:1250
 Printed on: 14/4/2021 at 11:31 AM by SummerF

REFERENCE NO - 20/505710/FULL			
APPLICATION PROPOSAL Erection of 1 no. four bedroom chalet bungalow with integral garage and associated parking. (Resubmission of 20/503671/FULL)			
ADDRESS 15 Amsbury Road Coxheath Maidstone Kent ME17 4DW			
RECOMMENDATION Grant Planning Permission subject to planning conditions			
SUMMARY OF REASONS FOR RECOMMENDATION An identical dwelling was granted on this site referenced 16/507443/FULL which was previously granted at committee taking into account the submitted version of the Maidstone Borough Local Plan. The proposed development complies with the policies of the adopted Maidstone Local Plan 2017 and policies within the NPPF and there are no over-riding material considerations to indicate a refusal of planning consent.			
REASON FOR REFERRAL TO COMMITTEE Coxheath Parish Council would like to see the application refused due to it being out of character with the surrounding area, over-development and poor access.			
WARD Coxheath And Hunton	PARISH/TOWN Coxheath	COUNCIL	APPLICANT Mr Robert Gordon
TARGET DECISION DATE 30/04/21		PUBLICITY EXPIRY DATE 22/02/21	

Relevant Planning History

16/507443/FULL Erection of 1no. four bedroom chalet bungalow with integral garage and associated parking. Approved at committee 13.01.2017

20/503671/FULL

Erection of 1no. four bedroom chalet bungalow with integral garage and associated parking. Withdrawn Decision Date: 06.11.2020

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is located within the larger village of Coxheath, and comprises backland development within the garden area of 15 Amsbury Road. This area is residential in character and comprises a mix of detached and semi-detached bungalows and two storey dwellings. To the south of the site is open countryside with a public footpath (KM134) approximately 180 metres away.
- 1.02 The host property is a detached chalet bungalow set back from Amsbury Road by some 60 metres, and accessed by a private access road that runs between Nos 13 and 19. The access also serves No 17 Amsbury Road. The garden area lies to the east of No 15 and it is on this land that the proposed development is to be sited.

2. PROPOSAL

- 2.01 The proposal is for the erection of a detached, chalet bungalow with four bedrooms and an integral garage. The front elevation would face north and the driveway would be situated along the northern boundary of the site, with the integral garage complete with cycle storage projecting forward of the principle elevation.
- 2.02 The roof would include barn hips and several dormer windows on the north, south and west elevations. The front projecting roof would have a lower ridge than that of the main roof which would have a height of 7.2 metres. The materials have been identified as yellow facing bricks fibre cement roof tiles.

- 2.03 The ground floor would comprise a kitchen/diner and separate living room, utility, WC and study. The first floor would comprise four bedrooms all with en suite bathrooms.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017 DM1, DM3, DM11, DM23, SP17

Neighbourhood Plans N/A

Kent Minerals and Waste Local Plan 2016

Supplementary Planning Documents Maidstone Landscape Character Assessment

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 4 representations received from local residents raising the following (summarised) issues
- Over-development
 - Over-bearance
 - Visual Impact
 - Overshadowing
 - Loss of Privacy
 - Loss of mature landscaping
 - Impact on wildlife
 - Highway safety, increase in traffic
 - Potential damage to drainage during construction
 - Noise and disturbance during construction

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 Ecology

- 5.01 Sufficient information has been submitted to satisfy the query relating to badger setts. However, a pre-commencement condition should be added, with mitigation if necessary, to ensure the protection of any new badger setts in close proximity of the development proposal. Biodiversity enhancements would also be required.

Trees

- 5.02 The trees in need of removal are not considered to be of sufficient quality to pose an arboricultural constraint on the development. The proposed service route and access drive to the new dwelling will go through the root protection area of a number of adjacent trees, however the submitted information provides satisfactory mitigation measures (in accordance with BS5837:2012) to ensure their construction/installation will not unduly compromise the trees long-term health. All construction works are to strictly adhere to the recommendations of the submitted AMS and Tree Protection Plan by way of a suitable condition.

Environmental Services

- 5.03 No objection in terms of air quality, noise and dust may be an issue during construction, details of any lighting should be submitted by condition.

Minerals and waste

- 5.04 No comment

- 5.06 KCC Highways

The development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

6. APPRAISAL

Main Issues

- 6.01 The key issues for consideration relate to:
- Visual amenity/design and layout/trees and landscape
 - Neighbour amenity
 - Biodiversity
 - Highways

Visual amenity/design and layout/trees and landscape

- 6.02 Policy DM1 sets out that development proposals should respond positively to, and where possible enhance, the local, natural or historic character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation, and site coverage, incorporating a high quality, modern design approach and making use of vernacular materials where appropriate. DM11 sets out that the higher density of the site should not result in significant harm to the character and appearance of the area, or loss of amenity to adjoining properties. In addition, policy SP17 sets out that development proposals within landscapes of local value should, through their siting, scale, mass, materials and design seek to contribute positively to the conservation and enhancement of the protected landscape.
- 6.03 The application site is located on the edge of the settlement, with the southern boundary denoting the break between the larger village of Coxheath and the countryside. However, I note that the boundary of the Greensand Ridge Local Landscape Value overlaps the settlement boundary, stopping on the northern boundary of the application site.
- 6.04 The proposed dwelling is set in an 'L' shape, with an eaves height of 2.5 metres at the rear of the building and 3.5 metres at the front. The ridge height is 7.2 metres at the rear of the building and 6.7 metres at the front. The roofs are hipped with barn hips at each end. The access road is approximately 60 metres long, with the driveway located to the south of the application site. The dwelling is set back from the remaining dwellings on Amsbury Road on the periphery and within the settlement.
- 6.05 The style of development proposal is sympathetic with the mixed dwellings in the locality, which consist of two storey properties, chalet style dwellings and bungalows. The context would result in the proposed dwelling blending with the locality to the north of the application site and the host property to the east of the development.
- 6.06 The existing landscaping would be strengthened in conjunction with a landscaping condition that would require details to be submitted in accordance with the Maidstone Landscape Character Guidance, and this would help to alleviate any potential impact on the Landscape of Local Value to the south of the site. For this reason, the design and layout of the development proposal would be considered acceptable in terms of the rural character of the locality to the south of the site.
- ### **Neighbour amenity**
- 6.07 Policy DM1 encourages new development to respect the amenities of neighbouring properties and provide adequate residential amenities for future occupiers 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. The proposals should not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.
- 6.08 I note a first floor bedroom window on the west elevation would face No 15, at a distance of 20 metres to the windows of bedrooms in the rear elevation of the property. This has the potential to give rise to overlooking issues to both the

neighbour and the future occupiers of the application site however, as it is a secondary window, a condition can be attached to obscure glaze and fix shut the one on the west elevation. The first floor landing velux window will have the same condition attached.

- 6.09 The two bedroom windows and the landing window on the first floor south elevation would be located at least 40 metres from the rear elevations of the neighbouring properties. Sufficient boundary treatment would be maintained in order for privacy to be retained for both occupiers of the neighbouring properties and future occupiers of the application site for any amenity issues to be minimised. From the first floor, the separation distances would be considered acceptable for any impact with regard to amenity issues to be minimised.
- 6.10 The eastern elevation will have two velux windows to en suite bathrooms at first floor level however, their siting and location, along with the fact that they are not serving habitable rooms, would minimise the likelihood of any loss in amenity. The ground floor windows of the proposed dwelling would not result in a loss of privacy due to the high hedge that is on the boundary. The separation distance of the dwelling would alleviate any issues in terms of privacy, for both the neighbours and future occupiers.
- 6.11 The separation distances between the proposed dwelling and the neighbouring properties would not, given the scale and siting of the dwelling, result in a loss of amenity in terms of overshadowing and over-bearance. The use of the access for one additional dwelling would not result in an unacceptable increase in noise and disturbance. I consider that, on balance, the introduction of a new dwelling in this location to be acceptable.

Biodiversity

- 6.12 Local Plan policy DM3 encourages development that responds to the natural environment by ensuring that it protects and enhances it where appropriate.
- 6.13 Due to the lack of information in the ecological survey considering the possibility of a badger sett being within the adjacent properties, officers visited the site on 10.03.2021 to give further consideration of whether it was likely that there was a badger sett present.
- 6.14 The main concern was the risk that the installation of the proposed utilities (rather than the proposed dwelling) would damage/impact a badger sett if present within the adjacent gardens. Although the visit did not comprise a detailed badger survey, all the neighbouring gardens visited (including the applicant's property, 13, 9 (which extends beyond the rear of 11) and 5) did not find/identify any features that would suggest that an active badgers sett is present which would result in the recommendation for an updated badger survey to be carried out prior to the determination of this application. However, badgers have been confirmed as foraging within all of the site so there is a sett present within the surrounding area.
- 6.15 A number of the gardens are overgrown so it is possible that a badger could establish within the site or surrounding areas in the future. The utilities for this application will be installed along the southern boundary therefore if a badger sett does establish there is a risk that the installation works will impact a badger sett. Therefore we would suggest that, if works have not commenced within 12 months of works planning permission being granted there would be a need for a pre commencement survey and, if required, a mitigation strategy could be required as a condition.
- 6.16 The submitted information has confirmed that badgers are foraging within the site and therefore we advise precautionary mitigation measures are included within construction management plan to ensure that badgers are not injured or killed

during the construction period (if granted) – it must be a specific requirement of the condition wording for the CMP.

- 6.17 Badgers have been confirmed as foraging/commuting within the site and the surrounding properties and therefore we advise that any boundary fencing must continue to enable the free movement of the badger population – we advise that this is incorporated into the requirement for the fencing.

Bats

- 6.18 Due to the location of the proposed development site it is likely that bats are present foraging within the site and therefore any artificial lighting may have a negative impact. For this reason, a site wide lighting condition has been advised that requires the lighting plan to follow the recommendations within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals. This condition will also benefit the badgers.

Breeding birds

- 6.19 There is suitable habitat within the site for breeding birds. All breeding birds and their young are protected under the Wildlife and Countryside Act 1981 (as amended) and therefore we advise that an informative is included - Suggested wording at the end of the report.

Biodiversity enhancements

- 6.20 Planning applications are expected to provide a net gain for biodiversity and, as such, biodiversity enhancements would be expected as part of this application, and a condition will be added to ensure that this is the case.

Highways

- 6.21 Policy DM23 takes into account the accessibility of the development and availability of public transport, the type of the development, the level of car parking, cycle facilities on new developments and the incorporation of electrical vehicle charging infrastructure.

- 6.22 Access to the site is gained from the existing access to Nos 15 and 17 Amsbury Road. The access point is an existing one and defined already by two other properties. Ingress and egress from Amsbury Road has good visibility. The access link has good forward visibility and the chance of conflict will be minimal, as it serves only 3 properties.

- 6.23 The new dwelling would be served by two ~~external~~ parking spaces, with sufficient room for parking and turning of vehicles. There is also sufficient space for the storage and collection of refuse without harm to amenity, access or highway safety. It is not considered that the proposal will have any adverse impact on the highway network or highway safety, and there has been no objection received from KCC Highways. An electric vehicle charging point will be added as a condition.

Other Matters

- 6.24 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.

PUBLIC SECTOR EQUALITY DUTY

- 6.25 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 development complies with the Maidstone Local Plan 2017 and there would not be any unacceptable impacts on the character, appearance and visual amenity of the locality. The development would not result in any adverse impact in terms of amenity to the occupiers of neighbouring properties. The proposals would not result in any parking or highway safety issues.
- 7.02 The proposal would be acceptable with regard to the Local Plan, the NPPF and all other relevant material considerations. There are no overriding material considerations to indicate a refusal of planning permission and the recommendation is to approve planning permission.

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:
- | | | |
|-------------|----------------|--|
| 01 Dec 2020 | 1735.P01 | Site Location, Block Plans, Proposed Plans |
| 01 Dec 2020 | | Supporting Correspondence |
| 01 Dec 2020 | | Tree Survey |
| 01 Dec 2020 | | Design and Access Statement |
| 04 Jan 2021 | Arbtech AIA 01 | Arboricultural Impact Assessment |
| 04 Jan 2021 | Arbtech TPP 01 | Tree Protection Plan |
| 12 Jan 2021 | | Preliminary Badger Survey |
| 18 Feb 2021 | | Ecological Consultant Letter |
| 18 Feb 2021 | | Photos x 12 |
| 18 Feb 2021 | | Site Plan |
| 03 Mar 2021 | | Email from Arbtech re: badgers |
| 03 Mar 2021 | V2 | Site Plan Annotated |
- Reason: To clarify which plans have been approved.
- 3) 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 for approval 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 enhancements [together with the location of any habitat piles] and include a planting specification, implementation details and a 5 year management plan. [The landscape scheme shall specifically address the need to provide boundary treatment to the northern and western boundaries, and include details to demonstrate that the fencing will not prevent badgers accessing the application site or adjacent properties.
Reason: In the interests of landscape, ecology, neighbour amenity and to ensure a satisfactory appearance to the development.
- 4) The occupation of the development hereby permitted shall not commence until all planting, seeding and turfing specified in the approved landscape details has been completed. All such landscaping shall be carried out during the planting season

(October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property die, or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.

