

ADJOURNED PLANNING COMMITTEE MEETING

Date: Thursday 5 March 2020
Time: 6.00 p.m.
Venue: Town Hall, High Street, Maidstone

Membership:

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

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

AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
6. Disclosures by Members and Officers
7. Disclosures of lobbying
8. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
9. 19/505949/FULL - Land To Back Of Cherry Orchard, Court Lodge Farm, The Street, Boxley, Kent 1 - 8
10. 19/504613/NMAMD - Land At Brunswick Street, Maidstone, Kent 9 - 11
11. 19/505518/FULL - 12-14 Week Street, Maidstone, Kent 12 - 35
12. 11/1948/FULL - Monk Lakes, Staplehurst Road, Marden, Maidstone, Kent 36 - 82

Issued on Tuesday 3 March 2020

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

13.	19/506070/REM - Wind Chimes, Chartway Street, Sutton Valence, Maidstone, Kent	83 - 106
14.	19/504300/FULL - Wierton Hall Farm, East Hall Hill, Boughton Monchelsea, Maidstone, Kent	107 - 122
15.	19/505352/FULL - Land At Rankins Farm, Linton Hill, Linton, Kent	123 - 133
16.	20/500163/FULL - Maidstone And Tunbridge Wells Nhs Trust, Maidstone Hospital, Hermitage Lane, Maidstone, Kent	134 - 150

PART II

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

Head of Schedule 12A and Brief Description

17.	Exempt Appendix - 11/1948/FULL - Monk Lakes, Staplehurst Road, Marden, Maidstone, Kent	5 – Legal Proceedings	151 - 156
-----	--	-----------------------	-----------

PLEASE NOTE

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

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

ALTERNATIVE FORMATS

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

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



19/505949/FULL Land To The Back of Cherry Orchard

Scale: 1:2500

Printed on: 19/2/2020 at 10:53 AM by SummerF

REFERENCE NO: 19/505949/FULL		
APPLICATION: Amendments to planning application 17/504038 (Change of use of land for keeping of horses and stable block) to include repositioning of stable building and waste pile; laying of Type 1 hardcore; and sand school (Section 73A application).		
ADDRESS: Land to back of Cherry Orchard Court Lodge Farm The Street Boxley ME14 3DX		
RECOMMENDATION: GRANT planning permission subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: It has been established the development would not result in unacceptable harm to the character and appearance of the countryside hereabouts that falls within the Kent Downs AONB; and there are no objections to the development in terms of residential amenity, highway safety, environmental health, and heritage. The development is therefore acceptable with regard to the relevant provisions of the Development Plan and all other material considerations such as are relevant.		
REASON FOR REFERRAL TO COMMITTEE: Boxley Parish Council wish to see application reported to Planning Committee if case officer is minded to recommend approval.		
WARD: Boxley	PARISH COUNCIL: Boxley	APPLICANT: Mr L. Lundie AGENT: DKM Consultants Ltd
TARGET DECISION DATE: 02.03.20		PUBLICITY EXPIRY DATE: 07/02/20

Relevant planning history

- 17/504038/FULL - Change of use for keeping of horses and erection of stable block (2 stables and 1 storage hay barn), hardstanding in front of stable block – Approved
- 19/500162/FULL - Erection of dwelling – Refused and dismissed at appeal

MAIN REPORT

1.0 Site description

- 1.01 The application site is located to the east of Boxley village, adjacent to a Grade II listed property known as The Pump House. A public footpath (KH14) runs along the northern edge of the site, in a general east/west direction; and a public footpath (KH15), runs along the eastern boundary of The Pump House in a general north/south direction. For the purposes of the Local Plan the application site falls within the Kent Downs Area of Outstanding Natural Beauty. The site is accessed via a private track from Boxley village.

2.0 Development description

- 2.01 Under 17/504038 planning permission was granted for the change of use of the land for the private keeping of horses and for the erection of a stable block and associated hardsurfacing. There are discrepancies in what has been built on the site and the approved plans. In summary:
- Stable building and waste are in different location
 - Waste area is in different location
 - No concrete has been laid but instead Type 1 hardcore (part grass seeded)
 - Stable building has a type of plastic corrugated roof instead of metal
 - External lighting has been installed on the stable building
 - Sand school has been created
- 2.02 This application has been submitted to regularise these differences and is being treated as an application under 73A of the Town and Country Planning Act 1990 (i.e. to consider the development as carried out on site). The applicant has also confirmed that the waste is collected generally every 6 months (and not every month as stipulated in condition 6 of 17/504038); and the outer boundaries of the site have been planted with a mix of Laurel, Hawthorn, and Hornbeam (as shown on the submitted plans). It should be noted that 17/504038 was considered under the 2000 Maidstone Borough-Wide Local Plan and the then emerging Local Plan that is now adopted.

3.0 Policy and other considerations

Maidstone Local Plan (2017): SP17, SP18, DM1, DM4, DM8, DM30, DM41
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Kent Downs AONB Management Plan (2014-2019)

4.0 Local representations

4.01 Representations have been received from 4 local residents raising the following (summarised) issues:

- *Visual impact of proposal on countryside and AONB*
- *Impact upon setting of listed buildings*
- *Overdevelopment/commercialisation of site*
- *Impact of external lighting*
- *Impact upon residential amenity*
- *Errors in application*
- *Existing development is not in accordance with previous planning approval*

5.0 Consultations

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

5.01 **Boxley Parish Council:** Wish application to be reported to Planning Committee if minded to recommend approval for following (summarised) reasons:

- *Development is harmful to distinctive character and appearance of countryside and AONB and does not conserve or enhance scenic beauty of AONB*
- *Development is overdevelopment and commercialisation of site*
- *Impact upon setting of listed buildings*
- *Sand school surfacing is shredded carpet which blows fine fibres causing a nuisance*
- *Existing development is not in accordance with previous planning approval and external lighting has been installed*

5.02 After further consultation Boxley Parish Council made the following (summarised) comments: Siting of muck heap is closer to neighbouring property, if removed every 6 months it will encourage rats and flies. Sand school surfacing results in fibres being blown around.

5.03 **Conservation Officer:** Raises no objection.

5.04 **KCC Highways:** Raises no objection.

5.05 **Environmental Protection Team:** Raise no objection.

5.06 **Kent Downs AONB Unit:** No representations received.

5.07 **KCC Archaeological Officer:** No representations received.

6.0 APPRAISAL

Main issues

Maidstone Local Plan

6.01 The development is subject to the normal constraints of development in the countryside as designated under the Maidstone Local Plan, in that it should not be permitted unless (inter alia) it accords with other policies in the Local Plan, and would not result in unacceptable harm to the character and appearance of the area, and will respect the amenities of occupiers of neighbouring properties. Development should maintain, or where possible, enhance the local distinctiveness of an area; it should seek to ensure that development affecting heritage assets conserves and where possible enhances the significance of the heritage asset, and where appropriate its setting; and as an exception to the general themes of

constraint in the countryside, Local Plan policy DM41 allows for equestrian development in the countryside subject to certain criteria.

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

National Planning policy Framework

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

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

- 6.04 As set out in the NPPG, it is clear that the scale and extent of development in an AONB should be limited, in view of the importance of conserving and enhancing its landscape and scenic beauty. All development in the AONB needs to be located and designed in a way that reflects its status as a landscape of the highest quality.
- 6.05 For the purposes of paragraph 172 of the NPPF, planning judgment has taken into account all of the circumstances of the application (in light of its nature, scale and setting) and the site's local context, and this proposal is not considered to be a 'major development', which is to be given its ordinary meaning, as established in *High Court judgement Aston v SoS for Communities and Local Government [2013] EWHC 1936 [Admin]*.

Other relevant matters

- 6.06 Section 85 of the Countryside and Rights of Way Act 2000 places an explicit duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of an AONB when exercising or performing any functions in relation to or so as to affect land in an AONB: *85(1): In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.*
- 6.07 The Kent Downs AONB Management Plan does not form part of the statutory Development Plan, but the Council has adopted it and it is a material consideration when assessing any planning application. The AONB Management Plan helps to set out the strategic context for development; it provides evidence of the value and special qualities of this area; it provides a basis for cross-organisational work to support the purposes of its designation; and it details how management activities contributes to its protection, enhancement and enjoyment. In short, its policies seek to conserve and enhance the natural beauty and distinctiveness of the AONB, which is recognised as the primary purpose of designation; and development or changes to land use will be opposed where they disregard or run counter to the primary purpose of Kent Downs AONB.
- 6.08 It is a material planning consideration that the site does benefit from an extant permission for the use of the land for the keeping of horses and for the erection of stables and hardstanding (17/504038). Whilst this permission has not been implemented correctly, the applicant could still revert back to what was approved.

Therefore, the main issue for this application is whether or not the submitted details are significantly more harmful in planning terms than the previous approval that could still be rectified on the site.

Visual impact

- 6.09 This application should be tested against the purpose of the AONB designation, which is to conserve and enhance its natural beauty (in accordance with Local Plan policy and the NPPF). The stables on site, in terms of scale and design, are the same as previously approved. The only differences are the change in roof material and its location. The stables are still sited close to the southern boundary of the site, albeit modestly shifted eastwards; and the roof is now of bitumen roof sheeting. The changed roof material is considered unobjectionable, and the stable building is still of a low key and traditional design that is set back and largely screened from any public vantage point. The external lighting on the stables is also not objectionable in amenity terms and a suitable condition will be imposed to ensure that no other external lighting is placed on the site.
- 6.10 The level of hardstanding on the site is not significantly different to what was shown on the previously approved plans; and the location of the manure heap, that is a modest area enclosed by sleepers, is not considered to be visually intrusive. The site also benefits from recent hedge planting along the outer boundaries, and in time this will help further screen the site from public view. This planting is a mix of Laurel, Hawthorn, and Hornbeam (as shown on the submitted plans). The sand school is grouped close to the stables and site entrance, and it is enclosed by traditional and low-level timber post and rail fencing. The sand school, given its low key nature and its separation distance from any public vantage point, would not appear visually harmful or incongruous in this countryside location.
- 6.11 It remains that the site is for the personal use of the applicant; the alterations made to the previously approved scheme are not now considered to be overdevelopment of the site; the development is low key and appropriate for its rural location, retaining an open feel; and it does not appear visually intrusive or dominant from any public vantage point. With everything considered, the proposal would not weaken the characteristics and qualities of the AONB hereabouts, but rather conserve and enhance its character and appearance in accordance with Local Plan policy and the NPPF.

Residential amenity

- 6.12 The closest dwelling to the application site is The Pump House. As accepted under 17/504038, the domestic keeping of horses on the site does not result in an unacceptable impact upon the living conditions of this neighbour. The shift in the stable building's location; the level of external lighting; and the relocation of the manure pile are considered to be modest alterations to what has been previously approved on the site; and the Environmental Protection Team has also raised no specific objection to the location of the manure heap, or to the surfacing of the sand school (which is not an uncommon choice providing low maintenance), in residential amenity terms. The sand school does allow for a greater intensity of use of the site, particularly through the winter months. However, the site is to be used by the applicant only and not as a commercial enterprise, where the scale and frequency of use would be significantly greater; the sand school is to the front of the site, away from the private amenity space of the occupants of The Pump House; and a condition will be imposed to ensure no external lighting for the sand school can be installed. It is therefore considered that the development would not have an adverse impact upon the residential amenity of the occupants of The Pump House, including in terms of general noise and disturbance, odours and fibres. The occupants of no other residential property would be adversely impacted upon by this development.

Other matters

- 6.13 Issue has been made over when the manure heap is collected/disposed of. The applicant has confirmed that the manure heap is on an impermeable base; and that it is usually collected every 6 months. The Environmental Protection Team states that the manure heap should indeed have an impermeable base, and furthermore for best practice it should be covered to avoid rain water causing potential run off and odour issues. The Environmental Protection Team also comment that the waste manure collection should be more frequently, as overflow could potentially cause run-off issues entering ground or surface waters. To ensure adequate drainage arrangements across the site, and to prevent the risk of polluting run-off entering either ground or surface waters, it is considered reasonable to impose a condition requesting further details on this issue. For reference, the Environmental Protection Team recommends that the waste is collected at least once every 2 months, depending on how much is produced.
- 6.14 The Conservation Officer considers the development to have a minimal impact on any near-by listed building, conservation area, or non-designated heritage asset, and so it does not result in any meaningful harm to their setting and significance. As such, no objection to the development is raised on heritage grounds.
- 6.15 The Highways Authority has commented that the track serving the development should be improved, however, it has been made very clear that this is not grounds for a highway safety objection and no recommendation for refusal has been made.
- 6.16 There is considered to be adequate provision made for the safety and comfort of horses in terms of the size of accommodation and the land for grazing and exercising; the site is in the countryside with easy access to bridleways etc; and there are less than 10 stables, so adequate provision for the security of the site in terms of the location of the proposed development in relation to the owner of the animals is not relevant here.
- 6.17 No representations have been made by the Kent Downs AONB Unit or the Archaeological Officer, and so it is assumed that no objection is raised to the development. The representations made by Boxley Parish Council and local residents have been considered in the assessment of this application.
- 6.18 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application would not undermine objectives of the Duty.
- 6.19 In accordance with national planning policy the issue of intentional unauthorised development has been a material consideration in the determination of this retrospective application. This does weigh against the development, but is not considered reason to refuse the development in this instance. This application is not considered to be EIA development.

Conclusion

- 6.20 It is a material planning consideration that the site benefits from an extant permission for the use of the land for the keeping of horses and for the erection of stables and hardstanding. Whilst this permission has not been implemented correctly, the applicant could still revert back to what was approved. From this starting point, it has been demonstrated that the development would not weaken the characteristics and qualities of the AONB hereabouts, but rather conserve and enhance its natural beauty; and there are no objections to the development in terms of residential amenity, highway safety, environmental health, and heritage. The development is therefore acceptable with regard to the relevant provisions of

the Development Plan and all other material considerations such as are relevant. A recommendation of approval is therefore made on this basis.

7.0 RECOMMENDATION: GRANT planning permission subject to following conditions:
CONDITIONS

1. The external materials to be used for the stable building hereby approved shall be as indicated on the approved plans and shall be maintained as such thereafter.

Reason: To ensure a satisfactory appearance to the development.

2. The landscaping scheme shall be carried out in accordance with the details as shown on drawing reference: DKM/7825/01 Rev 04. Any planting which fails to establish or any trees or plants which, within five years from the first use of the building, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.

Reason: To ensure a satisfactory appearance to the development.

3. Within 2 months from the date of this decision notice, a scheme for the disposal of run-off from the stables (inc. washings), hardstanding, and manure heap, shall be submitted to the local planning authority for approval. Details shall include when the manure heap will be emptied; how the manure heap will be covered; and that the manure heap will be retained on an impermeable base at all times.

Reason: To ensure adequate drainage arrangements and to prevent the risk of polluting run-off entering either ground or surface waters.

4. Except for what is detailed in the submission, no external lighting, whether temporary or permanent, shall be placed or erected within the site at any time.

Reason: In the interest of residential amenity and to protect the amenity of the countryside.

5. The development hereby permitted shall only be used for the private stabling of horses and the storage of associated equipment and feed and shall at no time be used for any business or commercial purpose whatsoever, including for livery, or in connection with equestrian tuition or leisure rides.

Reason: In the interests of residential amenity and to prevent the introduction of a commercial use onto the site.

6. No manure or waste materials shall be burned on the land within application site.

Reason: In the interests of residential amenity.

7. The development hereby permitted shall be carried out in accordance with the following approved details: 4869 01; DKM/7825/01 Rev 04; and DKM/7343/02 Rev 01; 10 Rev 0; 11 Rev 0; 12 Rev 0; 13 Rev 0; and 14 Rev 0.

Reason: For the avoidance of doubt.