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

- 5) The development hereby approved shall not commence above slab level until written details and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted for approval in writing by the local planning authority and the development shall be constructed using the approved materials

Reason: To ensure a satisfactory appearance to the development.

- 6) No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the east and west facing walls of the building hereby permitted at first floor level or above.

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

- 7) Before the development hereby permitted is first occupied, the proposed bedroom and landing windows on the first floor west elevation shall be obscure glazed to Pilkington level 4 and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such;

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

- 8) The development hereby approved shall not commence until details of the proposed slab levels of the building and the existing site levels have been submitted for approval in writing by the local planning authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site.

- 9) 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 for approval 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.

- 10) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted for approval in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The external lighting shall be in accordance with the guidance issued by the Bat Conservation Trust and the Institute of Lighting Professionals. The development shall thereafter be carried out in accordance with the subsequently approved details

and maintained as such with no additional external lighting installed on the site thereafter;

Reason: In the interest of visual amenity and to protect ecology

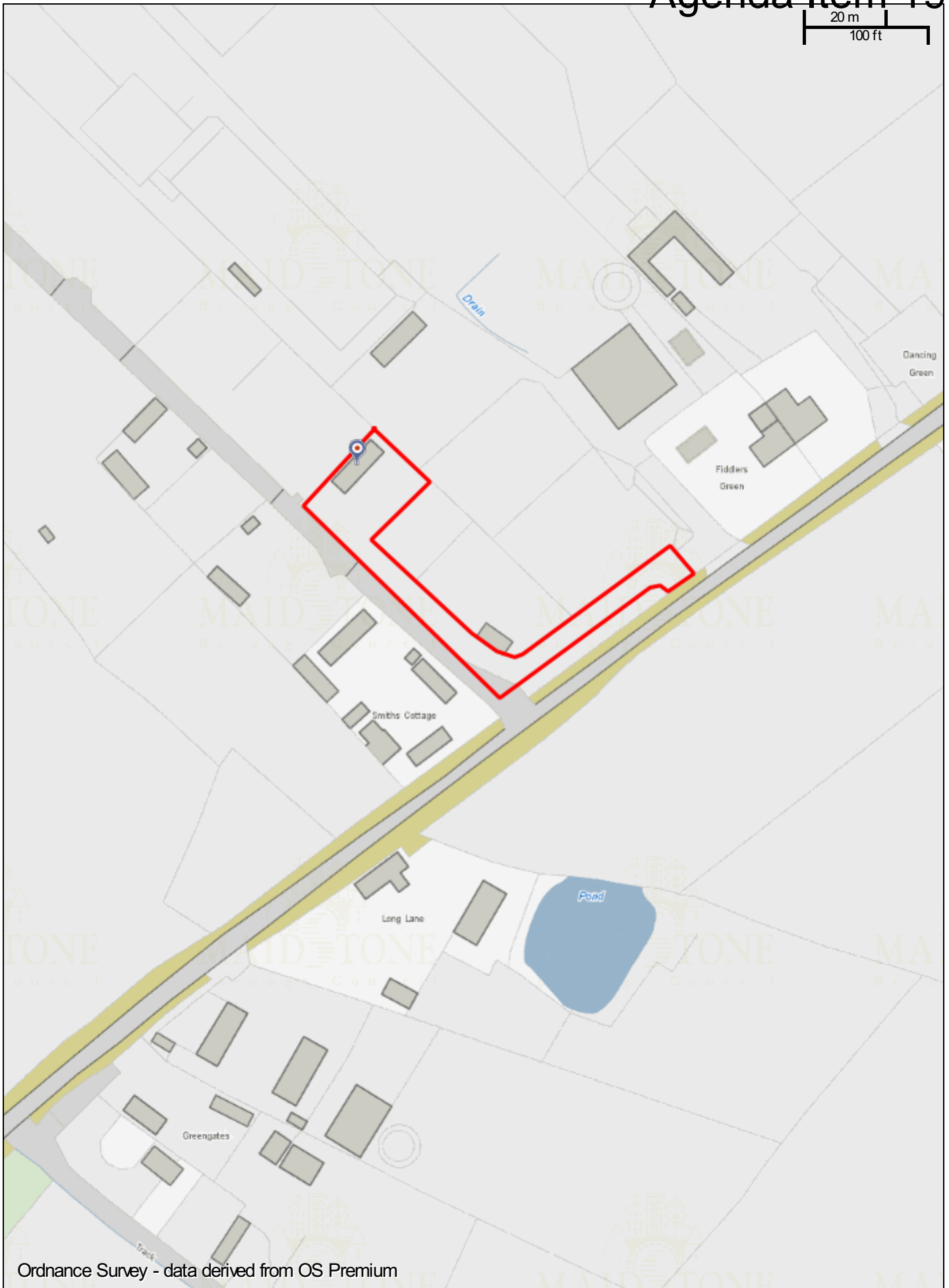
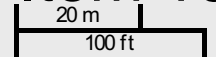
- 11) Prior to the commencement of development, the development hereby approved shall be carried out in accordance with details relating to the submitted tree protection (TPP 01), arboricultural impact assessment (AIA 01) and arboricultural method statement by Arbtech referenced Matthew Middle Dip., (Arb.), Tech.Arbor.A. and dated 21st December 2020.
Reason: In the interests of visual amenity and to safeguard the trees in this area. The dwelling hereby approved shall not be occupied until a minimum of one electric vehicle charging point has been installed and shall thereafter be retained for that purpose.
Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with policies within the NPPF.
- 12) The development hereby approved shall not commence until a method statement for the construction of the development hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. The demolition and construction works shall be carried out in accordance with the approved method statement. Details submitted should include (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) Provision of wheel washing facilities, (e) Temporary traffic management / signage, (f) Provision of measures to prevent the discharge of surface water onto the highway (g) Details for precautionary mitigation measures to avoid impacting badgers during construction.
Reason: To ensure the construction of development does not result in an adverse impact on highway safety and biodiversity.
- 13) If all utility pipes (such as water, gas etc) have not been installed within 12 months of planning permission being granted a badger survey and details of any mitigation required must be submitted to the LPA for written approval prior to the commencement of development including ground clearance works. The survey must cover areas within 30 metres of the construction works and shall be carried out on and around the perimeters of the site in accordance with details that shall be submitted for approval in writing by the local planning authority.
Reason: In the interests of ecology.
- 14) The development hereby approved shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the new dwelling by means such as swift bricks, bat tube or bricks. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.
Reason: To protect and enhance the ecology and biodiversity on the site in the future.
- 15) No demolition/construction activities shall take place, other than between 0700 to 1900 hours (Monday to Friday) and 0700 to 1300 hours (Saturday) with no working activities on Sundays, Bank or Public Holidays.

Reason: In the interests of aural amenity.

INFORMATIVES

- 1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>
The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
- 2) Breeding birds
The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defense against prosecution under this act. Trees, scrub, hedgerows and buildings are likely to contain nesting birds between 1st March and 31st August inclusive. Vegetation is present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
- 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: Jocelyn Miller



Ordnance Survey - data derived from OS Premium



20/503279/FULL 4 Ash Gardens, Lenham Road, Headcorn, Kent, TN27 9LG

Scale: 1:1250

Printed on: 16/3/2021 at 11:22 AM by JoannaW

REFERENCE NO - 20/503279/FULL		
APPLICATION PROPOSAL Change of use land for the siting of 1no. mobile home, 1no. touring caravan and the erection of 1no. utility room for Traveller occupation. (Retrospective)		
ADDRESS 4 Ash Gardens, Lenham Road, Headcorn, Kent, TN27 9LG		
RECOMMENDATION GRANT PLANNING PERMISSION subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is acceptable in relation to the potential impact on Lenham Road, (as well as the access road) in relation to visual harm. The development would not harmfully impact upon the amenity of neighbouring residential amenity nor would it harmfully impact upon highway safety.		
REASON FOR REFERRAL TO COMMITTEE Headcorn Parish Council considers that the Council has sufficient supply of Gypsy and Traveller sites and additional development which is having a cumulative and detrimental impact upon the settled community is not required. Headcorn Parish Council has requested that the planning application is considered by the Planning Committee if officers are minded to approve planning permission.		
WARD Headcorn	PARISH/TOWN COUNCIL Headcorn	APPLICANT Ms. K Smith AGENT Mr S Copping
TARGET DECISION DATE 30/04/2021 (EOT)		PUBLICITY EXPIRY DATE 04/09/2020

Relevant Planning History

Application site

- 0.1 17/506017/FULL - Change of use of land for the provision of 2 mobile homes and two day rooms. – Refused 08/03/2018 on the grounds that the applicant had not demonstrated firstly that the proposed two additional mobile homes and two day rooms were needed by members of the Gypsy and Travelling community, and secondly that the intended occupiers of the new accommodation had gypsy and traveller status. As such the proposal was considered contrary to Policy DM15 of the Maidstone Local Plan and the National Planning Policy Framework 2012.
- 0.2 Also refused on the grounds of the location of the development within the countryside and that it is visible from Lenham Road, it was considered that the proposal would erode the soft, open and rural landscape and result in a development that detracts from the former open and undeveloped rural character of the site, and given the existence of other Gypsy and Traveller sites nearby, there would be severe accumulation of development in this countryside location to the detriment of the character and appearance of the countryside contrary to the National Planning Policy Framework 2012 and Policies SP17, DM15 and DM30 of the adopted Maidstone Borough Local Plan October 2017.
- 0.3 Appeal allowed on 15/02/2019 under ref: 3199316. The Inspector found that whilst the development would cause harm to the character and appearance of the area, the lack of suitable sites and the need for the applicants to provide a stable environment to raise their children outweighed this visual impact. The needs of the applicant's children were

given "very significant weight" A personal and temporary permission of three years was granted, which would expire on 15/02/2022.

- 0.4 19/501148/SUB – Submission of details pursuant to condition 5 (Additional landscaping) for the allowed appeal decision (3199316) that related to the refused application under reference 17/506017/FULL – condition details approved 07/05/2019.

Adjacent sites

Ash Gardens

- 0.5 20/502626/FULL - Change of use of land for siting of 1(no) mobile home, 1 (no) touring caravan and erection of dayroom for occupation by Gypsy family. (part retrospective). – Permitted 09/09/2020 a temporary and personal permission for 3 years relating to the applicant.
- 0.6 This permission under reference 20/502626/FULL relates to land immediately to the southeast of the current application site. In a similar manner to the current application site, the 20/502626/FULL site was also included within the larger application site that was previously approved under reference 17/506017/FULL.

Land rear of The Meadows

- 0.7 12/1772 - Use of land as residential to provide 5 plots for gypsy families, with a total of 5 mobile homes, 10 touring caravans and 5 utility blocks with associated works. Permitted 25.04.2013, a temporary permission of 3 years. Appeal to allow for permanent occupation of site dismissed on 16.01.2014.
- 0.8 16/503398/FULL (Plots 1-5) - Variation of conditions 1 and 2 relating to planning permission MA/12/1772 (use of land as residential to provide 5 plots for gypsy families, with a total of 5 mobile homes, 10 touring caravans and 5 utility blocks) to make the temporary permission permanent. Refused 15.12.2016. Appeal withdrawn 11.09.2018.
- 0.9 16/503403/FULL (Plots 6-10) -Variation of conditions 1 and 2 relating to planning permission MA/12/2113 (use of land as residential to provide 5 plots for gypsy families, with a total of 5 mobile homes, 10 touring caravans and 5 utility blocks) to make the temporary permission permanent. Refused 22.12.2016 Appeal Withdrawn 11.09.2018.
- 0.10 21/500604/FULL - Retrospective change of use of land to use as travellers caravan site consisting of 10 pitches, with 13(no) mobile homes and 6(no) utility buildings. (Resubmission of 20/502643/FULL) – Pending Consideration.

The Meadows

- 0.11 13/2014 - Application for variation of condition 1 appended to planning permission MA/12/0760 to allow the occupation of the pitch by Michael O'Brien as shown on drawing no: J001520PL01. - Permitted 12/06/2014 the permission issued was a personal one relating to the applicant and was also conditioned that the site be returned to its original state when no longer occupied by the applicant.
- 0.12 16/502358/FULL - Variation of Condition 5 of planning permission MA/13/2014 (Variation of Condition 1 appended to planning permission MA/12/0760 to allow occupation of a pitch by Michael O'Brien) - To allow stationing of a third mobile home for Mr Michael O'Brien – Refused 29/12/2017 for the following: The proposal is contrary to the terms and conditions of planning permission MA/13/2014, and the intensification of

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the use of the site results in insidious harm due to the further erosion of the area's rural and landscape character and additional cumulative impact thereto, contrary to the aims and requirements of Policies SS1, SP17, DM3, DM15 and DM30 of the Maidstone Local Plan (2017).

- 0.13 19/500169/ENF - Appeal against Enforcement Notice: Without planning permission, the unauthorised siting of two additional mobile homes and associated hard standing over and above that permitted under the approved planning permission MA/13/2014. This is contrary to the national guidance and the Maidstone Borough Local Plan development policies. - In Progress.

2 The Meadows

- 0.14 13/2215 - Use of land for the stationing of a mobile home, a touring caravan and a dayroom for one gypsy/traveller family. - Permitted 01/05/2014. A temporary permission of 2 years was issued, however appeal 3000147 quashed this decision and allowed the site to be occupied for 3 years this decision was issued on 20/02/2015.
- 0.15 18/500672/FULL - Variation of conditions 1 and 4 of appeal decision for application 13/2215 (Use of land for the stationing of a mobile home, a touring caravan and a dayroom for one gypsy/traveller family.) - to amend condition 1 to grant consent on a permanent basis or for a further temporary period, and to amend condition 4 to allow the stationing of 3 caravans (2 static and 1 touring van). - Refused 28/03/2018 for the following: In the absence of sufficient information pertaining to Gypsy and Traveller status there is no justification for allowing this development with the harm it would cause to the openness of the countryside, and the visual impact it would have on the character and appearance of the area. The proposed development would represent inappropriate development in the countryside for which no justification has been demonstrated. The proposal is therefore contrary to policies SS1, SP17, DM1 and DM30 of Maidstone Local Plan (2017) and the National Planning Policy Framework (2012). Subsequent appeal withdrawn.

'Land at The Meadows'

- 0.16 11/0917 - Use of land for the stationing of two touring caravans for a gypsy family together with utility room and provision of a hardstanding and temporary toilet, as described in application forms received 3 June 2011, design and access statement received 9 June 2011, certificate B dated 27 January 2012, letters from agent with accompanying documents dated 20 January 2012 and 23 January 2012, and e-mail from agent and accompanying documents dated 14 February 2012, and shown on drawing numbers MAI/17/PL/03 received 5 July 2011 and MAI/17/PL/04 received 10 April 2012. Permitted 17/05/2012 the permission issued was a personal one relating to the applicant and was also a temporary permission of 3 years.

1 DESCRIPTION OF SITE

- 1.01 The application site is located 67m to the north west of Lenham Road, Headcorn. The application site is within open countryside and adjoins two existing authorised Gypsy/ Traveller sites and an equestrian centre.
- 1.02 There is an established dense native species hedgerow approximately 4 metres in height along Lenham Road. This hedge allows filtered views of the Gypsy and Traveller plots that are immediately adjacent to Lenham Road (1 and 2 Ash Gardens). These plots also separate the current application site from Lenham Road.

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- 1.03 The caravan site is accessed via the longer access road off Lenham Road that is visible in the image below. The access is not through 1 and 2 Ash Gardens, as the below site plan may give the impression. Fencing approximately 2 metres in height is located alongside the boundaries of the access road. The Ash Gardens sites have brick built planters with hedgerows to the front of boundary fencing. These features all provide screening for the Gypsy and Traveller plots.

Image 1: Site layout approved under 17/506017 at appeal (Red line added by case officer)



- 1.04 The application site is accessed via a close boarded gate located at the south western corner of the plot. The mobile home occupied by the applicant is located at the north eastern end of the site, with a utility building located midway along the south eastern boundary. A tourer is parked in the northern corner of the site. The image below (with annotations added by the case officer) shows the access arrangements.
- 1.05 Existing gypsy and traveller development is evident in the area. To the rear of The Meadows paddock area is a Gypsy and Traveller site (approximately 170m to the north west of the application site) where there is ongoing appeal (public inquiry). A notice was served in august 2018 but inquiry date is still pending. As will be detailed further below there are enforcement cases opposite the application site, two sites without permission and Smith Cottage at the front which has permission for two but has four static caravans on site.
- 1.06 In terms of the surrounding development Image 3 is used to detail the extent of development immediately to the south and opposite the application site. The site opposite (10m to the south west) the application site '2 The Meadows' (highlighted in purple) was granted a temporary permission in 2014, under application 13/2215, this was then extended to 3 years under appeal reference 3000147 in February 2015. An application seeking to allow the site to be occupied on a permanent basis was refused in 2018. The appeal following this decision was withdrawn in July 2020.

Image 2: Proposed Site Plan with access details (added by case officer)



- 1.07 To the north of '2 The Meadows' (14.5m to the west of the application site) is the site known simply as 'Land at the Meadows' (highlighted in green) Application 11/0917 which sought the stationing of two caravans was granted a temporary permission in 2012 for 3 years. This has now expired.
- 1.08 The Meadows site highlighted in orange (20m to the south) is only permitted for use by the current family occupying the site as detailed by permission 13/2014. When they no longer occupy the site, it would be returned to its former state. Application 16/502358/FULL to allow for the placement of an additional mobile home was refused in December 2017 and an enforcement appeal is in progress for the unauthorised placement of two mobile homes.
- 1.09 The development upon the application site itself (highlighted in red) is retrospective. 1, 2 & 3 Ash Gardens immediately to south east (highlighted in blue) are also temporary permissions as detailed in the above planning history section which would expire in 2022 and 2023 respectively.

2. PROPOSAL

- 2.01 The current application seeks planning permission to use the land to provide 1 mobile home, a touring caravan, and the erection of a utility room at 4 Ash Gardens, for occupation by the applicant, and her family.
- 2.02 The current application site forms part of the land that was included within the application site boundary for the planning permission under reference 17/506017/FULL (allowed at appeal for 2 mobile homes and two day rooms shown as the two land plots enclosed in red and blue in Image 3 above). Following the allowed appeal, the larger site has been split up and sold separately. The current application site is at the north west end of the larger site, on the earlier approved plans the land forming the current application site provided a wildflower meadow.

Image 3: Surrounding sites



- 2.03 As such, should planning permission be forthcoming there would be the 2 mobile homes and 2 day rooms (permitted at appeal 17/506017/FULL) associated with 1 & 2 Ash Gardens, the 1 mobile, 1 tourer and day room associated with 3 Ash Gardens permitted under 20/502626/FULL and (the retrospective) 1 mobile home, 1 tourer, 1 utility room and hardstanding associated with 4 Ash Gardens that form part of the current submission.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017:

DM1 – Principles of good design

DM3 – Natural environment

DM15 – Gypsy, Traveller and Travelling Showpeople accommodation

DM30 – Design principles in the countryside

The National Planning Policy Framework (NPPF):

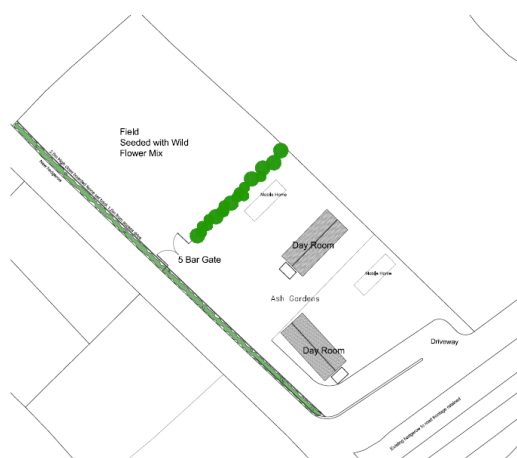
Section 12 – Achieving well-designed places

Supplementary Planning Guidance:

Planning Policy for Traveller Sites' (PPTS)

Maidstone Landscape Character Assessment (amended 2013)

**Image 4: Left: Proposed block plan (17/506017/FULL, still extant)
– Right: Proposed Block Plan**



4. LOCAL REPRESENTATIONS

Local Residents:

2 representations were received from neighbouring properties objecting to the proposal on the following summarised grounds:

- The development would have a detrimental impact upon neighbouring amenity.
- The development would have a detrimental impact upon the character and appearance of the area and the surrounding landscape.
- Disturbance from the site in terms of anti-social activity.
- Pollution from the site.

5. CONSULTATIONS

Headcorn Parish Council (Summarised)

5.01 Objection: Councillors recommend that the application be refused and referred to MBC Planning Committee were the Planning Officer minded to approve the application for the reasons listed below.

- Headcorn have fulfilled their obligation for the provision of traveller sites in line with the Headcorn Neighbourhood plan and the Maidstone Borough Local plan.
- The traveller population is now dominating the settled population.
- Social cohesion with the village/settled community is very poor and any additional sites granted can only exacerbate this position.
- That the LPA can demonstrate a 5.3 year supply for such sites confirms that there is no unmet or proven need for this site.

Headcorn Aerodrome

5.02 No objection. The development is in close proximity to the aerodrome and would be subject to noise resulting from the use of this facility.

KCC Highways

5.03 No objection recommend standard informative on highways land.

6. APPRAISAL

Main Issues

6.01 The key issues for consideration relate to:

- Need for Gypsy and Traveller Pitches

- Supply of Gypsy Sites
- Gypsy Status
- Design and landscape impact
- Cumulative impact
- Amenity Impact
- Highways
- Sustainability

Need for Gypsy and Traveller Pitches

- 6.02 The Maidstone Borough Local Plan was adopted in October 2017 and includes policies relating to site provision for Gypsies and Travellers. Local Authorities also have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans.
- 6.03 Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Show People Accommodation Assessment (GTAA) dated January 2012. The GTAA conclusions on the need for pitches over the remaining Local Plan period are shown in the table below.
- 6.04 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised Planning Policy for Traveller Sites' (PPTS) published in August 2015. The GTAA is the best evidence of need at this point, forming as it does part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual need may prove to be somewhat lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

Need for Gypsy and Traveller Pitches Oct 2011 to March 2031

Period	No of pitches
Oct 2011 – March 2016	105
April 2016 – March 2021	25
April 2021 – March 2026	27
April 2026 – March 2031	30
Total Oct 2011 to March 2031	187

- 6.05 The target of 187 additional pitches is included in Policy SS1 of the Adopted Maidstone Borough Local Plan (Adopted October 2017).

Supply of Gypsy sites

- 6.06 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.
- 6.07 The following table sets out the overall number of pitches which have been granted consent from 1st October 2011, the base date of the assessment, up to 31st March 2020.

Supply of Gypsy and Traveller Pitches Oct 2011 to 31 March 2020

Type of consents	No. pitches
Permanent consent	196
Permanent consent + personal condition	30
Consent with temporary condition	4
Consent with temporary + personal conditions	39

- 6.08 A total of 226 pitches have been granted permanent consent since October 2011 (196+30). These 226 pitches exceed the Local Plan's 187 pitch target. The Council's current position is that it can demonstrate a 7 year supply of Gypsy and Traveller sites at the base date of 1st April 2020.
- 6.09 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS at paragraph 11 advises "...Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community".
- 6.10 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate a 5 year supply of pitches, the PPTS direction to positively consider the granting of temporary consent does not apply.

Gypsy Status

- 6.11 The planning definition of 'gypsies & travellers' as set out in the PPTS 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 show people or circus people travelling together as such*".
- 6.12 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition in terms of ceasing travel temporarily, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.13 The agent acting on behalf of the applicant has submitted a statement detailing the applicant's personal circumstances.
- 6.14 The current occupants of the caravan on site are the applicant, her brother and her four children, two of school age, one just younger than school age and a newborn. Both school age children attend local schools, and two children visit local health clinics. As well as the benefits to the children of having a settled base, there are also detrimental health impacts from living a roadside existence. These issues would be eased by having a settled based. As detailed by the planning inspector in appeal reference 3199316, the

needs of the children must be given “very significant weight” when determining an application in these circumstances.