INFORMATIVES

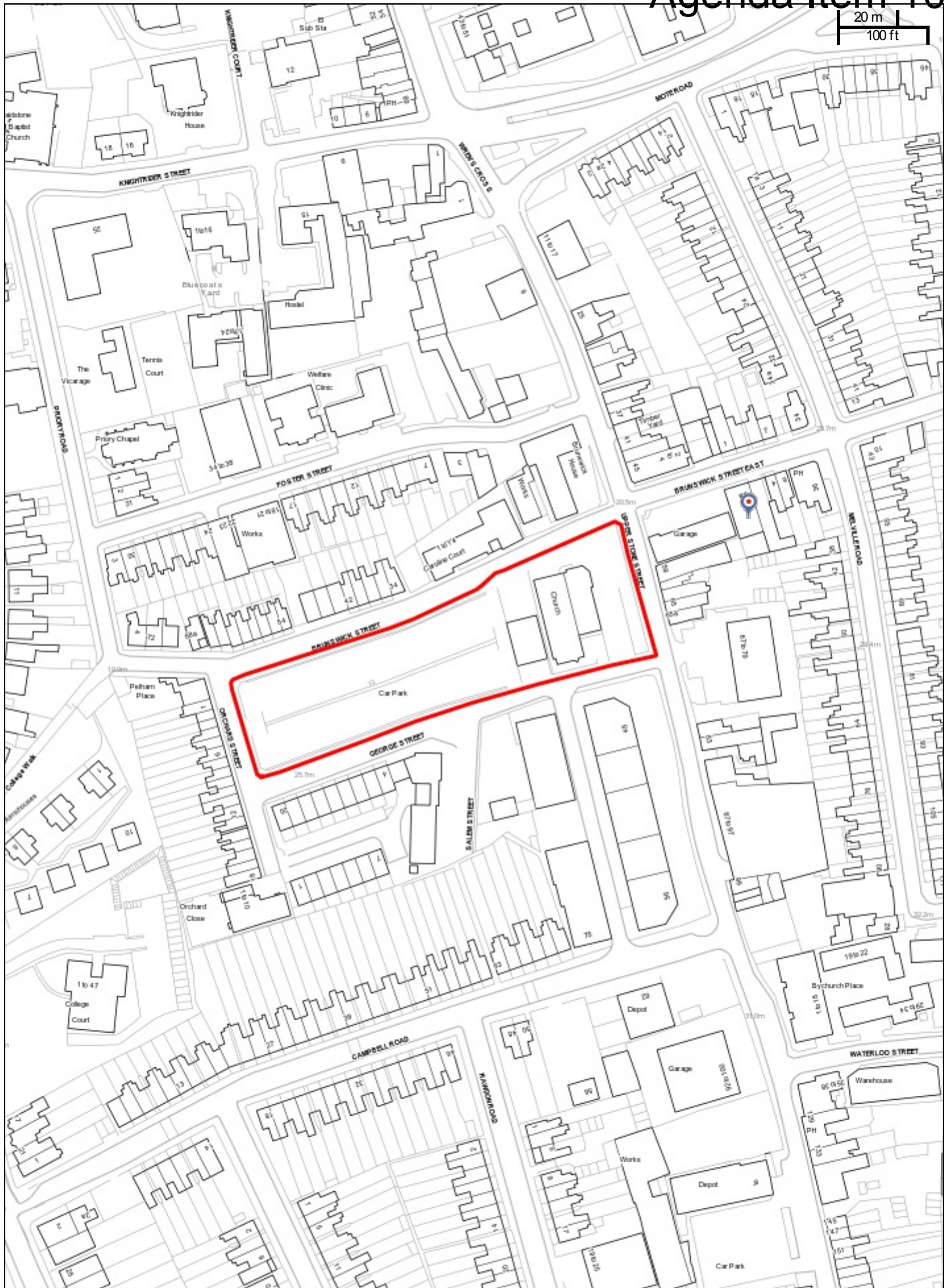
1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and

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

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

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

Case Officer: Kathryn Altieri



19/504613/NMAMD Land At Brunwick Street

Scale: 1:1750

Printed on: 19/2/2020 at 11:24 AM by SummerF

REFERENCE NO - 19/504613/NMAMD		
APPLICATION PROPOSAL Non-material amendment: The necessary inclusion of external steps to provide an emergency exit point from the semi-basement carpark of Block 1 (original application reference: 17/504632/FULL).		
ADDRESS Land At Brunswick Street, Maidstone, Kent		
RECOMMENDATION - Approve		
SUMMARY OF REASONS FOR RECOMMENDATION There would be no adverse effect on design or amenity. The change as proposed is considered to be an acceptable non-material alteration to the approved scheme.		
REASON FOR REFERRAL TO COMMITTEE Maidstone Borough Council was the applicant on the original application under planning application reference 17/504632/FULL		
WARD High Street	PARISH/TOWN COUNCIL	APPLICANT Kevin Crew AGENT Mr Darren Bland
TARGET DECISION DATE 14/10/19		PUBLICITY EXPIRY DATE

Relevant Planning History

17/504632/FULL - Proposed demolition of all existing buildings and introduction of a new 33 space public car park, together with residential development.
Approved - 07.03.2018

18/504496/SUB - Submission of details pursuant to condition 19 – Boundary Treatment Plan – Approved - 05/07/2019

MAIN REPORT

1 DESCRIPTION OF SITE

- 1.01 The redevelopment of the site to provide a public car park and residential development was approved in 2018 and is currently under construction.
- 1.02 The application site lies in the urban area of Maidstone to the west of Upper Stone Street, on the junction with Brunswick Street and George Street.

2. PROPOSAL

- 2.01 The proposal is a non-material alteration to the approved western elevation of block 1. The external elevation is altered to include the provision of an emergency exit door from the basement car park with stairs to be provided up to the public car park to provide an emergency egress. Boundary treatments to George Street adjacent to the exit would remain as approved, with a dwarf wall and metal railing up to a height of 1.1m.

Maidstone Borough Local Plan 2017: DM1 – Principles of Good Design

- 4.01 As an application under Section 96A of the Town and Country Planning Act 1990, this is not an application for planning permission. Therefore, provisions such as neighbour notification do not apply.
- 5.01 Section 96a of the Town and Country Planning Act 1990 allows applications for non-material changes to planning permissions.
- 5.02 The visual change proposed is the insertion of a double fire escape door to the rear western elevation of block 1. The doors would be set down from the ground level of George Street, with an escape stair case to provide emergency egress from the public car park onto George Street. The door would match the style and materials as the existing openings along the car park elevations of block 1. It is considered that this amendment is minor in the context of the scheme as a whole. The amendment would not result in a materially different appearance and the use of the same material as approved on existing openings would ensure that is in keeping with the approved design of the block.
- 5.03 The non-material amendment is considered to be in accordance with Policy DM1 (Principles of Good Design) of the Local Plan which requires a high standard of design. The amendment would not impact on the amenity of occupiers of neighbouring properties.
- 6.01 The proposed alteration would not result in any effect on design or amenity. The change as proposed is considered to be an acceptable non-material alteration to the approved scheme.

RECOMMENDATION - Approve

INFORMATIVES

- (1) The decision was based on the following plans:
A(0)103 Rev C – Proposed Ground Site Plan
A(1)300 Rev E – Elevations Block 1 Sheet 1
Case Officer: Adam Reynolds

Agenda Item 11



19/505518/FULL 12-14 Week Street

Scale: 1:1250

Printed on: 19/2/2020 at 11:15 AM by SummerF

REFERENCE NO - 19/505518		
APPLICATION PROPOSAL Demolition of existing buildings and redevelopment of the site for a 132-room hotel (Use Class C1) including rooftop restaurant and bar (Use Class A3/A4) and ancillary refuse and recycling storage, cycle parking, servicing arrangements and hard and soft landscaping.		
ADDRESS 12-14 Week Street, Maidstone, Kent, ME14 1RN		
RECOMMENDATION – APPROVE WITH CONDITIONS		
SUMMARY OF REASONS FOR RECOMMENDATION <ul style="list-style-type: none"> • The development is considered to be well designed and would provide a high quality building that would enhance the character and appearance of the Town Centre and local area in accordance with policies SP4 and DM1 of the Local Plan. • The proposals would regenerate a central Town Centre site with a high quality building, bring substantial economic benefits, and an increased diversity of town centre uses helping to achieve the aims of policy SP4 of the Local Plan and the 'Town Centre Vision' within the Local Plan. • The development would result in a low level of 'less than substantial' harm to the Maidstone Centre Conservation Area but this harm is outweighed by the public benefits associated with the economic and environmental benefits of the development in accordance with policy DM4 of the Local Plan and the NPPF. • The loss of a retail unit on Week Street and thus conflict with policy DM27 is outweighed by the economic and environmental benefits of the overall development. • Any other impacts from the development are either acceptable or can be mitigated. • Permission is therefore recommended subject to conditions. 		
REASON FOR REFERRAL TO COMMITTEE The Head of Planning & Development requires that the application is considered by Planning Committee in view of the large scale of the development in the Town Centre.		
WARD High Street	PARISH COUNCIL N/A	APPLICANT Assetrock Maidstone Ltd AGENT Avison Young
DECISION DUE DATE: 13/03/20	PUBLICITY EXPIRY DATE: 30/12/19	SITE VISIT DATE: December 2019, January and February 2020
PLANNING HISTORY		

Various applications relating to works, shopfronts and advertisements in connection with the retail unit, and applications for various buildings at the site.

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located at the south end of Week Street and bounds Week Street to the west and Wyke Manor Road to the east. On the Week Street side it includes the former 'Mothercare' store which has a two storey shop frontage which lowers to the rear and covers most of the site. On the Wyke Manor Road side are a number of single and two storey buildings and a service access. To the south of the site is the 'Metrobank' building on Week Street and the 11/12 storey 'Colman House' office building. To the west and north are three storey retail buildings on Week Street. To the northeast is a private car park, and east is a three storey former telephone exchange building.
- 1.02 The Maidstone Town Centre Conservation Area abuts the west boundary of the site on Week Street and there are a number of Grade II listed buildings to the north, west and south. The site falls within the 'Primary Shopping Area' and the defined Town Centre in the Local Plan.

2.0 PROPOSAL

- 2.01 This application seeks permission for redevelopment of the site for a 132-room hotel including rooftop restaurant and bar. This would involve demolition of all buildings on the site including the building fronting Week Street.
- 2.02 The development would cover the entire site comprising a 9 storey building on the east side fronting Wyke Manor Road. This would lower to 4 storeys within the centre of the site, lowering again to a 3 storey frontage building on Week Street. The main hotel entrance would be off Week Street with the lobby and reception leading to a restaurant. Servicing of the hotel would be from Wyke Manor Road where there would be a secondary entrance from Wyke Manor Road which would also provide access to the rooftop bar/restaurant that would be open to the public. There would be a basement level providing rooms and the ground floor would include staff facilities, delivery/service access, refuse stores and cycle parking. The floors above would provide the remaining hotel rooms and the top floor would have an enclosed rooftop bar and restaurant.
- 2.03 In terms of appearance, the 9 storey building would be mainly faced with brickwork and glazing with detailing, layering, and interest provided through the use of materials, recesses and set-backs. The central 4 storey section would be finished with brickwork. The building on Week Street would have a mainly glazed frontage on the ground floor with brickwork and glazing above. A more detailed explanation of the design approach and an assessment of the design will be set out below.

2.04 The applicant has engaged in a significant pre-application process with officers via a Planning Performance Agreement, including a Kent Design Review Panel on a different earlier scheme, and also with MBC Members.

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP4, SP18, SP21, SP23, DM1, DM2, DM4, DM5, DM6, DM8, DM16, DM18, DM21, DM23, DM27, DM29
- Kent Waste and Minerals Plan 2016
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- MBC Air Quality Guidance

4.0 LOCAL REPRESENTATIONS

4.01 **Local Residents:** 1 representation received raising the following (summarised) points:

- Concern regarding disruption to trade and vibrancy of the High Street during construction.

4.02 **MBC Visitor Economy & Events Manager:** Supports the application on the grounds that it is compatible with the Destination Management Plan (DMP) objectives for developing the tourism offer in the borough.

4.03 **'One Maidstone' Business Improvement District:** *"One Maidstone, the Business Improvement District, welcomes new investment being made into the town centre. Town centres have seen a need to adapt to the changes in customer and visitor behaviour; academic research demonstrates that for towns to continue to thrive that they need to provide an experience, and new reasons for people to visit. On this basis innovative uses of town centre units are a positive step towards maintaining the health of the town's business economy and would also support Maidstone's ability to stay ahead of national trends for vacancy rates."*

5.0 CONSULTATIONS

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

5.01 **Historic England:** Do not wish to offer any comments and suggest seeking the views of your specialist conservation and archaeological advisers, as relevant.

5.02 **MBC Conservation Officer:** Considers the development would result in a small degree of harm to the significance of the Maidstone Town Centre Conservation Area. (See more detail in the assessment below)

5.03 **KCC Highways: No objections** subject to conditions.

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

5.05 **KCC Archaeology: No objections** subject to conditions.

5.06 **MBC Environmental Health:** No objections subject to conditions.

5.07 **Southern Water:** Can provide foul drainage and advise that sewer upgrades may be required for surface water.

5.08 **Kent Police:** Raise a number of issues which relate to either building regulations or the management of the development rather than planning matters.

6.0 APPRAISAL

6.01 Town Centre policy SP4 and the 'Town Centre Vision' within the Local Plan support the regeneration of the Town Centre, and sustaining and enhancing its shopping function and variety of business, leisure and cultural facilities. Hotel facilities would clearly support the aims to sustain and enhance the Town Centre providing accommodation for visitors to the town. The provision of a restaurant/bar is also supported by Town Centre policies.

6.02 The proposal would result in the loss of a retail unit on Week Street where policy DM27 (Primary Shopping Frontages) seeks to ensure retail (A1) remains the predominant use here. This policy can permit other retail or leisure uses but does not refer to hotel accommodation as potentially being acceptable. As such, there would be a conflict with this policy and this will be balanced against other material considerations.

6.03 The main issues for the development are considered to be as follows:

- Principle of a Tall Building
- Design, Massing & Materials
- Townscape Impacts
- Heritage Impacts
- Highways Impacts
- Residential Amenity
- Other Matters (Air Quality, Ecology, Drainage, Archaeology)
- Economic & Environmental Benefits

Principle of a Tall Building

6.04 The highest part of the building is 9 storeys which higher than the predominant scale of buildings in this part of the town centre that are largely 2-3 storeys. The notable exception to this is Colman House, at 11/12 storeys immediately adjacent. There are other notable tall buildings in and around the Town Centre including Maidstone House (9 storeys above street level), Brenchley House (7/8 storeys), and flats at Lower Stone Street (12/13

storeys), Mote Road (13/14 storeys), Wyatt Street (7 storeys), and Union Street (8 storeys) but these are some distance from the site.

6.05 Tall buildings are generally more appropriate in clusters and/or at low points such as river corridors where they are likely to have a lower impact and there is more breathing space around them. There are no clusters of tall buildings around the application site or within Maidstone and they are sporadically located across the town. There are some taller buildings located along the River Medway. The site is at relative high point in the town centre and so does not typically lend itself as being the most suitable location for a taller building but as outlined above the current character of Maidstone sees taller buildings spread across the town so this would not be entirely out of character with the current townscape. Colman House is clearly of relevance but does not mean that another tall building is necessarily acceptable.

6.06 However, I do not consider the height of the building alone is objectionable and it is the massing and articulation, detailing, materials of the building, and its design quality that are most relevant as to whether the building is acceptable, particularly as a taller building will usually be more prominent. The impacts upon the townscape and heritage are also critical factors. With the townscape being characterised by sporadic tall buildings, provided the design quality of the building is of a high standard then the principle of a 9 storey building is considered to be acceptable.