- 6.15 The applicant’s brother lives with and supports his sister both financially and with her children. Due to this fact, and the importance of keeping the children enrolled in education he has maintained a nomadic way of life for economic purposes. The applicant’s brother is away for single weeks at a time in order to be able to also assist with the children’s care. The family still travel to maintain the nomadic way of life during the summer months such that the children are able to have continued access to education. During periods of travelling the family have attended fairs such as Appleby and Dorset. They also travel to Liverpool where they have family.

Design, landscape and visual impact

- 6.16 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.
- 6.17 Policies DM1 and DM30 set out how development must respond positively to, and where possible enhance the character of the area and that any detrimental effects to the landscape must be appropriately mitigated.
- 6.18 Policy DM15 states that Gypsy and Traveller development must not result in harm to the local landscape character and that development should be well screened by existing landscape features.
- 6.19 The application site is located in countryside identified as a Landscape of Local Value, The Headcorn Pasturelands within the Low Weald. In terms of elements of this landscape that are relevant to this application the Landscape Character Assessment notes that “Within the area views are often contained by the hedgerow boundaries which enclose the small fields.” The Assessment concludes that this landscape is in good condition, is of high sensitivity and that it should be conserved.
- 6.20 The application site is located approximately 1.5 miles outside the settlement boundary of Headcorn in the countryside and in an area with a mix of traveller sites and the settled community.
- 6.21 Policy DM15 (c) advises that Gypsy and Traveller development should be well screened by existing landscape features. When viewed from the roadside the mobile homes in the area surrounding the application site are visually contained behind the hedgerow located along Lenham Road. Any views of the application site from Lenham Road will be further restricted as the application site is set 67m back from the road and there are other intervening caravans.
- 6.22 Whilst potential views of the application site would be most likely from adjacent gypsy and traveller sites and the access road, as site photos indicate, the site is bordered by a 2m high close boarded fence. There are no public rights of way in the immediate vicinity of the application site and no significant public views into the site. The only views onto the site would be from ‘The Meadows’ paddock or if someone chose to walk up the access road.
- 6.23 The above assessment has been made in the context of Gypsy and Traveller accommodation that currently exists on neighbouring sites. In order to attach the appropriate weight in the assessment of the current application, the current

non-permanent status of the Gypsy and Traveller plots surrounding the application site needs to be highlighted. 3 Ash Gardens to the south is a temporary permission which would expire in September 2023 (20/502626/FULL). In the event that this temporary permission is not extended the application site would be isolated on the northern side of the access road, although still screened from Lenham Road. The temporary permission (13/2215) at '2 The Meadows' opposite the application site has also expired and application 18/500672/FULL which sought to establish a permanent pitch has been refused, with the subsequent appeal withdrawn.

- 6.24 MBC Enforcement have been informally consulted on the enforcement status of the sites in the immediate area. Both of the sites opposite (the application site) and Smiths Cottage at the front of the site, which has two extra caravans are all subject to formal enforcement action. All three sit on the priority tracker awaiting enforcement notices. There is no indication how long before enforcement notices are served due to the ongoing public inquiry of the land to the rear of the Meadows and the volume of notices we have waiting to be served.
- 6.25 Whilst it can still be concluded that the caravans included as part of the current application do not have a harmful impact upon the visual amenity of the area, the weight given to the surrounding sites must take into account their temporary nature. In the appeal decision related to this site (3199316) the inspector notes in paragraph 16 "At my request I was provided with a table and plan showing the history of the other sites and the majority of these are unauthorised or have temporary permissions. Further, this cluster is not to an extent that such development has become a predominant element of the overall landscape character and I afford the presence of the potentially unlawful and temporary sites little weight".
- 6.26 In summary, as detailed above the site is situated some distance from Lenham Road and the close-boarded fence to the north west of the site means that the site has little visual effect for the most part, only the tops of the mobile homes are visible from The Meadows paddock. Views are restricted by neighbouring Gypsy and Traveller plots, the site is not prominent when viewed within the context of other development in the area, any views that would be possible would be glimpses.
- 6.27 The mobile home itself is a single storey building with, a shallow gable ended roof. It is 10.9m in length and 3m in height, clad in white weather boarding with 'slate' coloured roof tiles, similar to the mobile on the site to the south east. As was case officer noted during the assessment of that site "In the specific context of other surrounding Gypsy sites, the appearance of the mobile is unlikely to appear incongruous in terms of scale and design". The same assessment is made for this mobile.

Cumulative impact

- 6.28 Policy DM15 advises that the cumulative effect on the landscape arising as a result of the development in combination with existing lawful caravans needs to be assessed and to ensure no significant harm arises to the landscape and rural character of the area.
- 6.29 The information in the preceding parts of this report, including the planning history section, have set out the planning history of adjacent sites. These sites are relatively self-contained, and it must be borne in mind that the neighbouring site has a lawful use currently up until September 2023.

- 6.30 The current submitted proposal for one additional mobile, one additional tourer and a utility building will not result in significant cumulative landscape harm sufficient to warrant a refusal on cumulative harm.

Amenity

- 6.31 Policy DM1 states that applications must respect the amenity of neighbouring properties and that development must not result in overlooking, visual intrusion, loss of privacy or light enjoyed by nearby properties.
- 6.32 In terms of the impact upon the amenity of other Gypsy and Traveller accommodation, the closest caravan is located immediately south east of the application site, number 3 Ash Gardens. As site photos show, views into the plot of No.3 are restricted by the boundary fence, and when considering the distance of 13m no overshadowing impact or loss of privacy would occur.
- 6.33 Due to the distance plots opposite the application site would not be impacted upon by the proposed development.
- 6.34 In terms of the impact upon the settled community, representations have been received from neighbouring properties. The nearest house is at least 30 metres away from the application site. When considering that the proposed caravans and utility building are single storey in height there would be no loss of privacy or overshadowing impact on the nearest house.
- 6.35 Representations received also raise a concern about anti-social behaviour on the site. The proposed use is residential and there is nothing to indicate that the site would cause a loss of amenity in relation to anti-social behaviour. Any issue that may arise in relation to excessive noise is considered under separate legislation outside the planning system.

Highways

- 6.36 Policy DM1 states that applications must ensure that development does not result in, amongst other things excessive activity or vehicle movements. Policy DM15 states that there must be safe site access from the highway. DM30 also continues this theme stating that proposals must not result in unacceptable traffic levels on nearby roads or unsympathetic changes to the character of rural lanes.
- 6.37 With the small scale nature of the submitted proposal, the vehicle movements from the application site are easily accommodated on the local road network. The current proposal does not raise any highway safety issues in relation to the use of the existing access on to Lenham Road including in terms of diver sightlines. A refusal would not be warranted in relation to the individual impact from the additional caravan currently proposed or in terms of the cumulative impact from other local development.
- 6.38 No objections to the development have been raised by the local highway authority.

Ecology

- 6.39 The National Planning Policy Framework encourages net gains for biodiversity to be sought through decisions. Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development.

- 6.40 Policy DM3 states that development proposals will be expected to appraise the value of the boroughs natural environment and take full account of biodiversity present including the retention and provision of native plant species.
- 6.41 The current application is retrospective and as such this would include the gravel surface the development is located on. As part of the previous permission (17/506017/FULL) the application site was shown as a 'wildflower meadow'.
- 6.42 Paragraph 18 of appeal relating to the site (3199316) states "Policy H of the PPTS advises that weight should be attached to well-planned or soft-landscaped sites that positively enhance the environment and increase openness. In this case, a significant part of the appeal site's hardcore and gravel surface would be replaced with an area to be seeded with wild flowers. Although its visual effects would be limited given the siting to the rear, it would nevertheless represent an environmental enhancement".
- 6.43 Condition 5 was imposed upon the permission which required "seeding of the relevant part of the appeal site with grass and wild flowers" as well as its retention and maintenance "in accordance with the approved details". The condition specified that these works should have been carried out within one month of the decision; this condition was discharged on 07/05/2019, three months after, it is not clear if the planting ever took place.
- 6.44 When taking into account the size of the plot, and that it is occupied, it is not possible to return to the 'status quo' of a wild flower meadow. Whilst it was considered to represent an 'environmental enhancement' and was conditioned, the inspectorates' decision did not hinge on securing this. The inspectorate concluded that the "proposal would cause harm to the character and appearance of the area" (Paragraph 20), despite the inclusion of the wildflower meadow. The appeal decision does not appear to give any particular consideration to the ecological impact of the development.
- 6.45 The development at 3 Ash Gardens (20/502626/FULL) also resulted in the erosion wildflower meadow, with the officer report coming to a similar conclusion as the inspectorate regarding the harm to the character and appearance of the area. The current development would result in the wild flower meadows loss in its entirety. Whilst this is regrettable, beyond the application sites location within the countryside, this is not a 'protected' area and the ecological impact must be weighed against the fact that the development would provide a home for a family with young children.
- 6.46 Similar to the conclusion of the report to 3 Ash Gardens if permission is refused, it is likely that the applicant would have to live a roadside existence, and this would harmfully interfere with the care and education of her children as well as the employment of her brother. On the balance of weight, the presence of a wild flower meadow is not attributed more weight than the needs of the applicant.
- 6.47 On this basis a planning condition is recommended requiring the applicant to submit details of biodiversity enhancement to achieve a net biodiversity gain on the application site. This could be in the form of retro fitted bird boxes bat boxes, and where relevant bee bricks.

Domination and pressure on local infrastructure

- 6.32 The Planning Policy for Traveller Sites, paragraph 25 states "Local Planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing undue pressure on local infrastructure".

- 6.33 It is not considered that the addition of one mobile and one touring caravan and a utility building will dominate the nearest settled community or place undue pressure on local infrastructure. Children from the site currently attend the local primary school. I cannot see any grounds to conclude that the current proposals would place undue pressure on local infrastructure.

Sustainability

- 6.48 The supporting text to policy DM15 states in relation to gypsy and traveller accommodation *"It is preferable for sites to be located close to existing settlements where there are community facilities such as schools and health services. Frequently, because of land availability, more rural sites are proposed. Where such sites are proposed, the impact of development on the landscape and rural character is an important factor in respect of the wider objective of protecting the intrinsic character of the countryside"*.
- 6.49 The site is approximately 1.6 miles north east of Headcorn where there is access to a comprehensive range of services, amenities and facilities.
- 6.50 To access services within Headcorn it is accepted that occupants of the site will be reliant on private vehicles, which is the same arrangement as the existing sites in the vicinity and at other Gypsy and Traveller sites throughout the borough.

Human Rights and Equality

- 6.51 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.
- 6.52 Due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the PSED.

Conclusion

- 6.53 The above report has set out the planning history on the application site and the history relating to neighbouring sites where gypsy and traveller accommodation are currently located and has highlighted temporary permissions. In reaching a conclusion on the current proposal the decision maker has to take account of the possibility of neighbouring caravans being removed from the site. This was confirmed in the Blossom High Court decision which found that the potential change to the character of an area needs to be assessed "if the Council took action or if the temporary permission expired".
- 6.54 Whilst unlikely to take place, if all neighbouring caravans without permanent planning permission were to be removed, the application site would still be screened from Lenham Road by existing landscaping. A planning condition is also proposed to provide additional landscaping.
- 6.55 As is detailed in the planning history section, previous appeals at the application site indicate that the needs of the applicant's children and the benefits of raising them in a stable environment should be given significant weight in the decision making process. This requirement and as outlined in this report the lack of any significant harmful visual impact leads to the conclusion that planning permission should be approved.

- 6.56 The development is in keeping with local and national planning policies, and approval is recommended subject to planning conditions.

7. RECOMMENDATION

Grant Permission subject to the following conditions

- 1) The mobile home and tourer hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document); Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 2) No more than one mobile home and one tourer as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, , and no further caravans shall be placed at any time anywhere within the site. The mobile home and tourer shall be stationed on the site only in the positions shown on the plan (J003545-DD-03A – Proposed Site Plan) hereby approved; Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.
- 3) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time; Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 6 weeks of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) within 6 weeks of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include details of: the external appearance of the mobile home and utility building; means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage at the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting including details of species (should not include the planting of Sycamore trees), plant sizes and proposed numbers and densities *and; details of the* measures to enhance biodiversity at the site; and, the said Scheme shall include a timetable for its implementation.
 - (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 open countryside location which forms part of the designated Low Weald Landscape of Local Value is safeguarded.

- (5) At the same time as the Site Development Scheme required by condition 4 above is submitted to the Local Planning Authority there shall be submitted a schedule of maintenance for the proposed planting for a period of 5 years, the 5 years beginning on the date of the completion of the implementation of the planting as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the Local Planning Authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

Reason: To ensure the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value is safeguarded.

- 5) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority; Reason: In order to safeguard the night-time rural environment, the ecological interests of the site, and residential and local amenity generally.
- 6) Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the Local Planning Authority other than as expressly permitted by this decision; Reason: To safeguard the visual amenity, character and appearance of the open countryside location.
- 7) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site; Reason: In order to safeguard residential and local amenity generally.
- 8) The development hereby permitted shall be carried out in accordance with the following approved plans and information:

Application for Planning Permission
J003545-DD-01A Site Location Plan
J003545-DD-02A Existing Site Plan
J003545-DD-03A Proposed Site Plan
J003545-DD-04 Proposed Utility Block Plan
Covering Letter

Planning Committee

22 April 2021

Reason: To clarify which plans have been approved.

Case officer: William Fletcher



Ordnance Survey - data derived from OS Premium



21/500849/NMAMD Maidstone Borough Council Car Park, Corner of Union Street, Queen Anne Road, Maidstone, Kent

Scale: 1:1250

Printed on: 14/4/2021 at 14:20 PM by SummerF

REFERENCE NO - 21/500849/NMAMD		
APPLICATION PROPOSAL Non material amendment relating to planning permission 20/504860/FULL for alterations to the approved landscaping scheme (Condition 18)		
ADDRESS Maidstone Borough Council Car Park Corner Of Union Street Queen Anne Road Maidstone Kent		
RECOMMENDATION - Approve		
SUMMARY OF REASONS FOR RECOMMENDATION The changes as proposed are considered to be acceptable non-material alterations to the approved scheme.		
REASON FOR REFERRAL TO COMMITTEE Maidstone Borough Council was the applicant on the original planning application under planning application reference 17/504428/FULL		
WARD High Street	PARISH/TOWN COUNCIL	APPLICANT Kevin Crew AGENT Mr Darren Bland
TARGET DECISION DATE 22/03/21	PUBLICITY EXPIRY DATE N/A	

Relevant Planning History

17/504428/FULL

Creation of a new 48 space public car park, together with 30 flats in a stepped block backing onto Queen Anne Road. A row of 6 semi-detached houses fronting Union Street and two terraced rows arranged as a 'Mews' providing 11 houses, together with a new estate road, allocated parking and soft landscaping.

Approved Decision Date: 07.03.2018

20/504860/FULL

Section 73 - Application for Variation of condition 16 (to remove: upgrading of the existing pedestrian crossing on King Street to provide additional crossing detectors and reconfiguration of the controller) pursuant to application 17/504428/FULL

Approved Decision Date: 01.04.2021

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The redevelopment of the site to provide a public car park and residential development was approved under application reference 17/504428/FULL and is currently under construction. This application was subsequently amended by a section 73 planning permission under application reference 20/504860/FULL that amended condition 16 (off site highways improvements) and required a payment in lieu of upgrades to a pedestrian crossing on King Street.

- 1.02 The application site is to the south of Union Street, and turns the corner to Queen Anne Road which is to the east and southeast. The eastern part of the site previously included a 48 space MBC public car park and a 44 space car park reserved for NHS.

2.0 Proposal

- 2.01 The proposal is to amend condition 18 of planning application reference 20/504860/FULL. The condition required the development to be built in accordance with the approved landscape details (drawing nos. TD895_01B (sheet1) & TD895_02B (sheet 2)). The changes proposed are shown on submitted drawing TD895_02J and TD895_01J and are outlined in more detail within section 5 of this report.

3.0 POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017 H1(12), DM1

4.0 CONSULTATIONS

- 4.01 As an application under Section 96A of the Town and Country Planning Act 1990, this is not an application for planning permission. Therefore, provisions such as neighbour notification do not apply. Notwithstanding this, the Council's Landscape officer has been consulted and considers that the revised species selection aligns with the approved scheme.

5.0 APPRAISAL

Main Issues

- 5.01 Section 96a of the Town and Country Planning Act 1990 allows applications for non-material changes to planning permissions. National Planning Practice Guidance (NPPG) advises that there is no statutory definition of 'non-material'. It will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990.
- 5.02 It is understood that the applicant has engaged with ward councillors prior to the submission of this application and that changes have been made to the proposed landscaping to reflect these discussions. The proposed changes to the native landscape scheme are outlined below:

Native/ trees/hedges Original 2017 scheme	Native cultivar	Native/ Native cultivar trees/hedges 2021 Revision J
Betula pendula (Birch)		still in scheme
Carpinus betulus (Hornbeam hedge)		still in scheme
Prunus Padus Albertii (Bird Cherry cultivar)		still in scheme
Tilia cordata 'Greenspire'		still in scheme
Acer Campestre (Field Maple cultivar)		Replaced with Carpinus betulus A Beckman (Hornbeam cultivar) <i>New</i>

Crataegus laevigata Pauls Scarlet (Hawthorn cultivar)	not suitable for required area - removed
	Taxus bacatta (hedge) <i>New</i>
	Taxus repandens (hedge) <i>New</i>
	Sorbus torminalis (Wild Service Tree) <i>New</i>

Native Shrubs Original 2017 scheme	Native Shrubs 2021 Revision J
Cornus sanguinea (dogwood)	still in scheme
Crataegus monogyna (hawthorn)	still in scheme
Corylus avellana (hazel)	still in scheme
Euonymus europaeus (Spindle)	still in scheme
Rhamnus Cathartica (Purging buckthorn)	still in scheme
Ruscus aculeatus (Butchers Broom)	still in scheme
Viburnum lantana (wayfaring tree)	still in scheme
Viburnum opulus (guelder rose)	still in scheme
	Buxux Sepmpervirens (Box) <i>New</i>

Native Herbaceous ground cover Original 2017 scheme	Native Herbaceous ground cover 2021 Revision J
Carex remota	still in scheme
Carex pendula	still in scheme
Deschampsia Goldtau	still in scheme
Carex divulsa	still in scheme

- 5.03 The revised landscaping scheme is in keeping with the original approved landscape details with landscaping around the outside of the site continuing to provide a soft edge to the development. This will be achieved through the use of soft shrub landscaping and trees inside of the replacement walling for the houses on Union Street, which would be in keeping with the character of front gardens to the north side of Union Street.
- 5.04 Frontage landscaping would also be provided around the eastern boundary of the development on Queen Anne Road to provide a soft edge to the development through prominent native/near native planting in the form of hedging and new trees, mixed with shrubs. This would provide an appropriate soft edge and visual appearance to this frontage of the development.
- 5.05 In accordance with the previously approved landscaping scheme, tree and shrub planting would also be provided inside the site. In total there would be planting of 27 new trees throughout the site, including one additional tree (total of 8 frontage trees) compared to the previous landscape scheme within the street scene on to Union Street and Queen Anne Road.
- 5.06 In addition to the above changes, the applicant is also now proposing to remove the climbing plants previously proposed in the public car park on the western

boundary of the site and replace a shrub mix on the eastern side of the public car park with a mixture of shrubs and a native hedge. It is also proposed to replace an area of wildflower meadow at the entrance to Block 1 with two species of native grasses and 36 species of wildflowers.

- 5.07 It is considered that the revised landscaping scheme will provide an appropriate setting to the development with good interest and colour, and a mix of native/near native and ornamental species appropriate for this urban site.
- 5.08 The non-material amendment is considered to be in accordance with policy DM1 (principles of good design) and criterion 4 of policy H1(12) of the Local Plan which require proposals to sensitively incorporate natural features such as trees, hedges and also ensure appropriate semi-mature feature trees are incorporated into this site.

6.0 CONCLUSION

- 6.01 The proposed alterations to the landscape scheme would not result in significant environmental effects, or significantly alter the approved landscaping scheme for the site. The changes as proposed are considered to be an acceptable non-material alteration to the approved scheme.

PUBLIC SECTOR EQUALITY DUTY

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

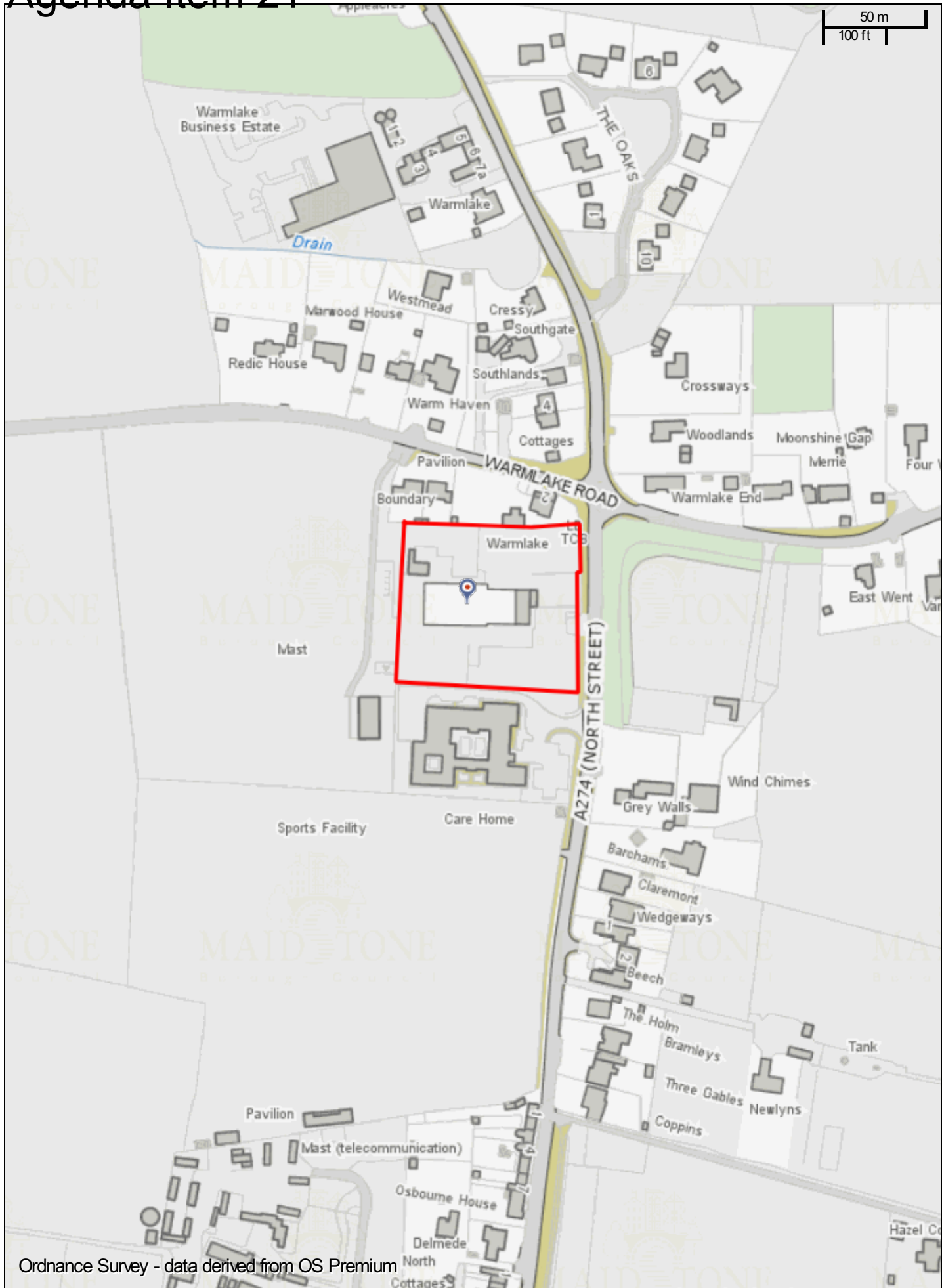
7.0 RECOMMENDATION – Application Permitted

INFORMATIVES

- 1) The decision was based on the following plans: TD895_01J and TD895_02J

Case Officer: Adam Reynolds

Agenda Item 21



Ordnance Survey - data derived from OS Premium

20/505350/FULL Warmlake Nursery, Maidstone Road, Sutton Valence, Maidstone, Kent, ME17 3LW

Scale: 1:2500

Printed on: 14/4/2021 at 14:29 PM by SummerF

REPORT SUMMARY

REFERENCE NO: 20/505350/FULL		
APPLICATION PROPOSAL: Redevelopment of existing garden centre / nursery to provide 18 dwellings, including 7 affordable houses, with associated landscaping, flood storage measures, access and parking.		
ADDRESS: Warmlake Nursery, North Street, Sutton Valence, ME17 3LW		
RECOMMENDATION: Grant planning permission subject to the conditions and s106 heads of terms listed below.		
<p>SUMMARY OF REASONS FOR RECOMMENDATION:</p> <p>The development of this brownfield site accords with relevant Local Plan policies relating to brownfield development in the countryside.</p> <p>The site is bounded on two sides by existing built development and is in effect an infill site that will not extend beyond existing boundaries and does not harm the character or appearance of the adjacent countryside.</p> <p>The layout of the site as a whole and the individual plots will provide a good quality of amenity for future residents, whilst the layout has also been designed to protect the amenity of adjacent residents.</p> <p>A range of house styles is proposed incorporating the use of local typologies and materials.</p> <p>The proposed landscaping has been enhanced following discussions with officers to improve the site's future biodiversity offer.</p> <p>There are no transport, environmental or other technical objections.</p>		
REASON FOR REFERRAL TO COMMITTEE: The Parish Council objects and requests that the application be considered by Planning Committee.		
WARD Sutton Valence and Langley	PARISH/TOWN COUNCIL Sutton Valence	APPLICANT Millwood Designer Homes
DECISION DUE DATE 15/05/21	PUBLICITY EXPIRY DATE: 24/12/20	OFFICER SITE VISIT DATE: 03/12/20
<p>RELEVANT PLANNING HISTORY</p> <p>The site has a history of minor applications relating to the commercial use of the site. Pre-application advice was provided in 2020 relating to residential development.</p> <p>To the south the large nursing home complex was granted planning permission in 1989/91, with a further extension permitted in 1994.</p> <p>Adjacent to the site's NW boundary, planning permission was granted in 2016 under reference 16/500001 for two detached houses in the rear grounds of Warmlake Cottages.</p>		

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The site is located on North Street, beyond the northern boundary of Sutton Valence village, just south of Warmlake Crossroads.