Design, Massing & Materials

6.07 In terms of massing the 9 storey part of the building is broken up considerably through a series of design responses that serve to mitigate its overall visual impact and to add interest to key elevations and at street level as follows:

- There is a 2 storey 'podium' fronting Wyke Manor Road with the remainder of the building above set back. This ensures the building is of an appropriate scale and reduces the net visual impact of the height when viewed at street level.
- There is a set back of the prominent northeast corner which breaks the width of the east elevation to Wyke Manor Road.
- The top floor is set further back to reduce the massing.
- On the north side the majority of the elevation is set back from the northeast corner again with the top floor recessed.
- The rear of part of the 9 storey element is much narrower providing another scaling back of the mass.
- The southern side of the building which would be largely obscured by Colman House has the rear sections set back.

With these measures the 9 storey part of the building is broken up considerably which serves to reduce the mass and provide interest.

- 6.08 The appearance and materials respond to the changes in mass with significant glazing and ragstone at street level on Wyke Manor Road to provide interest. Above, half of the building would be finished with brickwork and ragstone with the prominent northeast corner fully glazed which breaks up the width. The recessed top floor would also be fully glazed providing a 'light' top to the building and breaking up the height. The north side would be made up of the glazed corner with a brick/ragstone section set back, which, like the east elevation breaks up the width. The largely obscured south elevation includes brickwork with recessed areas and glazing which breaks up the mass. The narrow west side of the tall section where the lifts and stairs are proposed would be visible from the High Street and this is broken up with windows and a recessed vertical ragstone panel that runs the full height of the building. The 4 storey part would be predominantly brickwork.
- 6.09 Detailing is provided on the Wyke Manor Road frontage through the use of copper balustrading above the 2 storey 'podium' and to the top of the brickwork section above. The lower balustrading not only provides interest but also highlights the break between the street scaled element and the taller part of the building. The brickwork section would have recessed ragstone inserts around the window surrounds with copper banding between windows to provide continuity of materials with the balustrading. This provides good layering and interest and uses a quality local material. The glazed corner windows would feature metal banding between floors providing horizontal emphasis again with copper balustrading to the top. The brickwork section on the north side would be the same as the road frontage with recessed ragstone inserts and copper banding. The visible part of the south elevation would have recessed ragstone panels to break up the elevation and provide interest and a quality material. The building is well articulated with the windows providing strong vertical emphasis on the east elevation and the ragstone panels on the lower floors lining up with the window inserts above. The copper window divisions on the brick sections line up with the metal banding on the glazed corner.
- 6.10 The frontage building on Week Street would have a mainly glazed frontage on the ground floor which would wrap around the south side with ragstone to the sides and above. This would provide a high quality appearance and replace the poor appearance on the exposed corner which is blank. Above would be a simple brick façade with windows.
- 6.11 The proposed bricks are red clay multi stocks which are a relatively light colour and have good variation in tone and texture (Wienerberger Welham Antique). The applicant has chosen them as they consider they complement the local context and will blend in well. The bricks would not be dissimilar to those used on the existing Week Street frontage and the old Post Office building on the junction of High Street and Wyke Manor Road. It is considered that a more 'traditional' brick such as this is the right approach and it will complement surrounding buildings and work well with the ragstone. No physical brick sample has been provided due to a delay in obtaining samples so this will be required by condition to ensure it is acceptable. In terms of the ragstone, I consider straight coursed blocks as opposed to random rubble would be more appropriate for this modern building and the applicant agrees. The finish of the stone would either be honed or with a light texture which I

also consider is appropriate for a more contemporary building. Plant and equipment and lift overruns will be required on the roofs of the building and these are proposed to be screened by aluminium louvered enclosures which would be acceptable. The applicant has confirmed that any ducts, flues etc. will be internal as would rainwater guttering. Abseiling footings for some window cleaning would be required and these details can be provided by condition. This will ensure a clean finish to the building.

6.12 Overall, it is considered that the building is very well designed with considerable breaks in the massing through different heights, set-backs, use of materials and detailing. The different elements of the building are well articulated and quality materials are proposed. It is considered that the proposals would provide a high quality building that would enhance the character and appearance of the local area in accordance with policies SP4 and DM1 of the Local Plan.

6.13 The detailing of the building is critical to ensure a quality finish so conditions will be attached to provide details of fenestration, window reveals and recesses, masonry joints and junctions, details of the ragstone coursing, finishes and mortar, lighting, the rooftop plant and lift enclosures, balustrades, and prevent the installation of any external ducts, flues or similar features.

Townscape Impacts

6.14 The applicant has carried out a Townscape and Visual Impact Appraisal (TVIA). The TVIA identifies distinct townscape areas and assesses the value of these areas and how sensitive to change they are. It then assesses the visibility and impact of the development from 10 public vantage points within the surrounding area. This takes into account the Maidstone (Centre) Conservation Area Appraisal which identifies that the most important views into the town are from the opposite bank of the River Medway and that the spire associated with the former Church of Holy Trinity provides a focal point and landmark from outside the conservation area, particularly along the High Street. The methodology of the TVIA is in accordance with the relevant guidelines and it provides Accurate Visual Representations/Verified Views of the proposed development.

6.15 I consider that the public vantage points identified provide an appropriate visual appraisal of the development. In summary these are from parts of Week Street, along the High Street, Gabriel's Hill, King Street, Wyke Manor Road, Church Street, Trinity Square, and Buckland Hill. Having viewed the site from these public vantage points I consider that the main locations the development would be visible from are the High Street outside the Town Hall and further south, on Wyke Manor Road and further north on Church Street, and from parts of King Street. It is the taller section of the development that would be most visible from these areas.

6.16 From the High Street outside the Town Hall which I consider is the most sensitive area being within the historic centre and Conservation Area, and with a high townscape quality, the tallest part of the building would be visible. I agree with the assessment that the development would not have a

significant impact from here as it is only a narrow section of the 9 storey element that would be visible and it is set well back from Week Street. This section of the building would also be predominantly finished in brickwork a material sympathetic to the other buildings visible from the High Street. It is also seen in the context of the taller Colman House. Overall I do not consider it would be harmful to the character or appearance of the townscape from here. Further south on the High Street the impact is very similar and for the same reasons it would not be harmful.

6.17 From Wyke Manor Road and Church Street the development would be highly visible. The townscape quality here is relatively poor with Colman House visible and piecemeal buildings and parking areas associated with the rear service areas of shops on Week Street. The north elevation of the building would be prominent but the mass of the building from here is greatly broken up through variation in form and materials. It would also obscure a large part of Colman House with a high quality building and so it is considered it would actually improve the townscape from here.

6.18 From King Street at the junction with Wyke Manor Road the front of the 9 storey part would be visible and would reduce views of the sky beyond. The building here is broken by the set back above the second floor and further set back of the rooftop glazed section. I do not consider the views of the sky are particularly important and the set-backs ensure the street is not overly enclosed. The south elevation is also broken up with the proposed ragstone panels and overall I do not consider the building would be harmful to the character or appearance of the townscape from here.

6.19 From King Street further east, the top of the 9 storey part becomes visible above buildings on the north side of King Street. The front of the building is again broken by the form and materials and it would be seen adjacent to the taller Colman House. I do not consider the building would be harmful to the character or appearance of the townscape from here.

6.20 Overall, whilst the building would be visible from nearby public vantage points, for the reason above it would not be harmful to the character or appearance of the townscape in accordance with policies SP4 and DM1 of the Local Plan.

Heritage Impacts

6.21 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, whilst Section 72 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The NPPF requires the local planning authority, when assessing an application to identify and assess the particular significance of any heritage asset that may be affected by the proposal. The applicant has submitted a Heritage Statement (HS) which has assessed the significance of

heritage assets (listed buildings and Conservation Areas) and the impact upon them.

Listed Buildings

6.22 In terms of listed buildings assessed, the HS has narrowed this down to those located in the following clusters:

- The small cluster of listed buildings on Week Street.
- The northern side of High Street.
- The southern side of High Street and northern part of Gabriel's Hill.
- King Street.
- The former Church of Holy Trinity and adjoining former hospital on Marsham Street.

6.23 This is considered to be a correct assessment of those listed buildings whose settings may be affected. The HS provides a comprehensive assessment of the architectural and historical interest of the listed buildings and their significance.

Week Street, comprising: Water pump situated in passage beside No. 22 Week Street (GII); 22 Week Street (GII) and 18 Week Street (GII)

6.24 The historic interest and significance of these buildings derives from their fabric, architecture, and detailing. The front elevations of Nos. 18 and 22 also contribute to the tight sense of enclosure of Week Street and the diversity of styles which animate the streetscene.

6.25 The development would introduce a replacement 3 storey building on Week Street which is in-keeping with the prevailing scale of frontages. The design and appearance of this part of the building is considered to be of high quality as outlined in assessment above. For this reason the development would not harm the setting of these buildings. The higher parts of the development, by virtue of their setback, would not be readily visible in the context of these listed buildings.

The Northern Side of High Street, comprising: 1 High Street/1-7 Week Street (GII), National Westminster Bank 3 High Street (GII), 5 and 6 High Street (GII), 7 High Street (GII) and 8 and 9 High Street (GII*)

6.26 These buildings provide the frontage of commercial properties that form the corner of Week Street and High Street and continue west to enclose the northern side of High Street and are a very prominent element of the street scene. The HS considers, *"the frontage of varied periods and styles of elevations and the contrasting materials creates a grain of townscape that is typical of High Street, although this frontage is notable for the two formal elevations that are considerably wider than the adjoining properties and retain a higher status in the streetscene. The frontage overlooks Jubilee Square, which is enclosed by a similar grain of townscape to the south, the Town Hall to the west, summarised below, and has a slightly more open aspect to the east with the junctions of King Street, Week Street and Gabriel's*

Hill reducing the sense of enclosure. The 11 storey Colman House providing a prominent landmark at the eastern end of the space."

- 6.27 The proposed frontage building to Week Street would be visible in the context of some of these listed buildings but for the same reasons as above this would not harm the setting of this group of listed buildings. The upper part of the central 4 storey part of the development would be visible in the context of some of the listed buildings as would a narrow section of the 9 storey element. I agree with the HS that the 4 storey element does not compete with the listed buildings in terms of its appearance. A part of the taller section of the building would be seen in the backdrop of some of the listed buildings but I agree that it would cause a negligible change in the view experienced and it would not impact on the ability to appreciate their significance. I therefore do not consider it would harm the setting or significance of the above two groups of buildings.

The Southern Side of High Street and Northern part of Gabriel's Hill, comprising: The Town Hall (GII*), 89 Bank Street (GII), Nat West Bank 91 High Street (GII), 93-95 High Street (GII), 97A-98 High Street (GII), 99-100 High Street (GII), 4 and 6 Gabriel's Hill (GII), 5 and 7 Gabriel's Hill (GII) and 1 and 3 Gabriel's Hill (GII)

- 6.28 The HS states, *"the group on the southern side of High Street and Jubilee Square includes the Town Hall, which partly encloses the western side of the square, the southern side of High Street, between Bank Street and the corner of Gabriel's Hill, and the buildings that enclose the northern end of Gabriel's Hill. The group comprises a diverse range of periods and styles that represents a 'cross-section' through the architectural history of central Maidstone. The frontage of listed buildings between Bank Street and the corner of Gabriel's Hill have considerable group value and are representative of the key periods, styles of architecture, forms of construction and materials in central Maidstone."*
- 6.29 As with the listed buildings on the northern side, the upper part of the central four storey part of the development would be visible in the wider setting of some of these listed buildings and to a lesser degree the 9 storey element as you move eastwards where it is obscured by Colman House. For the same reasons above, I consider that the development would cause a negligible change in the view in respect to the listed buildings that enclose the southern side of the High Street and at the north end of Gabriel's Hill, and it would not impact on the ability to appreciate their significance. I also agree with the HS that the special interest of the listed frontage is best experienced in views to the south, across Jubilee Square, and the ability to appreciate the group of listed buildings would not be harmed by the proposed development as it would be behind you. I therefore do not consider it would harm the setting or significance of these buildings.

King Street, comprising: 2-4 King Street (GII), 20-22 King Street (GII), 24-26 King Street (GII), 52-54 King Street (GII), 70 King Street (GII), 72 King Street (GII), 74 King Street (GII), Brenchley Almshouses 76-82 King Street (GII), East Layne House 91 King Street (GII) and Clarendon Place 1-7 Church Street (GII)

- 6.30 Listed buildings on King Street are dispersed and predominantly on the south side as it extends from the High Street to Queen Anne Road with a line of listed buildings to the east of the 'Gateway' building. The HS considers that, *"generally, the listed buildings contribute to the enclosure and historic alignment of King Street. However, the modern buildings on either side of the timber framed building at No. 52 and 54 King Street have not been particularly sensitive to its character and similarly the construction of The Mall provides a crude addition to the street next to the grade II listed No. 20 and 22 King Street. The upper part of the street is also fragmented by the relatively large surface car park adjoining the junction with Church Street. Colman House is visible at the western end of King Street, however a series of kinetic views illustrate the slight change of alignment of King Street and the impact this has on the way in which Colman House is experienced."*
- 6.31 The development would be largely obscured from King Street between Wyke Manor Road and Church Street so would not affect any listed buildings on this stretch. Further east, the top of the 9 storey section would be visible above buildings on the north side of King Street and could be seen in the context of some of the listed buildings on either side of King Street. Due to the distance from these buildings and the context of Colman House and the wider varied townscape, the development would not harm the significance or setting of these listed buildings.

Holy Trinity and Marsham Street, comprising: Church of Holy Trinity (GII) and Ophthalmic Hospital (GII)

- 6.32 The HS states that, *"the church of Holy Trinity has a complex setting that enables the special architectural and historic interest of the building to be appreciated and experienced to varying degrees. The list entry states that the church forms a group with Nos. 1 to 9 and Nos. 21 to 29 Church Street, although those residential properties are not listed and comprise two distinct styles and periods of building. The church spire is also prominent above the three storey terraces of Marsham Street, east of the church, which combine to create a coherent townscape with a sense of formality. The special architectural interest is best experienced from the immediately adjoining streets of Church Street and Marsham Street and also the churchyard associated with the church itself, with which the church has a very clear historic association. Holy Trinity is located on the slightly higher ground that rises to the north-east of High Street. Many glimpses of the church spire are therefore gained from vantage points throughout central Maidstone, allowing the church to be experienced to a greater or lesser extent. In this context the spire of Holy Trinity is partially visible in a series of kinetic views from High Street, although it is experienced in the backdrop to a commercial townscape, including the presence of Colman House."*
- 6.33 I agree with the HS that the special interest of the Church is best experienced from Church Street, Marsham Street and the associated churchyard, and that the development would not affect these views. Nor would views from Church Street be affected. For these reasons the setting of the Church would not be harmed.

6.34 Overall, it is considered that the development would not harm the setting or significance of any listed buildings. The Conservation Officer agrees that whilst the proposed development would be visible within the context of a great number of listed buildings on High Street, Week Street, King Street, Gabriel's Hill and Church Street, it would not have a direct or harmful impact on their setting.

Conservation Areas

6.35 The site is outside but adjoins the Maidstone Centre Conservation Area (MCCA) to the west, the Holy Trinity Conservation Area (HTCA) is around 75m to the north, the Chillington House Conservation Area (CHCA) is around 210m to the northwest, and the Ashford Road Conservation Area (ARCA) is around 290m to the east. It is considered that the development has the potential to impact upon the MMCA, HTCA and ARCA but due to its distance and the lack of clear views from CHCA it would not have any discernible impact on this CA.