1.02 Immediately to the south of the application site is a large care home complex, which is part 2/3-storeys in height. Both established and new build dwellings lie to the north. Sutton Valence School playing fields lie to the rear (east), where there is also an access road to a maintenance building and a mobile telephone mast.

1.03 Linear residential development extends off each arm of the crossroads, including southwards, between the application site and the village hall, which lies circa 325metres to the south.

1.04 Adjacent to the village hall are public playing fields and a children's play area, which are considered to be within a reasonable walk south of the site.

1.05 A bus stop is located immediately outside the site frontage and provides access to Maidstone-bound services. There are three further bus stops nearby, one on each arm of the crossroads.

1.06 The site is not within or adjacent to a conservation area and there are no heritage assets or TPO's within the vicinity. Nor is the site close to any ancient woodland or designated habitat.

1.07 The closest PRoW lies 200metres east of North Street, from which the site is not visible.

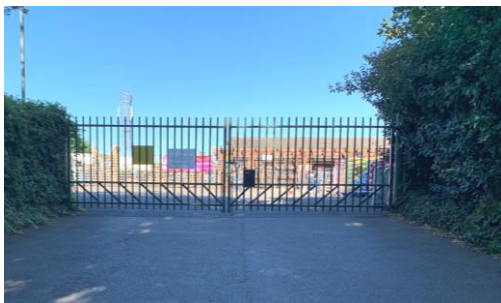
1.08 The frontage to North Street (right) is marked by a mature hedge and trees, sitting atop a low bank. Visibility at the site access is good in both directions.

1.09 The site access rises very slightly from North Street into an otherwise broadly flat site. The southern boundary also has a mature tree'd screen.

1.10 The site has been used as a garden centre since the mid 1980's and currently comprises a main garden centre structure with associated storage buildings, areas of open storage and a



significant areas of hard standing for operational functions such as servicing and customer parking. The existing site is visually discreet when viewed from North Street, due to the low rise nature of the existing structures. However, it is not of an attractive appearance and does not contribute positively to the character of the area.



- 1.11 To the north, residential properties have rearward views towards the common boundary and this relationship is further assessed in Section 6 below.

2 THE PROPOSALS Planning permission is sought for the removal of all existing structures and the erection of 18 No. dwellings, of which 7 No. (39%) will be affordable. Each dwelling would either be 1.5 or 2 storeys in height. The gross density would be relatively low at 24 dph.

- 2.02 The proposed buildings include a mixture of detached, semi-detached and terraced houses. A broad unit mix is proposed comprising:

- 2 x one-bedroom units
- 4 x two-bedroom units
- 9 x three-bedroom units
- 2 x four-bedroom units
- 1 x five-bedroom units

- 2.03 Each 3, 4 and 5-bed unit has two parking spaces either on-plot or allocated, with 7 of the units being provided with an additional double garage. In accordance with standards, the 2-bed units have an average of 1.5 spaces and the 1-bed one space each. There are 5 dedicated visitor parking bays although by virtue of the

site layout, there is scope to accommodate circa 10 further visitor cars on-plot. Dedicated cycle stores are provided to those properties which do not have garages.



- 2.04 Established planting along the front and southern boundaries will be retained, with the limited removal of some low grade planting that is to be replaced with native trees and hedgerow. A new tree line and hedgerow will be planted along the northern boundary to screen the site from existing residential neighbours and a further hedgerow planted to the west, where a more open aspect is appropriate. New tree planting is proposed along both the access road and within the communal amenity and parking areas.
- 2.05 In response to comments from the case officer the layout of the site and massing of buildings has been amended following the original submission, notably:
- The height of plots 1 and 2 adjacent to the site entrance has been reduced to 1.5 storeys in order to manage the visual impact on North Street
 - Some plots have been re-sited in order to optimise areas of useable open space and landscaping
 - The parking layout has been improved to create more visitor capacity
 - Further native landscaping has been introduced at the site entrance and boundaries
 - The roof height of plots 9-11 on the northern boundary has been reduced.



2.06 A variety of house styles are proposed, which serve to create a varied street scene and thus avoid the risk of creating a uniform suburban character. Materials are principally red brick, timber weatherboard and hanging tiles, with clay tile roofs.

2.07 The landscape strategy is based upon a number of principles, namely:

- Reinforcing the existing mature hedgerow to the site frontage, to maintain the semi-rural character of the street scene
- Strengthening the site boundaries in terms of their potential to create habitat and wildlife corridors
- Introducing significant new tree planting within the site
- Creating a habitat feature from the swale
- Providing a central area of useable open space

2.08 Excluding private garden areas, the principal landscape elements are highlighted on the plan above.



3.0 POLICY AND OTHER CONSIDERATIONS

3.01 The following 2017 Maidstone Borough Local Plan (MBLP) policies are considered to be relevant to the consideration of this application or issues raised by consultees:

- SP17 The Countryside – development should not harm the character and appearance of the countryside.
- SP19 Housing mix – in supporting the delivery of mixed communities, the mix within housing development should reflect local needs.
- SP11/SP15 Sutton Valence Larger Village – the loss of local shops and services will be resisted.
- SP20 Affordable housing – the Council will seek the delivery of 40% affordable housing.
- DM1 Design quality – new development should, inter alia, respect local character in terms of, for example, height and scale.
- DM5 Brownfield land – development of brownfield sites within the countryside should seek to deliver environmental improvements, be accessible by sustainable modes and of an appropriate density.
- DM12 Density – sites adjacent to larger villages are expected to achieve net densities of up to 30 dph.
- DM19 Open space – new development should seek to meet identified quantitative requirements for open space.
- DM21 Transport impacts – new development should be designed to minimize any impacts on the highway network.
- DM23 Parking standards – the level of on-site parking should reflect, for example, accessibility to non-car modes and accessibility to local services.
- DM30 Design principles in the countryside – new development should respect local characteristics.

4.0 LOCAL REPRESENTATIONS

Cllr Wendy Young

4.01 Warmlake Nursery is a very well respected and extensively used facility for the residents of Sutton Valence, Warmlake, Langley, Headcorn and beyond. It provides gardening equipment and ornaments, plants, shrubs, composts, animal feed, large selection of equine and pet equipment as well as many other consumables, some of which can only be obtained much further afield.

The development of this site would be a severe loss to the community and contravenes SP11 (2) and SP21 (ii) of the Maidstone Borough Council Local Plan.

Sutton Valence has already been allocated over 100 houses in the MBC Local Plan Review therefore this development is not required in order to fulfil the housing need in this review.

Additionally, this development is outside Sutton Valence Village settlement and would extend the built-up area towards coalescence with Langley.

This application should be refused.

Sutton Valence PC

- 4.02 The redevelopment of this site is a loss of service to the community and contravenes SP11 paragraph 2. MBC has already allocated 125 new homes to Sutton Valence and most of these are not sustainable. This particular development is outside the Village settlement area and therefore not sustainable.

Local Residents

- 4.03 Three local residents have submitted objections on the following grounds:
- No local need for housing
 - Loss of a valued local business and no economic benefits arising from the development
 - The development would be crowded and out of character
 - Inadequate local services to support further housing
 - Overlooking of neighbours
 - Overly bulky close to neighbours
 - Affordable housing should be located away from residential neighbours

5.0 CONSULTATIONS

KCC Ecology

- 5.01 Recommend a field evaluation condition.

KCC Highways

- 5.02 No objection subject to conditions.

Access and sight lines are acceptable. The Road Safety Audit is acceptable.

The number 12 service provides an hourly, or twice hourly service in the direction of Maidstone.

In terms of trip generation, KCC Highways do not consider that any additional traffic could be considered 'severe,' particularly given the fact that the immediate highway network within the proximity of the site currently operates without known capacity issues.

Adequate cycle and parking facilities are provided.

Southern Water

- 5.03 No objection to the SuDS scheme – recommend informatives.

Mid-Kent EHO

- 5.04 No objections on grounds of noise, air quality or contamination. Recommend conditions.

6.0 APPRAISAL

- 6.01 The key issues for consideration by Members relate to:

- The Principle of Development
 - Existing Use
 - Residential
 - Affordable Housing / Unit Mix
- Character and Appearance
 - Layout and Density

- Design & Materials
- Open Space
- Ecology and Biodiversity
- Residential Amenity
- Highways and Sustainable Travel
- Surface Water / Flood Risk
- Other Matters

Principle of Development

- 6.02 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. It is a core principle that the planning system is plan-led. The MBLP 2017 is the principal Development Plan Document and in the context of these proposals it is up-to-date and must be afforded significant weight.

Existing Use

- 6.03 Whilst policies SP11 and SP15, which have been raised by local councillors, seek to protect local shops and services within villages, they do not apply to the Application Site as it is outside of the defined village boundary. Whilst policy DM15 facilitates limited new retail services in the countryside, it does not refer to existing uses. As such, there is no policy protection afforded to the existing use.
- 6.04 The existing site retails a limited range of specialist goods and does not perform a convenience goods role. The Council is aware that the village has a limited range of local services and as part of the Local Plan Review is considering a site for local services to the south that is more centrally located.

Residential

- 6.05 The delivery of new homes to meet local needs is an MBC priority. The Local Plan identifies that windfall development is an important element of the overall housing delivery strategy. In the context of the Application Site's location outside of any settlement boundary, the principal starting policy consideration is DM5. The preamble to DM5 states:

"Exceptionally, the council will consider proposals for residential development on brownfield sites in rural areas. Key considerations will include:

- *The level of harm to the character and appearance of an area;*
- *The impact of proposals on the landscape and environment;*
- *Any positive impacts on residential amenity;*
- *What sustainable travel modes are available or could reasonably be provided;*
- *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."*

Policy DM5 itself sets out further tests, namely:

- Is the existing site of a high environmental value
- Does the density and character reflect the surrounding area

In response to the above considerations:

Existing Character

- 6.06 The existing site is not of a high environmental value, with utilitarian buildings / structures and a number of areas of external storage. As a consequence it does not make a positive contribution to the character and appearance of the area. However, it is a visually discreet use when seen from the road and is of an appearance not untypical in a rural area and therefore contributes to the semi-rural character of this part of the village fringe. Whilst the redevelopment of the site may be acceptable in principle, it is an expectation that the existing character of the surrounding area will not be harmed.
- 6.07 There are no records to suggest that the existing use has caused any local nuisance and as such, no weight is applied to the removal of the current land use. However, it should be recognised that subject to the existing lawful use, the planning system now affords considerable flexibility for commercial uses to change and as such, it is possible that if retained, the existing commercial use of the site could intensify.