Maidstone Centre Conservation Area

6.36 The MCCA Conservation Area Appraisal (2009) summarises some of the qualities of the CA as follows:

- *A fine example of a medieval planned new town development which retains its original gridded street plan and a high concentration of historic buildings, both listed and unlisted, which give it a strong historic character despite modern redevelopments.*
- *In many places, evidence of the original medieval burgage plots survive, resulting in a characteristic small-scale grain to development and a variety to street frontages.*
- *Most development is still of 2-4 storey height, with only a few modern exceptions to this.*
- *For the most part there is a relatively restricted palette of materials – red and yellow brick or stucco/render for walls, clay tiles or slates for roofs.*
- *Whilst buildings of all ages from medieval times to the 21st Century are represented, the Georgian period has a particularly strong influence on the overall look of the Conservation Area, both in terms of buildings originally dating from the 18th and early 19th Centuries and also in the re-fronting of older properties and the design of more recent buildings.*
- *It is a highly urban area, with continuously built-up streets with building lines being largely consistent and being set at the back edge of pavements, open forecourts being virtually non-existent.*

6.37 The proposed development would not be visible from the vast majority of the conservation area due to the tight grain of the street pattern and enclosure of buildings. I agree with the HS that it would not impact on the ability to appreciate the historic interest of the street pattern or the layers of history represented by the diverse styles and forms of construction of buildings within the CA.

6.38 Views of the Holy Trinity Church spire are possible from the High Street from as far west as Mill Street and whilst it is seen in the context of other buildings this is considered to be an important landmark and view from within the MCCA. During pre-application discussions maintaining views of the spire was a key requirement of the Council and the development has been designed to retain a gap between the proposal and spire when viewed from places in the High Street. The elevation is also reserved in its design and appearance so as not to compete with the spire. However, it would reduce the existing gap between the spire and Colman House and reduce its prominence. The Conservation Officer has also raised this pointing out that views of the Church from the MCCA are identified in the area's appraisal as contributing to its significance. The Conservation Officer considers that the development would result in a small degree of harm to the significance of the MCCA for this reason and I agree within this conclusion.

6.39 This level of harm is considered to be less than substantial and so in line with policy DM4 of the Local Plan and the NPPF, this harm must be weighed against any public benefits of the development which will be carried out later in this assessment.

Holy Trinity Conservation Area

6.40 The HTCA Appraisal (2007) summarises some of the qualities of the CA as follows:

- *The Conservation Area is a fine example of the late Georgian expansion of Maidstone, a period when the town first started to outgrow the confines of the medieval settlement.*
- *It exhibits a very consistent character in the terms of building materials, scale, architectural style and layout, and development of the area was more or less completed within the 50 years between 1800 and 1850.*
- *Within the Conservation Area itself a very high proportion of the original buildings remain and there are few intrusions to weaken the character.*

6.41 I agree with the HS that the proposed development would not be visible from key parts of the CA, such as Holy Trinity Churchyard and Marsham Street. Where it would be visible from the corner of the CA at the junction of Union Street and Church Street, it would be seen against the backdrop of Colman House. As stated above, the north side of the building would provide an interesting elevation through variation in massing and materials. It would obscure a large part of Colman House with a high quality building and so it is considered that it would actually improve/enhance views from the HTCCA from here.

Ashford Road Conservation Area

6.42 The ARCA Appraisal (2008) summarises some of the qualities of the CA as follows:

- *The Conservation Area is a fine example of a late Georgian/early Victorian well-to-do suburb just outside the confines of the medieval town.*
- *It exhibits a very consistent character in terms of building materials, scale, architectural style and layouts, and development was completed largely between 1820 and 1860.*
- *Within the Conservation Area itself all the original buildings remain except for no. 5 Ashford Road, demolished in 1973 and whose site now lies under Wat Tyler Way;*

6.43 Views of the top of the 9 storey section would be possible above buildings visible from King Street where it meets Albion Place but due to the distance and the context of Colman House, the development would not harm the significance or appreciation of the ARCA.

Highways Impacts

6.44 The site is located at a highly sustainable location within Maidstone's Town Centre allowing for good public transport access, non-car trips, and linked trips. The development does not propose any on-site parking which is acceptable at this highly sustainable site. Any visitors and staff who do arrive by car would have to use local parking and car parks many of which are 24 hour, or drop off on local roads. The anticipated impact from traffic during peak times is negligible and would not have any severe impact on the local highway network. Kent Highways also consider this to be the case and raise no objections. The development will include 14 cycle parking spaces on-site with changing rooms, showers and lockers to promote cycling.

6.45 Servicing is proposed outside the site on Wyke Manor Road. The applicant is proposing to change one of the disabled parking bays on Wyke Manor Road to allow it to be used for loading/unloading to restricted times outside of shop opening hours. This would be subject to a separate Traffic Regulation Order process that the applicant can pursue which may or may not be successful. Kent Highways have requested a condition requiring that this servicing arrangement be secured. In my view this is not essential as there are dedicated loading bays on King Street which are around 80m away and so a condition is not necessary. Whilst they are not as convenient for the operator, this would not result in any highway safety issues.

6.46 Kent Highways also request conditions for a Demolition and Construction Management Plan; highway condition surveys before and after construction of the development with commitment provided to fund the repair of any damage caused by vehicles related to the development; and measures to prevent the discharge of surface water onto the highway. I do consider the scale of the development being on a relatively constrained site and within in a busy area means that a Construction Management Plan is appropriate in the interest of highway safety in this case. Any damage to the public highway is not a material planning consideration and surface water will be dealt with on site as outlined in the details of drainage below.

Residential Amenity

- 6.47 There are not many residential properties near to the site. The nearest are flats 1-3, 24 Week Street around 25m north of the site, a block of flats (1-8 Goring Place) around 80m to the northeast and flats (97A-B High Street) around 50m to the south. The applicant has carried out a daylight assessment of the impact of the development on all these properties and for sunlight on the properties to the north only as they have south facing windows to the development. The assessment shows that the impact on daylight and sunlight to any of these properties would be within guidelines and I therefore do not consider there would be any harmful impacts upon daylight or sunlight.
- 6.48 In terms of outlook from any windows, the taller section of the building would be at an oblique angle around 40m away from the windows of flats 1-3, 24 Week Street. Because of this distance and angle, combined with the varied townscape character it is not considered that the development would result in overbearing or oppressive impacts when viewed from those windows. In addition the taller Colman House already exists behind the site at this point. For the flats at 1-8 Goring Place, the taller section would be around 80m away and would sit in front of the taller Colman House such that there would be no harmful impact on outlook. For the properties on the High Street, the taller section would be obscured by Colman House.
- 6.49 With regards to noise and disturbance, I do not consider the use of the hotel or rooftop bar would result in any impacts above that already experienced in this town centre location which has many day and night time uses nearby. The applicant is proposing opening hours of 10am to 11pm on weekdays, until 1am on Saturdays and until 8pm on Sundays for the public bar/restaurant. It is considered that these hours are acceptable in this town centre location where there are other similar uses opening to these hours. The impacts on residential amenity are therefore in accordance with policy DM1.
- 6.50 The development would be in close proximity to north facing windows on Colman House. This building is in use as offices and the impact upon the outlook or light for an office use is not a material consideration.

Other Matters

Air Quality

- 6.51 The site is adjacent to an Air Quality Management Area (AQMA) for NO₂, which runs along King Street south of the site. The AQMA encompasses the main roads around Maidstone. An air quality assessment has been submitted which assesses the impact of increased vehicle movements associated with the development (visitors, staff and servicing) and the fact that many of these would be to local car parks rather than the site. It concludes that any increases in NO₂ concentrations would be negligible and Environmental Health agree with this conclusion and raise no objections. In line with the Council's Air Quality Planning Guidance, an emissions mitigation calculation has been used to quantify potential emissions from the development and provides a suggested mitigation value for proportionate mitigation. A number of potential mitigation measures which are predominantly outlined within the

Travel Plan have been put forward and the specific measures can be secured by condition.

Drainage

- 6.52 Surface water currently drains to mains surface water drains within the vicinity. The proposal is to reduce the current run-off rates from the site by around 75% but still discharge to the mains sewer. Because a basement is proposed and the site is to be fully developed there is no space for below-ground storage options or features such as swales. As such, it is proposed to provide a 'green' planted roof with a flow restriction device. This will cover an area of 500m² across two levels on the roof above the bar and on the 4th floor roof space.
- 6.53 KCC LLFA raises no objections to the principles of the proposals subject to discharge rates to the mains surface water sewers being agreed with Southern Water. Southern Water has advised that provided discharge rates are no greater than existing this will be acceptable. As rates are expected to be lower this seems to be achievable. KCC recommended a condition to provide the fine details of the SUDs scheme which can ensure this is the case.
- 6.54 Foul drainage would go to the mains sewers and Southern Water have confirmed there is capacity.

Ecology

- 6.55 This is a brownfield site with minimal if any ecological value so mitigation is not necessary. Therefore the proposals provide for enhancements in the form of the green 'planted' roof which is proportionate. Other enhancements such as bird, bat, and bee bricks would also be appropriate and can be secured via condition.

Sustainable Design

- 6.56 The building will meet a 'BREEAM Very Good' standard as required by policy DM2 of the Local Plan. The building strategy focuses on the fabric of the building to reduce emissions and save energy demand and includes 150m² of south facing PV panels on the 4th floor roof to further contribute to energy and carbon reduction.

Archaeology

- 6.57 KCC Heritage advises that there is potential for significant archaeology to survive on this site and conclude that a condition requiring details of archaeological work and details of foundations designs and any other proposals involving below ground excavation are provided prior to the commencement of development. This would ensure that any features of archaeological interest are properly examined and recorded, and if necessary preserved in situ in accordance with policy DM4 of the Local Plan.

Environmental Impact Assessment

- 6.58 The scale of the development is well below any relevant thresholds for EIA development. It is not considered that the characteristics or size of the development are such that significant environmental impacts are likely to arise or that would warrant an EIA.

Representations

- 6.59 Any disruption to trade in the local area during construction is not a material planning consideration.

Economic & Environmental Benefits

- 6.60 The applicant has calculated that the hotel would bring approximately £1.2 million of additional visitor spending per year for Maidstone. This has been calculated based on the estimated number of visitors per year and their likely spend (within both the hotel and other local uses such as visitor attractions, retail, and leisure uses) which have been worked out using 'The Economic Impact of Tourism Kent – 2017' reports which provide an overview of tourism activity in Kent for 2017 and were commissioned on behalf of 'Visit Kent'. The proposals would also create an estimated 53 additional full time jobs for the hotel and 13 for the bar/restaurant. Whilst these are estimated, there is no doubt that the proposals would bring substantial economic benefits through spending in Maidstone and the Town Centre, and from the creation of new jobs.
- 6.61 For the reasons outlined above it is considered that the proposed building represents high quality design and would serve to enhance the character, appearance and vitality of the local area which is in accordance with policies SP4 and DM1 of the Local Plan and the NPPF. The proposals would therefore also bring environmental benefits to the town centre location through improvements in the townscape, an increased diversity of town centre uses and enhanced vitality and viability.

Balancing of Matters

- 6.62 As outlined in the assessment above there is some conflict with policy DM27 (Primary Shopping Frontages) as the proposal would result in the loss of a retail unit on Week Street where policy seeks to ensure retail (A1) remains the predominant use here. The proposals would also result in a low level of 'less than substantial harm' to the Maidstone Centre Conservation Area. In line with policy DM4 of the Local Plan and the NPPF this harm must be weighed against the public benefits for the development.
- 6.63 National Planning Practice Guidance states that, "*public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives.*" In this case, it is considered that the economic and environmental benefits outlined above would be on such a scale so as to be regarded as significant wider public benefits and that this would outweigh the low level of 'less than substantial' harm to the Maidstone Centre Conservation Area. This is in accordance with policy DM4 of the Local Plan and the NPPF.

6.64 In addition these benefits are considered to outweigh the loss of an A1 retail unit and the conflict with policy DM27. The proposals would regenerate the site and clearly bring visitors to the town centre which would help to enhance the vitality and viability of the town centre as a whole.

7.0 CONCLUSION

7.01 The development is considered to be very well designed with considerable breaks in the massing through different heights, set-backs, use of materials and detailing. The different elements of the building are well articulated and quality materials are proposed. It is considered that the proposals would provide a high quality building that would enhance the local area and would not cause harm to the character or appearance of the townscape in accordance with policies SP4 and DM1 of the Local Plan.

7.02 The proposals would regenerate a central Town Centre site with a high quality building and bring substantial economic benefits helping to achieve the aims of policy SP4 of the Local Plan and the 'Town Centre Vision' within the Local Plan.

7.03 The development would result in the low level of 'less than substantial' harm to the Maidstone Centre Conservation Area but this harm is outweighed by the significant public benefits associated with the economic and environmental benefits of the development in accordance with policy DM4 of the Local Plan and the NPPF.

7.04 The loss of a retail unit on Week Street and thus conflict with policy DM27 is outweighed by the economic and environmental benefits of the overall development.

7.05 Any other impacts from the development are either acceptable or can be mitigated by condition.

7.06 Therefore permission is recommended subject to the conditions as set out below.

8.0 RECOMMENDATION

APPROVE SUBJECT TO THE FOLLOWING CONDITIONS:

Approved Plans

1. The development hereby permitted shall be carried out in accordance with the Proposed Plans as listed on the Drawing Register & Issue Sheet received on 11.11.19.

Reason: To clarify which plans have been approved and to ensure a high quality development.

Time Limit

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

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

Compliance

3. The development shall be carried out in accordance with the external building materials as outlined within the Design & Access Statement and as shown on the proposed plans as follows:

- a) Light red coloured stock bricks
- b) Ragstone inserts around the window surrounds on the north and east elevations of the 9 storey section
- c) Ragstone cladding on the ground and first floors on the east elevation of the 9 storey section
- d) Ragstone recessed inserts on the south and west elevations of the 9 storey section
- e) Ragstone on the Week Street frontage
- f) Copper window divisions
- g) Copper balustrading
- h) Metal banding on the fully glazed sections including the roof top floor

Reason: To ensure a high quality development is delivered.

4. The development shall be carried out in accordance with the installation of PV Panels as shown on drawing no. A-100-004 RevPL0.

Reason: To ensure a high quality development is delivered.

5. All planting, seeding and turfing specified in the approved green roof landscape details shall be carried out in the first planting season (October to February) following the commencement of the use of the building and any planting which fails to establish or plants which, within five years from the commencement of the use of the building, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

Reason: To ensure a high quality development is delivered and in the interest of biodiversity enhancement and surface water drainage.

Pre-Commencement

6. No development shall take place, including any demolition works, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan shall provide for:

- a) Locations for loading/unloading and storage of plant, waste and construction materials;
- b) Details of any necessary temporary traffic management measures;
- c) Arrangements for the turning of vehicles;
- d) Arrangements to receive abnormal loads or unusually large vehicles;

Reason: In the interests of highway safety highway both during the demolition and construction phase of the development.

7. No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the principles contained within the Outline SUDS Strategy report by Surface Property (October 2019) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

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

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

8. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a phased programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

9. No development shall take place until details of foundations designs and any other proposals involving below ground excavation have been submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that due regard is had to the preservation in situ of any important archaeological remains.

Post-Basement Level

10. No development above basement level shall take place until the following details have been submitted to an approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- a) Large scale plans of all window reveals including those with ragstone panel recesses. Details shall show sufficient recesses in order to provide depth and layering of materials as outlined and shown within the Design & Access Statement
- b) Large scale plans showing details of all ragstone panel recesses as outlined and shown within the Design & Access Statement
- c) Details of all windows and frames including glazed areas and metal banding
- d) Details of masonry joints between any brickwork and stonework
- e) Details of masonry joints between brickwork or stonework and any windows or glazing
- f) Details of expansion joints which shall be located to minimise their impact
- g) Details of coping to the top of the brickwork sections
- h) Details of any fixings and footings for window cleaning equipment which shall be designed and positioned to limit their visibility
- i) Details of the copper balustrades and banding
- j) Details of rooftop plant and lift enclosures
- k) Samples of the 'Wienerberger Welham Antique' stock brick or an alternative stock brick of similar colour and variation in tone and texture.

Reason: To ensure a high quality development is delivered.

11. No development above basement level shall take place until a landscape scheme for the green roofs on the 4th floor roof and roof top levels has been submitted to and approved in writing by the local planning authority. The scheme shall include a planting specification, a programme of implementation and a 5 year management plan.

Reason: To ensure a high quality development is delivered and in the interest of biodiversity enhancement and surface water drainage.

12. No development above basement level shall take place until a sample panel of the ragstone, which shall be straight coursed with a honed or light textured finish, has been constructed on site for inspection and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a high quality appearance.

13. No development above basement level shall take place until details of any external lighting have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained.

Reason: To ensure a high quality appearance.

14. No development above basement level shall take place until details for the provision of bird, bat, and bee bricks have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained.

Reason: In the interests of biodiversity enhancement.

15. No development above basement level shall take place until details of a scheme for the extraction and treatment of cooking fumes has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the first use of the premises and thereafter maintained to the satisfaction of the local planning authority. Any external installations shall be positioned to limit their visibility from public vantage points.

Reason: To safeguard the enjoyment of their properties by nearby residential occupiers and to ensure a high quality appearance.

16. No development above basement level shall take place until a Building Maintenance Plan covering the external appearance of the elevations of the building has been submitted to and approved in writing by the local planning authority. The Plan shall provide the following:

- a) Details of the methods of building inspection and frequency
- b) Details of the impacts upon the building that need to be rectified such as water streaking and staining
- c) Measures to clean or rectify any impacts identified and the timescales for doing so

The approved Plan shall thereafter be adhered to for the lifetime of the building.

Reason: To ensure the high quality appearance of the development is maintained.

Pre-Occupation

17. The development shall not be occupied until a final Travel Plan in accordance with Planning Practice Guidance and following the principles of the submitted Travel Plan, including arrangements for payment of a monitoring fee, has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall quantify what measures or offsetting schemes are to be provided to reduce the transport related air pollution of the development and follow the mitigation principles outlined in the Air Quality Assessment (January 2020). The approved Travel Plan shall thereafter be implemented and maintained.

Reason: In the interest of sustainable transport and mitigating impacts upon air quality.

18. The development shall not be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent

person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to neighbouring land are minimised, and to ensure that the development as constructed is compliant and subsequently maintained.

Restrictions

19. No fans, louvers, ducts, vents, flues, or other similar apparatus shall be installed externally without the prior written approval of the Local Planning Authority apart from any approved under condition 15.

Reason: To ensure a high quality appearance.

20. The roof top bar and restaurant shall not be open to members of the public outside the hours of 10am to 11pm Monday to Friday, 10am on a Saturday through to 1am on a Sunday, and 10am to 8pm on Sundays.

Reason: To accord with the hours applied for and those that have been assessed and to safeguard the enjoyment of their properties by nearby residential occupiers.

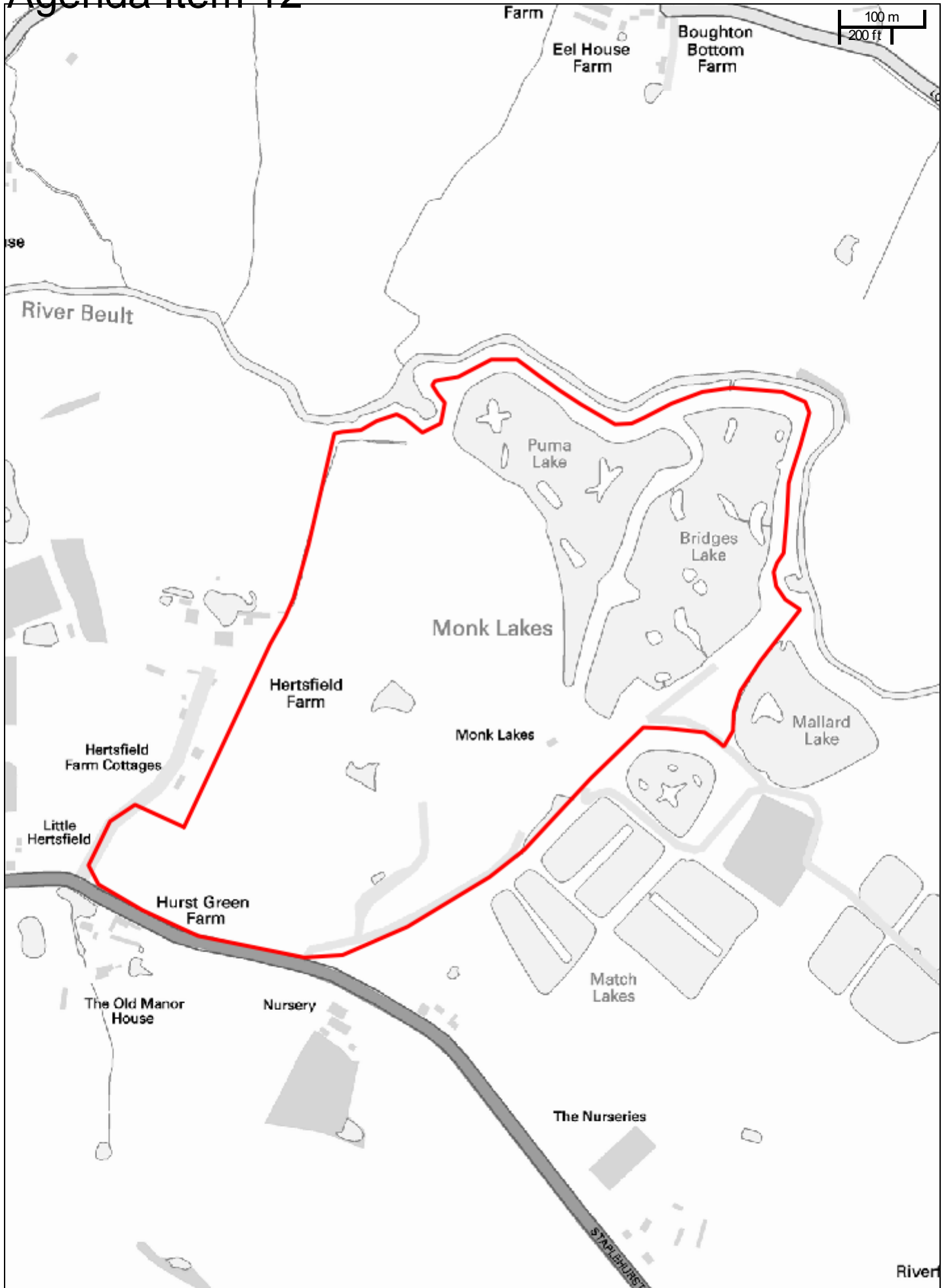
21. The hotel shall be used for C1 use only and for no other purpose (including any other purpose in Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or permitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any statutory instrument revoking and re-enacting those Orders with or without modification);

Reason: To accord with the terms of the planning permission.

22. The roof top bar and restaurant shall be used for A3 or A4 use only and for no other purpose (including any other purpose in Class A of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or permitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any statutory instrument revoking and re-enacting those Orders with or without modification);

Reason: To accord with the terms of the planning permission.

Agenda Item 12



REFERENCE NO - 11/1948		
APPLICATION PROPOSAL Part retrospective planning application for the retention of two lakes known as 'Bridges' and 'Puma' and works to create 3 additional lakes all for recreational fishing, erection of clubhouse, building and associated works and landscaping.		
ADDRESS Monk Lakes, Staplehurst Road, Marden, Maidstone, Kent, TN12 9BU		
WARD Marden & Yalding	PARISH COUNCIL Marden	APPLICANT Mr & Mrs Harrison
DECISION DUE DATE 23/02/20		PUBLICITY EXPIRY DATE 03/12/19

1.0 **BACKGROUND & PROCEDURE**

1.01 This application was heard at Planning Committee on 23rd January 2020. The application was recommended for approval and the Committee Report and Urgent Update Report are attached at the **Appendix**. Contrary to the recommendation of the Head of Planning and Development, the Committee voted to refuse the application for the following reasons:

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

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

1.02 Pursuant to paragraph 30.3 (a) of Part 3.1 of the Council's Constitution and paragraph 17 (a) of the Local Code of Conduct for Councillors and Officers Dealing with Planning Matters (Part 4.4 of the Constitution), planning officers advised the Committee that they did not consider each reason for refusal was sustainable and they could have significant cost implications

before a vote was taken. Therefore the decision of the Planning Committee was deferred to its next meeting.

1.03 Paragraph 17(b) outlines that at the next meeting, should the Committee vote to continue with a decision which it has been advised cannot be sustained at appeal and which could have significant cost implications for the Council's budget, Councillors will be requested to refer the consideration of the application to Part II of the meeting (private session), to offer Members further advice on the legal and financial implications, and the likelihood of success at appeal. If the Committee still decides to refuse the application/impose an unreasonable condition, the Head of Planning and Development will on the advice of the Legal Officer present and in consultation with the Chairman of the meeting, immediately after the vote has been taken, refer the application to the Policy and Resources Committee for determination.

2.0 ADVICE

2.01 Officers have sought Counsel's advice on the grounds of refusal and the risk of costs at appeal and have taken this into account in reaching the views set out below. Counsel's full advice is attached as an **Exempt Appendix** to this report.

2.02 In considering each ground of refusal it is important that Members are reminded of the following principles and matters:

- The need to give clear reasons in a case where Members disagree with an officer's recommendation to grant.
- Recent case law underlines the fact that where a committee has made a previous decision on a development and then makes a contrary decision on a similar scheme on the same site, the need to give very clear and cogent reasons for taking a different viewpoint is heightened. The public need to know why a consistent view is not being taken.
- Reasons for refusal need to be full, clear and precise and refer to all relevant Development Plan policies.
- The differences of the development from that assessed in 2012 consist of lower sloped banks in places around Lakes 2 and 3 by no more than 2m, and slightly higher slopes in places of no more than 1m. The height of the lake crests for Lakes 2 and 3 have not significantly changed but where they have, they would be marginally lower. The western banks begin to rise around 6m closer to the western boundary in some places. The corners of the lakes are at slightly different angles and the islands within the lakes would be different in shape and location.
- The baseline or assessment position must be on the basis of there being no development where Bridges and Puma Lakes, and Lakes 1-3 are located and so when the site was generally level. However, the access onto the A229, the access road and car park, and the raised lakes in the southeast part of the wider complex are all lawful and form part of the

baseline context for assessment. As do the substantial lawful raised lakes at Riverfield Fish Farm to the east.

Ground 1 (Harm to the Setting of Grade II Listed Hertsfield Barn)

1. The overpowering height and proximity of the new formulation of the landscaping, particularly the western bund, causes less than substantial harm to the setting of the adjacent Grade II listed heritage asset which is not outweighed by an acceptable level of public benefits contrary to paragraph 196 of the NPPF.

2.03 This reason for refusal refers to harm to the setting of the Grade II listed Hertsfield Barn which is approximately 30m west of the proposed raised lakes. The NPPF at paragraph 190 requires the local planning authority, when assessing an application to *"identify and assess the particular significance of any heritage asset that may be affected by the proposal (including by development affecting the setting of a heritage asset)"*. Therefore if a development is to harm the setting of the Barn it is important to identify what is the harm to the 'significance' of the Barn.

2.04 As advised in the Committee Report at paragraph 7.48, the application site to the east of the listed Barn was previously generally level and largely open and this formed part of the historic setting of the Barn. There is direct inter-visibility between the Barn and the application site and if Members considered that this open and level land is important to the Barn's history and therefore its significance, on further consideration by officers and based on the legal advice, there is a reasonable evidence base from which to allege that the development would cause 'less than substantial harm' to the heritage significance of the Barn.

2.05 Paragraph 196 of the NPPF states that, *"where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal"*. National Planning Practice Guidance states that, *"public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives."* The development would provide economic benefits through employment at the site and to the rural economy through direct and indirect spend associated with the use. However, officers consider that the economic benefits and thus public benefits are not significant. The Environmental Statement also considers the proposals would bring environmental benefits to the wider landscape and through biodiversity improvements, and provide access to a leisure and recreation facility for the public. Biodiversity enhancements would be provided through the planting of new landscaping and the creation of waterbodies but again it is not considered that this would represent a significant public benefit.

2.06 In this regard, there may be an arguable case for taking the view that the 'less than substantial' harm is not outweighed by the public benefits flowing from the development.

2.07 Based on the above, should Members wish to continue with this ground of refusal it is advised that the following changes should be made:

- The reason for refusal should refer to the size, height and proximity of the proposed raised lakes, in particular the western banks of the lakes, as causing less than substantial harm to the setting and significance of the Grade II listed Hertsfield Barn.
- Reference to policies SP18 (Historic Environment) and DM4 (Development Affecting Heritage Assets) of the Local Plan being breached should be made in the reason for refusal.
- The reason for refusal should make clear that Members consider the open and level historic setting of the Grade II listed Barn forms an important part of its significance and setting.

2.08 In terms of providing clear and cogent reasons for taking a different viewpoint from the 2012 decision, as advised at paragraph 7.04 of the committee report and reiterated above, the changes since the 2012 decision are minor in nature and the development remains very similar. The changes consist of lower sloped banks in places around Lakes 2 and 3 by no more than 2m, and slightly higher slopes in places of no more than 1m. The height of the lake crests for Lakes 2 and 3 have not significantly changed but where they have, they would be marginally lower. The western banks begin to rise around 6m closer to the western boundary in some places. This is based on a land survey in September 2019 commissioned by the Council and so is accurate. It would therefore be difficult to rely on changes to the proposals as a reason for taking a different view.

2.09 Members could consider that since the last decision they have given enhanced attention to the duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the need to have special regard to the desirability of preserving the building or its setting. There was a particular emphasis on this duty and the weight it should be given after the case of *East Northamptonshire DC v Secretary of State for Communities and Local Government* (Barnwell Manor) [2014] EWCA Civ 137. This post-dates the 2012 Committee decision to grant planning permission. However, Members must still be able to rely upon a proportionate assessment of the significance of the listed Barn and the harm to its setting they consider arises.

Ground 2 (Harm to the Residential Amenity of Neighbouring Buildings)

2. Because of the configuration of the land, in particular the height, there is a loss of residential amenity to the neighbouring buildings to the west of the site contrary to policy DM4 of the Maidstone Borough Local Plan 2017.

2.10 This reason for refusal refers to the living conditions of the occupants of dwellings adjacent to the western boundary of the application site. The reason is not clear on what particular amenities are affected but based on the debate and discussion at the meeting it is assumed this relates to a loss

of outlook due to the height of the raised lakes and a loss of privacy from anglers at the top of the banks.

- 2.11 It remains the view of officers that there is not a reasonable case for maintaining that there is a loss of outlook caused by an undue sense of enclosure. This is on the basis that the proposed banks of the raised lakes are not so steep or so close to the curtilages/gardens or buildings of the affected properties to give a sense of enclosure. Should a costs application be made against this ground there is a high risk that it would be successful.
- 2.12 With regard to a loss of privacy and based on the legal advice, officers consider there may be a reasonable argument for loss of privacy to an unacceptable degree. Members would need to make clear that they consider potential or perceived overlooking from anglers from an elevated position would result in an unacceptable loss of privacy to the buildings and gardens of Hertsfield Barn, and numbers 3, 4, 5, and 6 Hertsfield Farm Cottages, resulting in harm to their amenity contrary to policy DM1 of the Local Plan (not policy DM4). Members would also need to have regard to the proposed landscaping along the west boundary including new trees. In time these trees would serve to break and even screen views from the top of the banks but this would take some time and they could not be secured in perpetuity.
- 2.13 However, it is difficult to give a strong reason why a different view is being taken since the 2012 decision. As stated above, it would be difficult to rely on changes to the proposals as a reason for taking a different view. On this basis and taking into account the legal advice, a refusal on the grounds of loss of privacy is a tenuous reason, and may be difficult to defend at appeal.