Landscape Character

- 6.08 As identified above, the surrounding area is characterised by elements of linear development along road frontages. To the south the nursing home is a large building, set back in its plot, but with a significant area of hard surfaced parking. Immediately to the north of the site is a cottage and two relatively modern large detached houses. As such, the site is in effect an infill plot within this section of linear development and its re-development would not lead to, for example, coalescence.
- 6.08 The proposed development / site boundaries will not extend any farther west than the neighbouring plots and having regard to the existing character of the site, it will not materially alter the pattern of development in the area. To the west, although obviously open space, the sports pitches are by their nature of a 'maintained' appearance and are not considered to be a sensitive natural landscape. Further, they act as a buffer to the more natural / farmed landscape further west.
- 6.09 The site is not visible from any PRow and can only be viewed from glimpses from North Street and Warmlake Road, the latter in the context of views past existing dwellings, including relatively recent modern large houses.



Modern Houses to the north west of the Application Site

- 6.10 It is therefore considered that due to the site's relationship to existing built development and limited visibility from the surrounding countryside, subject to the design and character of the development, as assessed below, the principle of residential development would not harm the wider rural character of the area and therefore accords with Policy SP17 and the relevant tests within DM5.

Further DM5 considerations are assessed from 6.14 below.

Affordable Housing / Housing Mix

- 6.11 The Local Plan reflects the expectations in the NPPF that housing development will contribute to the needs of the area. Policy SP19 seeks a range of housing types, sizes and tenures. The proposals would deliver a range of unit sizes ranging from one to five bedroom, but with an emphasis upon smaller to medium-sized units, particularly within the affordable element. The provision of smaller units within this location is welcomed.
- 6.12 Policy SP20 requires 40% affordable housing, with a mix of 70% rent and 30% intermediate. The 7 affordable units constitute 39% and having regard to the relatively small size of the development, it would be unreasonable to seek an additional unit and thus far exceed the 40% requirement. The mix of rent to intermediate is 60:40, which whilst a small departure from the guidelines, is considered by the Housing Team to be acceptable.
- 6.13 On this basis, it is considered that the application provides an acceptable response to policies SP19 and SP20 and will make a valuable contribution to local housing needs.

Character and Appearance

- 6.14 Both the NPPF and the Local Plan recognise that good design is a key aspect of sustainable development. Policy DM1 emphasises the importance of good quality design, whilst DM30 provides further guidance in respect of rural sites, where sensitivity to local typology is emphasised. In addition the Council has adopted its own version of BfL12 as a tool to help shape new residential development.
- 6.15 Whilst a relatively modest-sized development, the scheme has responded to a number of relevant BfL 12 measures, for example:
- 1 & 7-9 It has safe pedestrian connectivity and provides clear internal pedestrian spaces that are naturally supervised.
 - 2/3 It has access to public transport and thus the services and amenities of other villages, the urban area and town centre.
 - 4 The type and size of housing is designed to meet local needs.
 - 5 The design of the dwellings reflect local character
 - 10 Adequate car parking is provided to meet needs without dominating the layout.
 - 11 The layout ensures that private gardens are orientated to optimise natural light with communal areas conveniently positioned.
 - 12 Dwellings have practical arrangements for day to day amenities such as refuse/recycling and other storage provisions such as cycles.

Now turning to review some of the key design principles in more detail:

Layout and Density

- 6.16 The site access utilises the existing access point, which reduces any potential impacts upon the existing front hedgerow. The dwellings are set out in three broad groups, ie, southern and western boundaries, plus a cluster set around a parking court to the north. The layout serves to reduce the impact of rigid building lines by incorporating set staggered front building lines and recessed garages. House types vary across the scheme to provide a more organic appearance, particularly when viewed from the main road. The northern eastern element is more regular in form, but is well screened from North Street by mature hedgerow and trees.



- 6.17 Pedestrian access is set back from the carriageway, within the landscape areas, whilst the low level of traffic on the carriageways themselves means that they are suited to cycle use. Parking areas for the detached dwellings are set behind front building lines to reduce the visual impact of parked cars, whilst the parking court will be landscaped and discretely set behind open space.
- 6.18 The scale of the buildings is modest, with a mix of 1.5 and 2 storey houses, with units 1 and 2 inside the site entrance being limited to 1.5 stories, with a roof design that eliminates the opportunity to extend the roof mass in the future.
- 6.19 The density of the development is a little under 24 dph (gross). Even with the access road and parking courts removed from the site area, the net density is still less than 28 dph. This low density does not suggest that the site is under-developed, but reflects a number of factors such as, the site's countryside location and the requirement to ensure that the character of the scheme is appropriate to its setting. As such, the low density of the scheme accords with policies DM12 and the relevant parts of DM5.

Design & Materials

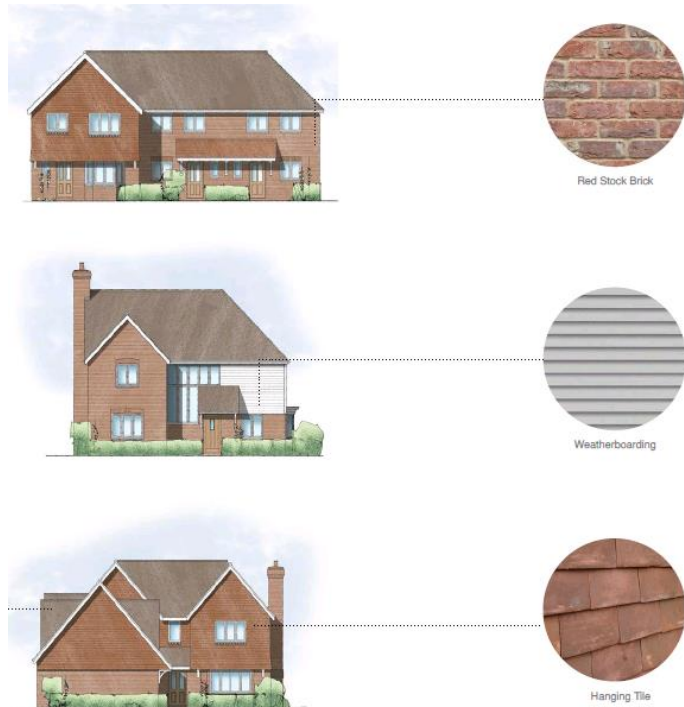
- 6.20 As previously highlighted, the scheme proposes a range of house designs in order to create variety within the scheme. The images below illustrate two of the house types, which incorporate rural typologies and good levels of detailing.



- 6.21 The proposed palette of materials is contextually sourced, with red brick, timber weatherboarding hanging tiles and clay roof tiles.

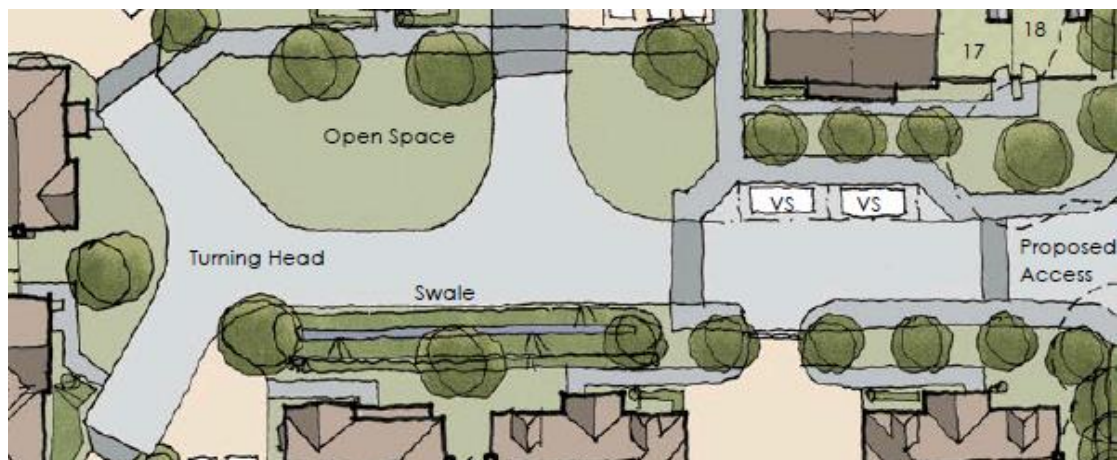
The detailed elevations show that the materials applied on each building are well proportioned.

Details of the hard landscaping will be secured by condition to ensure that the appearance of the road surfaces and parking areas are also appropriate to this rural setting.



Open Space & Landscape

- 6.22 Each house is provided with a private garden. The majority are generous, although the two one-bedroom units naturally have smaller, but nevertheless practical outside areas. In terms of non-private open spaces, developments of a small size such as this are rarely able to meet the full spatial requirements of Policy DM19, which if applied rigidly would require over 50% of the site area to be accessible open space. However, the site is a short walk from the public playing fields and children's play area, a short walk to the south.
- 6.23 For a development of this size, Policy DM19 requires 300 sq.m of amenity green space. The scheme provides two useable areas in the heart of the site that meet this requirement, plus there are other landscaped areas which, whilst not necessarily suited to activity, do add to the setting of the site, which features a landscaped main access road.



- 6.24 A particular feature of this area of the scheme is the swale. The applicant has provided images of similar features in other developments that they have completed. These images demonstrate that not only is this an attractive landscape element, but also, whilst modest in size, offers the opportunity for habitat creation.

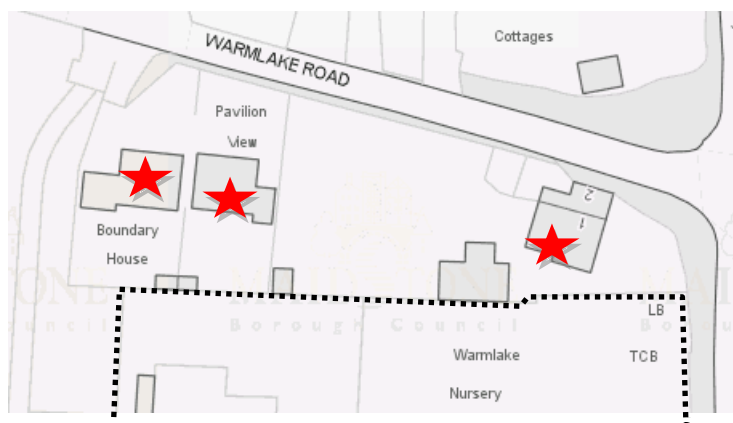


Ecology and Biodiversity

- 6.25 An ecological assessment has identified that the existing site offers limited habitat opportunity with no signs of protected species being present or foraging. In-part this is due to the fact that the majority of the site is hard surfaced and/or commercially active.
- 6.26 In addition to the above swale, the scheme takes the opportunity to enhance the habitat potential of the site's boundaries. It is proposed that a small number of existing low-grade trees are removed (including three sycamores) and these will be replaced as part of a scheme to enhance the site with native planting. The arboricultural assessment has been agreed by the tree officer and a tree protection scheme for the site forms part of the submission.
- 6.26 The existing mature front boundary hedgerow will be enhanced with further native planting. Residential gardens will stop short of this area to remove any potential conflicts between domestic use and ecology. A 'no-foundation' pathway to the rear of these gardens will allow access for maintenance. Along the northern boundary new native hedge and tree planting is proposed, although the scale of trees will need to be managed in order to avoid any overbearing impact on neighbours. Although a relatively narrow strip at up to circa 2 to 2.5metres, this corridor will not be used by residents and allows an ecology 'pathway' connection between the site frontage and the open space to the rear. On the western boundary, a native hedgerow will be planted, although this will be in the custody of the respective dwellings.
- 6.27 Conditions are proposed requiring approval of a biodiverse planting scheme, together with measures such as hedgehog friendly boundaries and nesting / roosting boxes and bricks as part of the built fabric.
- 6.28 To conclude on this part of the assessment is it considered that the scale and form of the development, together with the detailed design, materials and open/landscaped areas will lead to a high quality development in accordance with policies DM1 and DM30.

Residential Amenity

- 6.29 There are three residential buildings that lie to the north and which 'enjoy' views towards and over the Application Site. These are 1 Warmlake Cottages, together Pavillion View and Boundary House, both of which were constructed in the former garden of the cottage/s. It isn't clear whether the cottage/s are occupied as one or two units, nevertheless, the building has windows to habitable rooms that face south.