Ground 3 (Harm to the Landscape)

3 The effect on the landscape is contrary to the guidance set out in the Landscape Character Assessment and, in light of the clear views from the footpath KM129, there is a clear harm in that the changed landscape can be clearly viewed from that footpath and other locations.

- 2.14 The view of officers and based on the legal advice is that there is not a defensible basis for coming to a different conclusion on the impact on landscape character and visual amenity than Members came to in 2012. The proposed landform is not significantly different to that determined in 2012 and the High Court held that Members correctly compared the 2003 mainly flat landscape with what was proposed (so it was a sound decision in this respect).
- 2.15 As outlined at paragraph 7.12 of the committee report, since the 2012 decision the Council produced the 'Maidstone Landscape Capacity Study: Sensitivity Assessment' (LCA:SA) in 2015. However, this does not provide any materially new information over and above the Maidstone Landscape Character Assessment (2012) that was taken into account by Members in 2012.

- 2.16 The 2012 assessment covered the potential for harm from all major viewpoints being the A229, Hertsfield Lane, the public footpath north of the river and further up the Greensand slope. Therefore, it will be extremely difficult to find a convincing reason for taking a different view about character and visual amenity now and it is advised that this reason for refusal is not pursued. Should a costs application be made against this ground it is likely to be successful.
- 2.17 Notwithstanding the above, the ground of refusal relies solely on the Maidstone Landscape Character Assessment (2012). It refers to some conflict with this guidance (because the development would introduce further raised lakes) and does not specifically explain why or what part of the proposed development is harmful to the character and appearance of the area as required by policy SP17 of the Local Plan.

3.0 CONCLUSION

- 3.01 With each reason for refusal it is very difficult to give a strong and convincing reason why a different view is now taken on the impacts of the scheme on heritage, landscape and residential amenity given the Council's decision to the contrary in 2012. In the case of heritage it is advised that there is a reasonable evidence base to allege harm provided Members demonstrate that they consider the open and level historic setting of the Grade II listed Barn forms an important part of its significance and setting and enhanced attention to the duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 could be cited. In terms of privacy there would arguably be an unacceptable loss of privacy but it is a tenuous reason. In the case of landscape, it is advised that there is no good reason at all to differ from 2012. In the case of outlook, it is advised that this is not a reasonable ground for refusal.
- 3.02 It is difficult to advise the precise level of costs, however, it is expected that any appeal would be carried out under the Public Inquiry procedure where legal representation and expert witnesses would be required by all parties. The amount of any adverse costs award is likely to be significant and this excludes the Council's usual liability to bear its own costs associated with defending any appeal.

APPENDIX 1

PLANNING COMMITTEE REPORT AND URGENT UPDATE REPORT – 23 JANUARY 2020

REFERENCE NO - 11/1948		
APPLICATION PROPOSAL Part retrospective planning application for the retention of two lakes known as 'Bridges' and 'Puma' and works to create 3 additional lakes all for recreational fishing, erection of clubhouse, building and associated works and landscaping.		
ADDRESS Monk Lakes, Staplehurst Road, Marden, Maidstone, Kent, TN12 9BU		
SUMMARY OF REASONS FOR RECOMMENDATION – (APPROVE SUBJECT TO CONDITIONS) <ul style="list-style-type: none"> • It is considered that the development, subject to mitigation that will be secured via conditions and a legal agreement, would not cause harm to the landscape or visual amenities of the area; heritage assets; residential amenity; biodiversity or the River Beult SSSI; and impacts relating to flood risk, surface water drainage, and groundwater drainage can be suitably mitigated. • The development is in accordance with the relevant policies of the Development Plan, the NPPF, and relevant policies in the emerging Marden Neighbourhood Plan. • There are considered to be 'exceptional circumstances' for granting retrospective permission, namely the planning history and unique circumstances by which significant retrospective development came to be at the application site, and the comprehensive legal agreement that would ensure the development is completed and verified. • The development has been adequately assessed against the pre-development state of the site (2003) and so the applicant has not gained an unfair advantage because this is predominantly retrospective development. • The supporting information for the application, and the assessment and recommendation, has suitably addressed the reasons for the quashing of the previous decision made in 2012. • There are no material considerations that outweigh the above. • Therefore permission is recommended subject to a legal agreement and conditions. 		
REASON FOR REFERRAL TO COMMITTEE <ul style="list-style-type: none"> • Cllr McLoughlin has requested the application is considered at Planning Committee if minded to approve in view of the history and the adjacent residents concern that their original objections and drainage matters have not been adequately addressed. • Cllr D Burton has requested the application is considered at Planning Committee. 		
WARD Marden & Yalding	PARISH COUNCIL Marden	APPLICANT Mr & Mrs Harrison

DECISION DUE DATE 23/02/20			PUBLICITY EXPIRY DATE 03/12/19		
RELEVANT PLANNING HISTORY					
App No		Proposal		Decision	
Date					
00/1162		Change of use of land and engineering works to create an extension to the existing fish farm and provision of temporary works access		APPROVED	
				02.01.01	
03/0836		Change of use of land and physical works to create an extension in the fish farm, to form an area for recreational fishing. The application involves the formation of ponds and lakes, the erection of a building and the formation of a car park. The existing access to Staplehurst Road is to be improved		APPROVED	
				22.09.03	
09/1380		Retrospective application for the change of use of existing lakes from fish farm to recreational angling and retention of ancillary car parking and access to site (this related to the Mallard Lakes)		APPROVED	
				26.11.09	
09/2027		Retrospective application for the retention of buildings and mobile facilities to serve recreational angling		TEMPORARY 3 YR PERMISSION APPROVED	
				04.01.10	
10/0762		Erection of clubhouse including decking area, solar photovoltaic tiles and associated works to replace existing buildings on site		WITHDRAWN	
10/0766		Creation of lakes for use for recreational fishing		WITHDRAWN	

1.0 DESCRIPTION OF SITE

1.01 The application site consists of the majority of a recreational fishing complex known as 'Monk Lakes'. The application site includes 2 ground level lakes known as 'Bridges' and 'Puma' which are completed and in use in the northeast corner of the site. The vast remainder of the site to the southwest includes 3 lakes constructed above existing ground levels referred to as Lakes 1, 2, and 3. Lakes 2 and 3 are complete, and Lake 1 requires further works to complete. None of the lakes benefit from planning permission and are the subject of this application. To the southeast of the application site and part of the wider Monk Lakes site, there are lawful above ground ponds and lakes used for recreational fishing.

- 1.02 The site is to the north of the A229 (Maidstone Road) around 3.5km south of the Linton Crossroads and around 3km northwest of Staplehurst falling within Marden Parish. The site also contains an access road leading to a car park (that have planning permission), and a complex of both permanent and temporary/mobile buildings used as a shop, canteen, toilets and storage. The application site extends to some 35 hectares, although the Monk Lakes facility is larger with the lawful lakes to the east.
- 1.03 The nearest residential properties lie along Hertsfield Lane immediately to the west of the site and are Hertsfield Farm Cottages, Old Hertsfield Farmhouse, Hertsfield Barn and Hertsfield Oast. These dwellings are a minimum of 20 metres from the boundary with the application site. There are also some properties close to the site to the south on the opposite side of the A229.
- 1.04 Old Hertsfield Farmhouse is a Grade II listed building as is Hertsfield barn which is about 50 metres to the east of the farmhouse and it is considered that an element of the application site, (that part of it close to these listed buildings) falls within the setting of these listed buildings.
- 1.05 To the south east of the application site is the extensive 'Riverfield Fish Farm' complex of ponds and lakes. These are not part of the applicant's facility.
- 1.06 The northern boundary of the site runs alongside the River Beult which here is a Site of Special Scientific Interest (SSSI). The northern part of the site is within the flood zone of the river. Further north the land rises steeply upwards to the Greensand Ridge. On the northern side of the River Beult there is public footpath KM129 that runs generally on an east/west axis.
- 1.07 The site falls within the countryside but has no special landscape designation in the Local Plan.

2.0 BACKGROUND/PLANNING HISTORY

2003-2008

- 2.01 In September 2003 the LPA granted planning permission (ref. 03/0836) for the *"change of use of the land and physical works to create an extension in the fish farm, to form an area for recreational fishing. The application involves the formation of ponds and lakes, the erection of a building and the formation of a car park..."* Amongst other things, the approved drawing showed 12 ponds/lakes, some of which would be above-ground lakes and this covered the current application site.
- 2.02 Between 2003 and 2008 the previous site owner commenced works in connection with that permission. It became apparent to the LPA that the 2003 planning permission was not being lawfully implemented and that the works being carried out on site were not in accordance with the approved plans. Therefore, in September 2008 the Council served an enforcement notice to deal with the breaches of planning control which required the

removal of all material and restoration of the site back to its pre-development 2003 condition.

2008-2012

- 2.03 The enforcement notice was subsequently appealed by the applicant. Clarification over the status of the appeals, requests for an Environmental Impact Assessment (EIA), and various extensions to deadlines to provide information requested by the Planning Inspectorate (PINS) went on for some time. Litigation also arose involving the current land owners against PINS (2009), which was decided in November 2011. The outcome of this was essentially that the appeal would continue.
- 2.04 At the same time in November 2011, the current planning application was submitted in an attempt to regularise the works at the site, being to largely retain development on site but with further works to remodel the banks of Lakes 1, 2, and 3. The LPA resolved to grant permission at Planning Committee in June 2012 and this was issued in September 2012.

2012- 2014

- 2.05 Around September 2012, the land owner asked for the enforcement appeal to be delayed for 6 months bearing in mind the grant of planning permission. The Planning Inspectorate agreed to this.
- 2.06 The applicant carried out some of the works approved under planning permission 11/1948 to complete the development mainly relating to lakes 2 and 3.
- 2.07 In November 2012, an adjoining neighbour to the site filed a Judicial Review (JR) challenge against the Council's grant of planning permission. This was filed on 4 grounds, two relating to EIA grounds, and the other two relating to groundwater flooding. The enforcement appeal was held in abeyance pending the outcome of the JR.
- 2.08 The JR hearing was held in November 2013 with a decision in January 2014 that quashed the grant of planning permission. The Council is therefore required to re-determine the planning application.
- 2.09 In summary, the JR decision found that the Council had failed to consider whether there were exceptional circumstances to grant retrospective permission (a requirement under EIA case law); and that the Council failed to properly investigate potential groundwater flooding on neighbouring land. This will be outlined in more detail below in the assessment. The effect of the Court's decision is that the planning application was returned to the LPA for redetermination.

2014-2015

- 2.10 In April 2014 the enforcement appeal was re-opened and the hearing was held a year later in April 2015. The grounds being debated at the enforcement appeal were only how much time the land owners should have

to restore the site back to its pre-2003 condition, and not the merits of the development.

- 2.11 In May 2015 the appeal decision was issued and the time periods for compliance with the enforcement notice to restore the site were amended allowing a total time of 22 months (to April 2017). Some of the requirements such as ceasing to use the lakes for fishing were required to stop immediately. The land owner has not complied with any requirements of the enforcement notice to date and is open to prosecution action from the Council. Planning Enforcement has held any action in abeyance pending the re-determination of this planning application.

2015-2019

- 2.12 In July 2015 additional information was submitted by the applicant in relation to this application so it could be re-determined following the JR decision, including the assessment of groundwater impacts, with evidence gathered from borehole testing. The Council employed Mott MacDonald to provide expert advice on groundwater drainage issues as this does not fall within the remit of the Environment Agency or Kent County Council as Lead Local Flood Authority.
- 2.13 In November 2016 the Council requested further information relating to groundwater, including further borehole testing for at least 3 months over winter, and requesting responses to consultee objections. The applicant provided this information in July/August 2017 which was sent out for further re-consultation.
- 2.14 In October 2018 the Council requested further information, which was provided in the form of a new Environmental Statement in February 2019, and this was sent out for further re-consultation.
- 2.15 In August 2019 the Council commissioned its own topographical survey of the site to verify the accuracy of the applicant's plans. Following this, the applicant submitted amended plans relating to Lakes 1-3, and the proposed clubhouse, and a short addendum to the Environmental Statement in October/November 2019 which was sent out for further re-consultation. Detailed responses relating to groundwater and surface water were provided by neighbouring residents in December 2019.

Comment

- 2.16 So it is important to note that the LPA has granted planning permission twice for recreational fishing lakes and a clubhouse since 2003 on the application site. The first permission was not lawfully implemented and expired, and the most recent decision was quashed and so the application is being re-determined.

3.0 PROPOSAL

- 3.01 The application seeks retrospective permission for the retention of the 2 below ground lakes (Bridges and Puma) in their current form in the

northeast corner and raised Lakes 2 and 3 on the west side of the site, also in their current form. Permission is also sought for raised Lake 1 and this requires additional works to complete mainly involving raising the levels of the lake bed and minor reductions in the levels of the lake banks. Permission is also sought for the erection of a new clubhouse building in the centre of the wider complex.

- 3.02 'Bridges' and 'Puma' lakes are excavated below ground with their water level just below ground level. Lakes 1, 2, and 3 are/would be between 5m to 6.2m above the previous ground level and have sloped sides which run down to the west boundary with some Hertsfield Road properties, to the south boundary with the A229, and within the site itself. The depth of water would be around 2m.
- 3.03 It is important to note that whilst much of the proposal is retrospective and there are significant above and below ground works on site, planning permission is required for the entire works to create all the lakes, and this is what is being assessed. The assessment is not a comparison between what is currently on site and what is proposed.
- 3.04 Landscaping is proposed largely in the form of woodland planting along the west and south site boundaries and on the lake slopes, and existing landscaping would be retained around Puma and Bridges lakes.
- 3.05 A new clubhouse is proposed to provide facilities for anglers which would be in a similar position as the temporary buildings adjacent to the car park. The building would be single storey with hipped roofs and finished in timber boarding and clay roof tiles. It would have a floor area of 266m² and provide toilets and showers, offices, shop, kitchen, and dining area. The existing car park would be formalised with new surfacing and marked spaces, and lowered in the region of 1m from its present position to provide flood compensation. New landscaping would be introduced in and around the car park/clubhouse.
- 3.06 The application is accompanied by an Environmental Statement (ES) originally submitted under the EIA Regulations 2011. The ES has been updated since the original submission in 2011 with the most recent provided in February 2019. As the development was originally submitted under the 2011 EIA Regulations it remains subject to these.

4.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): SS1, SP17, SP18, SP21, DM1, DM3, DM4, DM8, DM23, DM30, DM37
- Kent Waste and Minerals Plan 2016
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EIA Regulations 2011
- Marden Neighbourhood Plan (Draft - subject to Referendum)

5.0 LOCAL REPRESENTATIONS

5.01 Local Residents: 3 representations were received to the quashed application and 12 have been received following re-determination. All representations (that are material to the assessment of the planning application) are summarised as follows:

- The 2003 permission has not been implemented and is not a fall-back position and consideration of the application must be based on the pre 2003 consent position.
- The previous decision in 2012 must be disregarded and policy has changed since then.
- Retrospective EIA development should only be granted in exceptional circumstances and the applicant must not gain any unfair advantage.
- Concern regarding the surface water drainage from the site and its impact on neighbouring residences.
- Waterlogging and groundwater flooding has occurred on adjoining land.
- The groundwater assessment by the applicant is not sufficient to demonstrate that off-site flooding does not occur.
- Consider there to be outstanding issues relating to the assessment of groundwater and mitigation.
- Groundwater mitigation will not be sufficient and concern in relation to the adequacy of the drainage ditch and the potential blockage of pipes between the lakes.
- A condition relating to groundwater is not appropriate.
- Concern over the safety of the reservoirs.
- The impacts on the historic environment and designated Heritage Assets (and settings) have not been properly assessed.
- Unacceptable impacts and harm to the setting and fabric of the Hertsfield Barn Listed Building.
- Harmful to landscape and incongruous.
- Contrary to the Maidstone Landscape Character Assessment, Local Plan, and NPPF.
- LVIA reaches unreasonable conclusions.
- Question whether landscaping can be provided in the context of reservoir safety.
- A new phase 1 habitat survey and ecological report is needed.
- The wildlife impact is not examined from the pre 2003 consent position.
- Harmful to residential amenity.
- Loss of privacy.
- Noise disturbance from fishers.
- Loss of light and outlook to properties from the height of the bank and the proposed planting on top of the bank.
- Overbearing and enclosing impact.
- If the planting on the bank is not carried out then there would be a loss of privacy to the properties from the users of the fishing lakes.
- The reasons for issuing the enforcement notice still stand and have not been overcome.

- The Council were justified and correct in issuing the enforcement notice.
- References to conflict with Local Plan policies.
- Current planning policy and material considerations need to be considered.
- Plans are inaccurate and misleading specifically along the west boundary.
- Lack of information.
- It has been difficult to know what information is being relied upon by the applicant.
- Inconsistency of the submissions (plans and reports).
- An entirely new Environmental Statement is needed.
- A full range of alternatives to the proposed development is required and no alternatives have been explored such as a reduced scale of development.
- The benefits of the development are very limited.
- Reference to Protocol 1, Article 1 of the Human Right Act 1998 which provides for the protection of an individuals or companies property.
- The scheme has been designed to include the importation of more material in order to make money and the previous extensive importation would have generated a sizeable income.
- Concern regarding the type of material that has already been imported onto the site and the future material to be imported.
- The application is a waste matter and therefore should be dealt with by Kent County Council.

5.02 A planning agent on behalf of a neighbouring resident has also made submissions referring to material submitted to the Judicial Review, and representations to the enforcement appeal, which included a report on groundwater flooding and a landscape and visual report. The comments made have been summarised in the issues outlined above.

5.03 A review of the application and the expert advice provided to the Council by Mott MacDonald has also been undertaken by the neighbouring resident's consultant (GeoSmart) who specialise in flood risk and drainage. In their latest comments they essentially consider that a number of issues have not been fully addressed by the applicant and do not agree with the conclusions of Mott MacDonald. This will be discussed in more detail below in the groundwater section of the report.

5.04 **Hertsfield Residents Association** (12 properties) raise the following (summarised) points:

- A fresh planning application should have been submitted following the JR quashing.
- Application fails to overcome harm identified in enforcement notice.
- Flood risk.
- Large clubhouse with both retail premises and a restaurant is entirely out of keeping with the rural environment and to the detriment of local

residents through creating additional traffic movements, noise and disturbance.

- Clubhouse is excessive in size and facilities for the scale of the site and is not necessary.
- Clubhouse is of poor design.
- Environmental Statement is deficient and with statements of conjecture or so called professional opinion.
- The application envisages the importation of a further 51,000m³ of spoil, necessitating in excess of 5,000 lorry movements. This will create significant noise, disturbance and loss of amenity to local residents and will by definition make worse an already unauthorised waste operation.
- Contaminated waste used to construct the lakes poses health risk.
- Harm to listed buildings.
- Baseline for LVIA should be 2003.
- Access by cars will cause noise and disturbance.
- The members of the HRA have endured serious harm, including flooding, loss of amenity, and impact on the setting of listed buildings.
- There is no approval for the lakes under the Reservoirs Act so the development poses a health and safety risk.

6.0 CONSULTATIONS

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

6.01 Marden Parish Council:

25th March 2019: Cllrs recommendations remain the same as before and wish to reiterate their comments from previous meetings as follows:

"2011: Cllrs wished to see refusal of the 3 new lakes due to the adverse impact upon visual amenity, residential amenity and the wider countryside. Particular concern was raised regarding the flooding risk due to the loss of storage in the flood plain and the potentially contaminated soil already on site and consequently the absence of any justification for the further importation of potentially contaminated matter. This has led to further concerns regarding the potential and/or existing ground and surface water contamination. It is also noted that any Environmental Statement should relate to the site BEFORE the potentially contaminated soil was imported this is thought to be 2003. Any EIA must include an assessment of the soils that have already been imported into the site not just those the applicant might want to import. (in regard to the 2 below ground lakes Bridges and Puma) Cllrs have concerns about possible loss of storage in the flood plain and potential escape of non-native species into the river. We ask that the Borough Council gets specialist advice from the Environment Agency and Natural England. The Clubhouse and car park need to be commensurate in size with the development they have to serve and this remains

undetermined. If it is approved then a shop should be allowed only to sell products relating to recreational angling.

May 2012: Councillors would like clarification on how the applicant proposes to fill the new raised lakes and wonder whether the Environment Agency is content with any extraction from the river Beult in this period of drought?

August 2015: Cllrs have no further objection provided that the Council is satisfied with the response given by the applicant in relation to our three previous grounds of objection and that the Council is also satisfied that the applicants response to the grounds of the successful judicial review have also been overcome."

December 2019: "Cllrs duly noted the revised amendments. Cllrs had not changed their view and wished their previous comments to be reiterated."

- 6.02 **Natural England: No objections** subject to conditions securing surface water run-off during the construction phase to be directed to Puma Lake and/or the proposed temporary settling pond; surplus waters from the new lakes to be directed to Puma Lake; the existing fish fence is to be extended around the proposed new lakes to prevent the escape of fish to the River Beult SSSI during flood events; foul water to be passed through a Klargester system which is to discharge to Puma Lake; and securing the translocation of non-native species from Bridges and Puma. (This is dealt with under a separate Environment Agency permit)
- 6.03 **Environment Agency: No objections subject to conditions** covering finished levels for the clubhouse and walkway; and flood compensation measures. A separate permit outside the planning process will be required to stock non-native fish.
- 6.04 **KCC Lead Local Flood Authority: No objections** to the proposed surface water drainage strategy.
- 6.05 **KCC Ecology: No objections** subject to the precautionary mitigation measures being incorporated into any Construction Environmental Management Plan, and Natural England and Environment Agency being satisfied re. fish escape and pollutants to River Beult.
- 6.06 **KCC Highways: No objections.**
- 6.07 **MBC Conservation Officer: No objections** in terms of the setting of listed buildings (Hertsfield Barn and Old Hertsfield).
- 6.08 **MBC Environmental Health: No objections** and defer to the Environment Agency.
- 6.09 **KCC Minerals:** Advise that there is a basis for invoking the 'exemption' to minerals extraction.

7.0 APPRAISAL

Judicial Review Context for Decision Making

- 7.01 Development very similar to the current proposal was approved by the Council in 2012. The previous decision was judged to be unlawful and quashed by the High Court for the following (summarised) reasons:
1. Failure by the Council to consider whether there were exceptional circumstances justifying the grant of retrospective permission for Environmental Impact Assessment (EIA) development.
 2. Failure by the Council to adequately consider groundwater flooding within the EIA process.
- 7.02 The Claimant put forward two other grounds relating to whether the applicant gained an unfair advantage from retrospective EIA development and whether the Council unlawfully purported to deal with groundwater flooding by an ill-considered condition. These grounds were not upheld. There were no other challenges to the Council's assessment or decision on the application.
- 7.03 As the previous decision was quashed the Council must re-determine the application afresh, having regard to the Development Plan and other material considerations, including material considerations which have emerged since the matter was originally considered. However, it has been established in recent case law concerning consistency in decision making (*Davison v Elmbridge Borough Council* [2019] EWHC 1409 (Admin)) that a Council's previous planning judgement or reasoning for their decision, even if quashed, should be taken into account, and is capable of being a material consideration.
- 7.04 The proposals have changed since the previous determination by the LPA decision but they are minor in nature and the development remains very similar. The changes consist of lower sloped banks in places around Lakes 2 and 3 by no more than 2m, and slightly higher slopes in places of no more than 1m. The height of the lake crests for Lakes 2 and 3 have not significantly changed but where they have, they would be marginally lower. The western banks begin to rise closer to the western boundary in places. The corners of the lakes are at slightly different angles and the islands within the lakes would be different in shape and location. As the changes from the previous determination are minor in nature in the context of the development, the previous planning judgement is still considered to be a material consideration.
- 7.05 Therefore the assessment below will re-visit all relevant matters but whilst doing this the Council must take into account its previous reasoning for approving the previous development, and provide sufficient and reasonable explanation if it is to reach a different view on any matters.
- 7.06 It is also of relevance that the Council previously approved fishing lakes at the site under application MA/03/0836 so the principle was accepted at this time. The 2003 permission was not implemented so is not a fall-back position, and the decision was made over 15 years ago, but the Council still

made a decision that fishing lakes developed over the application site, some of which were raised, were acceptable.

7.07 The applicant has sought to address the reasons for the quashing of the previous decision through providing additional information relating to groundwater flooding, and advancing reasons why it is considered exceptional circumstances exist to justifying the grant of permission. Other updated information has been provided in view of the time that has passed such as ecological work, and other additional information for example relating to flood risk. This has all been in the form of an updated Environmental Statement (ES) and addendums. The Council has employed a hydrogeologist expert (Mott MacDonald) to provide advice on potential groundwater flooding issues, this being a matter that is not assessed by the Environment Agency or the Lead Local Flood Authority (KCC).

Main Issues

7.08 The provision of recreational fishing lakes at a rural location such as the application site is acceptable in principle and clearly such uses require land take which is only feasible outside settlements. The Monk Lakes wider site already operates lawful fishing lakes and so the proposals also represent business expansion which is allowed in principle under policy SP21 of the Local Plan subject to an appropriate impact.

7.09 The expansion of this rural business with additional fishing lakes and facilities is acceptable in principle, and the main issues, in order to consider whether such expansion is acceptable or not, are as follows:

- Landscape and Visual Impact
- Flood Risk, Surface Water, and Groundwater Impact
- Heritage Impact
- Residential Amenity
- Biodiversity and River Beult SSSI
- Other Matters

Landscape and Visual Impact

7.10 The landscape and visual impact of the proposals needs to be assessed on the basis of there being no development where Bridges and Puma Lakes, and Lakes 1-3 are located. This is because they do not benefit from planning permission. However, the proposals must be assessed in the context of the lawful raised fishing lakes in the southeast corner of the complex and those at 'Riverfield Fish Farm' to the east, as these do benefit from planning permission.

7.11 The Council's previous assessment in 2012 was also made on this basis and concluded that there would not be any significant landscape harm from the proposals. This assessment took into account the Maidstone Landscape Character Assessment 2012 (LCA). Whilst the application must be re-determined, the Council would need to provide a sufficient and reasonable explanation if it is to reach a different conclusion, particularly as the changes to the proposals since the 2012 are of a minor nature.

7.12 Since 2012, the Council has adopted a new Local Plan (October 2017). The thrust and aims of the countryside protection policies have not materially changed and policy DM37 (expansion of rural businesses) can allow for the appropriate expansion of rural businesses subject to criterion. In 2015 the Council produced the 'Maidstone Landscape Capacity Study: Sensitivity Assessment' (LCA:SA). This was produced to assess the comparative sensitivity of the Borough's landscapes to development and formed part of the evidence base to the new Local Plan to inform the Sustainability Appraisal of development allocations. This is discussed below.

7.13 The 'landscape' impact of the development is the impact upon the character and quality of the wider landscape, whilst the 'visual' impact relates to the generally available views of the landscape and the effects of the development.

7.14 The applicant's ES concludes that the wider landscape impact of the development initially at 'day one' would be 'moderate negative' as it would be un-mitigated without landscaping being established. Once landscaping is established in years 10-15 it concludes that the impact on the wider landscape would be 'moderate positive' due to the proposed landscaping. In terms of the visual impact, the ES concludes that this would be negative from day one from a number of neighbouring properties, public footpaths on the north side of the River Beult, the Greensand Ridge, and the A229. However, from years 10-15 the impact would be 'slight' to 'moderate positive' due to the impact of the proposed landscaping.

7.15 The LCA 2012 identifies the site as falling within the 'Beult Valley' landscape character area. This has the following key characteristics:

- *Low lying broad shallow valley of the meandering River Beult and Hammer Stream within the Low Weald*
- *Many ponds and watercourses with important ecological interest*
- *Species rich native hedgerow field boundaries with mature oak trees as imposing hedgerow trees and sometimes within fields where boundaries have been removed*
- *Mixed agriculture with large fields supporting arable cultivation and small riverside fields with pasture*
- *Sparsely scattered small woodlands*
- *Historic north-south crossing points with ragstone bridges over the River Beult*

7.16 The LCA refers to the application site stating,

"58.7 In the middle of the area, at Monk Lakes and Riverfield Fish Farms there is an extensive system of man-made rectangular ponds. As part of this development, there has been extensive land raising and earth modelling along the A229 and the artificial sloping landform appears rather incongruous on the valley side. There is extensive planting of weeping

willow along the roadside which also adds to the artificiality of the landscape."

"58.15There are generally few visual detractors, although the artificial fishing lakes on the A229 are particularly incongruous."

- 7.17 The LCA considers the area is defined as having a moderate landscape condition, moderate visual sensitivity, and a high sensitivity to change. Actions include *"integrate the fishing ponds into the landscape by using more appropriate plant species and resisting further artificial earthworks."* The LCA:SA from 2015, and produced after the previous decision, essentially reaches the same conclusions and does not add any material consideration beyond the 2012 LCA.
- 7.18 The LCA clearly considers that the rectangular ponds and land raising, many of which have planning permission and are at Monk Lakes and Riverfield Fish Farm, detract from the landscape. This assessment was carried out when Lakes 1-3 were incomplete (2012) and so would have assessed the incomplete earth works as they were at the time and not how they are proposed under the application. Nonetheless, Lakes 1-3 would represent man-made raised lakes within the river valley which is a predominantly flat area.
- 7.19 Prior to development, the site was generally level with a gentle slope down to the river from south to north. The raised lakes would introduce further man made features into the river valley regarded as a sensitive landscape in the LCA. However, because they would be adjacent to and within the context of the substantial lawful raised lakes at Monk Lakes and Riverfield Fish Farm, it is considered that the three raised lakes would not appear as an incongruous feature, and their impact upon the landscape character of the wider area would not be harmful. Neither is it considered that the cumulative impact with the existing lawful lakes would be harmful to the landscape character of the area.
- 7.20 From a visual aspect, the raised banks would be visible in public views from a section of the A229, from the PROW on the north side of the River Beult, and in longer distance views from the Greensand Ridge. I agree with the previous committee report assessment that from the section of the A229 where the site is visible, the banks of the proposed lakes would not result in an unduly harmful feature as they would have a relatively gentle slope. The minor changes to the proposals since the previous assessment do not affect this opinion. Proposed landscaping around the south of Lake 1 and to the west of all three lakes would also serve to soften the impact from the A229. Under the assessment in 2012, it was outlined that the plant species in the landscaping scheme would be revised by way of condition (to remove willow). The applicant has therefore provided an amended plan removing the use of willow (a detractor identified in the LCA).
- 7.21 From PROW KM129 to the north side of the River Beult, many views of the raised lakes would be broken by vegetation and where views are open, the proposed raised lakes would be in excess of 250m from the footpath and at this distance and within the wider context, would not result in visual harm.