- 6.30 Both Pavillion View and Boundary House have two storey rear elevations that face towards the western part of the Application Site. They have rear gardens of circa 12m in depth. Plot 7 within the scheme mirrors this, with similar elevations and distance from the boundary, such that the separation distances (circa 24 metres minimum) are acceptable and will provide adequate privacy and natural light. Plot 11 will have a more oblique view towards Pavillion View, but again the separation distances are acceptable and the proposed boundary planting will assist in creating privacy.
- 6.31 No.1 Warmlake Cottages is closer to the boundary and has the potential to be affected. At its closest point to the boundary it is circa 5-6 metres and circa 8 metres from the side elevation of plot 12. Other than a small bathroom window, plot 12 has a blank elevation so there would be no overlooking. The eaves height of the proposal will be circa 1 metre higher than the existing cottage, but the roof is hipped away from the boundary to help reduce the massing and the overall height capped by hidden flat roof element.
- 6.32 It is inevitable that the proposals will materially change the setting of the cottage/s, but not to such an extent that there would be a loss of amenity or an overbearing relationship. Whilst the southern side elevation of the cottage has windows that face towards the application site, the property also has its traditional front and rear aspects and is not dependant upon the southerly aspect for its amenity. It is therefore not considered that plot 12 would adversely affect the neighbour's amenity. Again plot 11 would have some oblique views towards the cottage/s, but the window to window distances will be in excess of 30m.
- 6.33 Whilst there would be some views over the garden of the cottages, firstly this is not an uncommon aspect for residential neighbours and secondly, the views are principally at the roof of a garden building within the cottage's garden. There will be some overshadowing of the neighbours garden adjacent to plots 11 and 12. But the buildings have their narrowest elevations fronting the boundary and the cottage benefits from a large rear garden, much of which will not be adversely affected.



Warmlake Cottage/s

Above – southerly (side) and western (rear) aspects

Below – easterly (front) aspect towards North Street



- 6.33 To summarise, whilst the views from these neighbouring properties will materially change, it is considered that they will retain an acceptable level of amenity in terms of privacy and natural light and thus the Application is considered to comply with Policy DM1. There is of course no right to a view in planning and it is considered that the development would not be unacceptably overbearing.
- 6.34 The neighbour also raises the concern regarding potential disturbance. However, whilst there are parking spaces adjacent to the boundary, this area has been used as part of the publicly accessible displays for the garden centre and so has an established active nature.

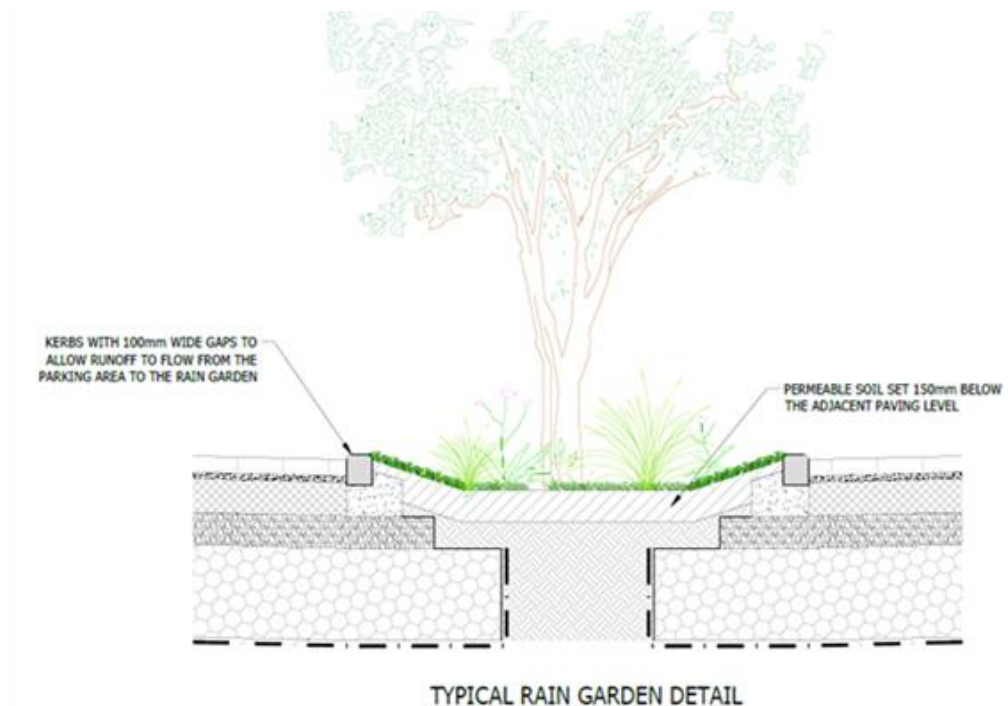
Highways & Sustainable Travel

- 6.35 The Application is accompanied by a transport statement and safety audit. KCC raise no objection to the site access location or design and consider that the scheme has an acceptable level of parking for residents and visitors. Appropriate turning areas are provided within the scheme for service vehicles. As such the proposals accord with policies DM21 and DM23.
- 6.36 Visibility at the junction is good in both directions. A pavement extends along the site frontage from the crossroads down to the village and the site is a relatively short walk to the limited amenities at Haven Farm and also the village hall / playing fields. The bus stop in front of the site gives access to the twice hourly No.12 service to both Maidstone and Headcorn.

- 6.37 As such, residents have a range of non-car options and it is considered that, as required by policy DM5, the site would represent a sustainable location for residential development.

Surface Water / Flood Risk

- 6.38 The site and surroundings are not located within an area at risk of surface water or other forms of flooding.
- 6.39 In contrast to the currently predominantly hard surfaced site, the scheme proposes a sustainable drainage system which incorporate a number of measures:
- Below ground infiltration tanks under roadways and parking areas
 - Household geocellular soakaways
 - A shallow grassed/naturalised swale
 - Six 'raingarden' planting beds



Other Matters

- 6.40 A ground investigation report suggests that there is no likelihood of contamination or other adverse ground conditions.
- 6.41 Whilst the application does not include specific renewable energy measures, it is recommended that conditions require (i) EV charging to dwellings with on-plot parking and latent provision to communal areas to respond to future resident demand (ii) the installation of solar PV to the flat roof element of the three terraced blocks to power common areas or external lighting and to the southern or westerly elevations of detached houses where they are not visible from the internal street.

- 6.42 Whilst an objector requests that the affordable housing be re-located, this is not considered to be an appropriate request and runs contrary to the principles of creating balanced communities.
- 6.43 Affordable housing is secured through a s106 agreement and the Housing Team consider the minor variations from tenure mix guidelines to be acceptable. The provision of smaller units in this location is welcomed.
- 6.44 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

Public Sector Equality Duty

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

7.0 CONCLUSION

- 7.1 The proposals are considered to represent good quality design and provide the opportunity to deliver sustainable housing on previously developed land. There will be no adverse impacts upon the countryside. Whilst there will be some impacts upon residential neighbours, the design and layout seeks to minimise these to an acceptable level, whilst new boundary planting will further mitigate net impacts.

8.0 RECOMMENDATION –

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):

S106 Heads of Terms:

- 1) The provision of 7 (seven) affordable units comprising 4 affordable rent and 3 intermediate units.
- 2) A s106 monitoring fee.

Proposed Conditions

Time Limit

- 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.

Plans

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

20.127 - 101 - Existing Site Layout Plan & Site Location Plan
20.127-100 Rev B Proposed Site Layout
20.127-102 Proposed Landscaping Plan
20.127-150 Rev A Plot 1 Plans & Elevations
20.127-151 Rev A Plot 2 Plans & Elevations
20.127-152 Rev A Plot 3 Plans & Elevations
20.127-153 Rev A Plots 4 & 5 Plans & Elevations
20.127-154 Rev A Plot 6 Plans & Elevations
20.127-155 Plot 7 Plans & Elevations
20.127-156 Rev A Plot 8 Plans & Elevations
20.127-157 Rev B Plots 9-11 Plans & Elevations
20.127-158 Rev A Plots 12-14 Plans & Elevations
20.127-159 Rev A Plots 15-18 Plans & Elevations
20.127-200 Rev A Garages & Car Ports Plans & Elevations (Sheet 1 of 2)
20.127-201 Rev A Garages & Car Ports Plans & Elevations (Sheet 2 of 2)
20.127-250 Rev B Streetscenes
20.127-500 Rev B Unit Mix Plan
20.127-501 Rev B Unit Heights Plan
20.127-502 Rev C Parking Plan
20.127-503 Rev C Refuse Plan
20.127-504 Rev B Unit Tenure Plan
2005090-005E Preliminary Foul & Surface Water Drainage Strategy
2005090-003E Preliminary Levels Strategy
20136-3 Tree Protection Plan

Reason: To clarify which plans and technical / environmental details have been approved.

Contamination

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

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

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

Reason: In the interests of protecting the health of future occupants from any below ground pollutants.

Material Samples

- 4) The construction of the dwellings shall not commence above slab/podium level until written details and virtual samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved by the Local Planning Authority. The development shall be constructed using the approved materials.
Reason: To ensure a satisfactory appearance to the development.

Renewable Energy

- 5) The development shall not commence above slab level until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved with a target to provide at least 10% of total annual energy requirements of the development, have been submitted to and approved in writing by the local planning authority. Measures shall include:
(i) EV charging points to each dwelling with on-plot parking and latent provision to bays within the parking court/s
(ii) The provision of solar PV to the southern or westerly roofs of detached or semi-detached dwelling and to the flat roofed elements of the terraced blocks.
The approved details shall be installed prior to first occupation and maintained thereafter;
Reason: To ensure an energy efficient form of development. Details are required prior to commencements as these methods may impact or influence the overall appearance of development.

Landscaping & Biodiversity

- 6) The works shall not commence above slab/podium level until details of both hard and soft landscape works have been submitted for approval by the Local Planning Authority. The hard landscape works shall be carried out in accordance with the approved details before first occupation.

The soft planting scheme shall demonstrate that the use of native planting is utilised in a manner that optimises wildlife habitat opportunities and identify management responsibilities and maintenance schedules for all landscaped and open areas other than privately owned domestic gardens

All planting, seeding and turfing specified in the approved landscape details shall be completed no later than the first planting season (October to February) following first use or occupation. 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 biodiversity, landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- 7) The development hereby approved shall not commence above slab level until details for a scheme for the fabric-led enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the extension by means such as swift bricks, bat tube or bricks and measures to accommodate solitary bees. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

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

Slab Levels

- 8) The development hereby permitted shall be carried out strictly in accordance with the slab levels shown on the approved drawing(s);

Reason: In order to secure a satisfactory form of development having regard to the topography of the site.

Boundary Treatments / Acoustic Protection

- 9) The development hereby approved shall not commence above slab level until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter. Such details shall include an acoustic fence / wall between the parking court area and neighbouring property. The details shall also include measures to allow hedgehog friendly gravel boards.

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

Tree Protection

- 10) The tree protection measures identified in the *Arboricultural assessment and method statement dated 26th October 2020 – 20136-AA-AS* shall be implemented prior to the commencement of any works on site, including works of demolition. . All trees to be retained must be protected by barriers and/or ground protection in accordance with the approved details. 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

Parking/Turning Implementation

- 11) The approved details of the cycle parking and vehicle parking/turning areas shall be completed before the first occupation of the 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 thereto.

Reason: In the interests of road safety.

Boundary Windows

- 12) No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the northern first floor elevations of plots 11 and 12 hereby permitted;
Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of their occupiers.

- 13) Before the development hereby permitted is first occupied, the proposed northern elevation windows at first floor on plots 11 and 12 shall be obscure glazed and shall subsequently be maintained as such to the satisfaction of the local planning authority;
Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of existing and prospective occupiers.

Access

- 14) The approved details of the access point to the site shall be completed before the commencement of the use of the relevant land or buildings hereby permitted and, any approved sight lines shall be retained free of all obstruction to visibility above 1.0 metres thereafter.
Reason: In the interests of highway safety.

SUDs

- 15) Any part of the development hereby approved shall not be occupied prior to the completion of the relevant part of the SuDS scheme shown on approved drawing 2005090-005 Rev E.
Reason: To reduce the impact of flooding both to and from the proposed development and third parties and pursuant to the National Planning Policy Framework 2012.

External Lighting

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

Case Officer: Austin Mackie

Agenda Item 22

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 22nd April 2021**

APPEAL DECISIONS:

1. 19/503989/FULL

Demolition of the existing bungalow and erection of 2no. detached dwellings together with associated parking, amenity areas and landscaping.

APPEAL: DISMISSED

Woodview
Lenham Road
Kingswood
ME17 1LU

(Delegated)

2. 20/501152/FULL

Erection of a 3 bedroom detached dwelling.

APPEAL: DISMISSED

Land Adjacent To The Cherry Patch
Linton Hill
Linton
Kent
ME17 4AP

(Delegated)