- 7.22 There are longer distance views of the site from the slope up towards the Greensand Ridge. I agree with the previous assessment that due to the distance of these views and the context of other lawful lakes, the proposed raised lakes would not be significantly intrusive in the landscape. Indeed having viewed the site from here, the lakes would not be prominent.
- 7.23 Bridges and Puma lakes are at ground level and are not identified as visual detractors in the LCA. Their shape is irregular and so they appear more natural and are obviously not raised. For these reasons, and when compared to the pre-development state of the site, they do not cause any harm and they represent another water body seen in the context of lawful fishing lakes and the River Beult. The existing landscaping around them would be retained and also serves to soften the impact of these lakes. They are visible from the PROW north of the river but are 50m away and are not visually intrusive.
- 7.24 In conclusion, the proposed lakes will inevitably have some landscape and visual impact but in the context of the lawful lakes and the viewpoints available, the impact of the lakes is not considered to be harmful to the character and appearance of the area. This is in accordance with policy SP17 of the Local Plan and policies NE3 and NE5 of the emerging Marden Neighbourhood Plan (NHP). In the context of policy DM37 (expansion of rural businesses), the proposals are also appropriate in scale for the location and can be satisfactorily integrated into the local landscape.
- 7.25 Since the previous decision the Environment Agency have confirmed that the proposed clubhouse needs to be raised to have a finished floor level of 17.36m AOD with a raised walkway. This means the building would be raised around 2m above the car park level so the ridge height would sit at some 5.2m above the car park. Being within the centre of the site and so a significant distance from any public vantage points, the visual impact of the clubhouse would be minimal and it would not cause any harm to the surrounding landscape. The design is also acceptable being single storey with a shallow pitched roof, and clad in timber with a clay tile roof.

Flood Risk

- 7.26 Bridges and Puma lakes lie within Flood Zones 2 and 3, as do some areas of the raised lakes at their north end, and small areas on the west boundary. The raised lakes would result in the loss of flood storage of a maximum of 30,200m³. This would be compensated for through the lowering of land levels in the vicinity of the car park providing 16,550m³ of storage and at least 26,000m³ provided in Bridges and Puma lakes between the lake water level and pre-development ground levels (i.e. the lake levels are below the pre-development ground levels). Therefore a total of 42,550m³ compensation storage would be provided.
- 7.27 The Environment Agency have reviewed the proposals and raise no objections in terms of flood risk, compensation areas, and the assessment of flood risk for the clubhouse (including finished floor levels and a dry

walkway for access/egress), and assessment of flow impedance. This is in accordance with policy DM1 of the Local Plan.

Surface Water

- 7.28 The submitted ES considers that prior to development, surface water flowed generally in a northern direction towards the River Beult in some areas via drainage ditches. The ES considers that much of this pre-development surface water drainage system has been obscured or made redundant by the works that have occurred on site since 2003.
- 7.29 Surface water flow from the development would occur via run-off from the raised lakes. This run-off would be controlled via a series of 'french drains', pipes and drainage ditches. Notably there would be a large open surface water drainage ditch along the west boundary where lakes 1-3 border the site, which would control surface water run-off. This mitigation would take into account climate change allowances and would control run-off so it would be no worse than the pre-development rates. Otherwise much of the surface water would be contained within the lakes with overflow cascaded from Lake 1 to 3 and then into Puma Lake, which has controlled discharge to the River Beult.
- 7.30 Kent County Council acting as Lead Local Flood Authority and statutory consultee on surface water drainage matters have reviewed the development and proposed drainage strategy. They advise that provided the ditches are implemented as described then surface water flow rates from the site would be appropriately controlled and raise no objections. They also recommend that an inspection is undertaken to confirm that these measures have been implemented as described. An inspection of drainage works is not normal practice for planning applications but it is considered that this should be carried out in this particular case due to the retrospective nature and scale of the earthworks. This will be secured via the Section 106 agreement (which will be discussed in more detail below). The development is therefore in accordance with policy DM1 of the Local Plan and policy NE1 of the emerging NHP.

Groundwater

- 7.31 The failure by the Council to adequately consider groundwater flooding within the application/EIA process was a reason for the quashing of the previous decision in 2012. The applicant's ES has now carried out an assessment of groundwater impacts and the Council has employed a hydrogeologist specialist Mott MacDonald (MM) to advise, particularly as there is no statutory consultee that covers this matter. This is a particularly complicated issue and this report provides a summary of the key issues.
- 7.32 Representations made by local residents to the west of the site consider that since development has been carried out at the site, flooding and waterlogging has occurred on their land, including raised water levels on a nearby pond. One neighbouring resident has employed their own specialists (GeoSmart) who have commented on the application a number of times.

MM has considered all representations in detail including that of 'GeoSmart' in reaching their conclusions.

- 7.33 In 2015 additional information was submitted by the applicant that acknowledged groundwater flooding as a potential impact and proposed groundwater control measures to mitigate it. This was reviewed by MM on behalf of the LPA in 2016. The LPA subsequently requested clarification and further assessment of certain issues relating to groundwater and drainage, with the applicant's response provided in 2017.
- 7.34 The key deficiency of the 2015 and 2017 information was the lack of baseline data, which makes it impossible to establish conclusively what the pre-development groundwater conditions were (in 2003). Groundwater flow data from 2003 simply does not exist. Therefore to reach a decision on the application, the LPA asked the applicant to assess potential impacts against their interpretation of the likely baseline conditions, based on the available information and their professional judgement.
- 7.35 To ensure that adequate information is provided to support the revised assessment, the LPA set out a series of further issues to be addressed in October 2018. The applicant provided a further technical report in February 2019 which forms the basis for the 'Flood Risk, Hydrology, Hydrogeology and Groundwater and Drainage' chapter of the ES.
- 7.36 MM advise the LPA that the retrospective assessment of groundwater impacts is difficult due the lack of baseline data. Specifically, no pre-development groundwater level measurements are available for the site and, because of the significant earthworks undertaken at the site, the pre-development geological conditions are also uncertain. So, whilst a conceptual understanding of the pre-development hydrogeological conditions can be developed, no data is available either to verify it or, to enable precise quantification of the magnitude of change that has occurred since the site was developed. The impact assessment must therefore be based on an interpretation of the available information and reasonable assumptions.
- 7.37 Because of this uncertainty, the applicant proposed groundwater control measures to mitigate potential offsite groundwater flooding. A significant amount of work has been undertaken by the applicant to develop a conceptual understanding of pre and post-development (albeit not completed) hydrogeological conditions, which has included the drilling of additional boreholes and monitoring of groundwater levels.
- 7.38 MM advise that the total work undertaken to investigate the potential for off-site groundwater flooding impacts is proportional to the level of risk and, commensurate with their expectations for a proposed development of this nature. In summary, the applicant's ES concludes that the pre-development topography is such that the expected groundwater flow direction would be broadly northwards towards the River Beult. It considers that the magnitude of groundwater level change as a result of the development would be small.

- 7.39 MM advise that the applicant's evidence does acknowledge the potential for an off-site impact on groundwater level but the overall tone of the document attempts to diminish the significance of this. Whilst the ES suggests that groundwater impacts due to the development have been minimal, this has not been conclusively demonstrated. Neither has the potential for increased groundwater levels been discounted. MM advise that the development may not have increased groundwater levels in the vicinity of the western site boundary but, since this has not been discounted, they must conservatively assume that groundwater levels at the site may have been increased by the proposed development and thus, mitigation is required. In the absence of baseline data MM advise this is a sensible approach to take and that whilst there is still some uncertainty regarding the ground and groundwater conditions (both on and off-site), this is the usual situation for any proposed development.
- 7.40 The ES considers that groundwater impacts can be mitigated through a groundwater interceptor ditch along the west boundary and has provided an outline design. It would be designed in two parts, a lower part with a perforated pipe to convey groundwater to the River Beult, and the upper part, an open surface water ditch (as outlined in the surface water assessment above). The applicant considers that this would prevent any potential increase in groundwater level west of the site boundary, above the recorded water level at the pond at Hertsfield Farm to the west, and that once implemented, the offsite impacts would be negligible.
- 7.41 MM agree that the proposed drainage system is a suitable solution but the outline design needs to be refined. They advise that the detailed design could be approved by the LPA via a condition which would need to include the following:
- Detailed construction drawings showing all elements of the groundwater and surface water drainage system;
 - Calculations of the anticipated volume of groundwater to be intercepted by the system;
 - Sensitivity testing of the design to allow for any uncertainties;
 - Confirmation (where possible) of the elevations of relevant off-site receptors;
 - A narrative explaining the operating assumptions behind the design;
 - A maintenance plan for the groundwater interceptor drain and surface drainage ditch;
 - Demonstration that the design will resist long-term threats to its integrity and effectiveness;
 - A site inspection and groundwater level monitoring plan to verify that site conditions are consistent with the established hydrogeological conceptual site model and design assumptions
 - A protocol for responding to any unforeseen ground/groundwater conditions during construction.
 - A Verification Report including photographs of the excavations before and after placement of the drainage system components and as-built drawings

- 7.42 It is considered that the mitigation (drainage ditch system) is appropriate in view of the expert advice that, in the absence of evidence to the contrary, there is some potential that groundwater levels at the site may have been increased by the proposed development.
- 7.43 One local resident's consultant (GeoSmart) has made detailed comments on a number of occasions most recently in December 2019, including on MM's advice to the LPA. In summary, they do not consider groundwater impacts have been sufficiently assessed by the applicant, do not consider the feasibility of the proposed mitigation has been demonstrated and so consider a condition is not appropriate, they also raise a number of technical issues, and disagree with some of the advice provided by MM.
- 7.44 In providing their advice, MM have reviewed all representations in relation to groundwater. They have also reviewed the latest representations from 'GeoSmart' and they advise that their conclusions are not affected by this most recent representation. They maintain their advice and recommendations, and that a condition is appropriate.
- 7.45 Whilst disputed by the resident's consultant, it is considered acceptable to require the fine detail of the mitigation via a condition. This is on the basis that the principle of this approach has been sufficiently assessed and scrutinised by MM and they are satisfied the ditch system is in principle a suitable solution and that the applicant's outline design is conceptually sound subject to refinement that the LPA can secure via conditions with the ongoing support of MM.

Heritage Impact

- 7.46 The previous assessment considered there to be no significant impact upon the setting of listed buildings being Hertsfield Barn (GII) and Old Hertsfield (GII) both to the west of the site.
- 7.47 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The NPPF requires the local planning authority, when assessing an application to 'identify and assess the particular significance of any heritage asset that may be affected by the proposal.
- 7.48 Hertsfield Barn, a timber framed barn of 15th Century or early 16th Century age with attached 19th Century cattle shelter, is adjacent to the site and is seen in the context of part of the proposed development. The site previously provided a generally flat and open setting to the east of the Barn. This would be changed to grassed banks that would be planted with vegetation. Whilst the land to the east was previously generally level and largely open and this formed part of the historic setting of the barn, I do not consider the application site is an important part of the listed barn's

significance and this derives more from the fabric and architectural merit of the building itself, and its group value and association with the Old Hertsfield, and Hertsfield Oast as a small farm complex. The development would not affect this group value or association and therefore the barn's significance. Old Hertsfield Farmhouse is 18th century, possibly with earlier core, and the listing record states that part of the reason for the listing is for its group value. This building is separated from the site by Hertsfield Barn and Hertsfield Oast such that the proposed development is not clearly seen in the context of the listed building and for this reason the development would not harm the setting or significance of the building. The application site is also not an important part of this listed building's significance similar to Hertsfield Barn. Nor is it considered that introducing sloped grassed and landscaped planted banks would represent a development feature that would be harmful to, or incompatible with, the listed building's settings.

7.49 The Conservation Officer has also assessed the proposals and considers that although the bunding relating to the creation of one of the lakes would lie close to the listed Hertsfield Barn, the impact on its setting is not damaging to its setting or significance. This is in accordance with policies SP18 and DM4 of the Local Plan. He considers there would be no harm to Old Hertsfield.

7.50 Representations have been made that groundwater has caused damage to Hertsfield Barn through damp and so harm is being caused to the fabric of this listed building. As outlined above, there is uncertainty regarding ground and groundwater conditions both on and off site and so it is not conclusive that the development has resulted in groundwater impacts off-site, let alone causing any impact upon the listed building itself. Notwithstanding this, groundwater impacts would be mitigated by the proposed drainage system as outlined above.

Residential Amenity

7.51 I agree with the 2012 assessment that due to the distance from the nearest houses to the west, 3-6 Hertsfield Cottages (28m) and Hertsfield Barn (30m), the proposed gradient of the banks (around 1 in 8), and the overall height of around 6.2m above neighbouring levels, the lakes would not have an unacceptably oppressive impact upon the houses or their outlook, or result in any significant loss of light. This is also the case for the rear gardens of 3-6 Hertsfield Cottages some of which adjoin the site boundary. The minor changes to the proposals since the previous assessment, including where the slope begins to rise closer to the western boundary in places, do not affect this conclusion. The grounds of Hertsfield Barn adjoin the site but this is a parking/turning area and orchard, and the property enjoys other private garden space so that outdoor living conditions would not be unacceptably impacted. Nor do I consider the proposed tree planting and landscaping would have any unacceptable impacts in terms of light or outlook.

7.52 There are two properties on the south side of the A229 to the south of Lake 1, Hurst Green Barn and Swan Oast. Hurst Green Barn would be closest at

20m from the start of the banks, separated by the A229, and at this distance the lakes would not have an unacceptably overbearing impact upon the property or its outlook, or result in any significant loss of light. Swan Oast would be 45m away. Any other nearby properties would be a sufficient distance such that no harm to amenity would be caused.

- 7.53 I also consider that as the crest of the banks and therefore the potential area for fishing would be over 50m from the nearest houses and at least 33m from the nearest gardens, there would not be any unacceptable impact upon privacy from people fishing. Once more, conditions are proposed to prevent night fishing and car parking near the boundary with residential properties to protect residents from car noise, and noise/disturbance during more sensitive night-time hours. This is all in accordance with policy DM1 of the Local Plan.

Biodiversity & River Beult SSSI

- 7.54 The applicant has reviewed historical images in order to ascertain what habitats were like in 2003. This shows that the site was used for commercial agriculture in 2003, and prior to that date there were two lakes within the Monk Lakes site, and fish farming lakes to the east. The ES considers that it is likely that habitats would have been of limited biodiversity value. The Council's aerial photography from 2003 is consistent with this and so I consider it is a reasonable conclusion that the majority of the site would have been of limited biodiversity value due to the agricultural uses. However, the site did feature field boundary hedgerows and trees which would have offered biodiversity value.
- 7.55 Whilst the development is not complete, the ES has carried out an ecological assessment of the current site which includes habitats such as semi-improved grassland, scattered trees and scrub, standing water, ditches, and emergent and ruderal vegetation around lakes. The assessment concludes that the site provides suitable habitat to support small numbers of protected species but populations are unlikely to be significant. The potential for reptiles is negligible to low, amphibians low, moderate potential for bats, and negligible potential for badgers, dormice, water vole, and otter. On this basis, the development would not have any harmful impacts upon protected species or biodiversity to warrant objection in accordance with policy DM3 and policy NE4 of the emerging NHP. Some mitigation measures are proposed in order to ensure no harm to protected species during construction.
- 7.56 Habitat retention is provided along site boundaries and enhancements in the form of new native planting including trees, shrubs and grassland areas, aquatic planting, landscape management to benefit wildlife, and enhancements to the River Beult. These landscaping measures are considered proportionate to provide biodiversity enhancement at the site.
- 7.57 KCC Ecology have assessed the application and are satisfied with the conclusions of the ES regarding protected species/habitat and advise that the precautionary mitigation measures would be acceptable which will be secured by condition.

- 7.58 With regard to the River Beult SSSI, the potential for impacts are from the introduction of non-native fish to the river and pollutants from run-off. With regard to foul water/pollutants, a 'Klargester' system will be used to treat water, with foul water being passed through the system and subsequently discharged into Puma Lake, which Natural England considers is acceptable subject to it being secured by condition. Natural England also require that surface water run-off during the construction phase be directed to Puma Lake and/or the proposed temporary settling pond in order to prevent sediments flowing into the River Beult SSSI, that surplus waters from the new lakes to be directed to Puma Lake, and that the existing fish fence is to be extended around the proposed new lakes to prevent the escape of fish to the River Beult SSSI during flood events. As with the previous decision, this will be secured by condition.
- 7.59 With regard to non-native fish escape, as the ground level lakes nearest the River Beult would be allowed to merge with the River Beult in the event of a flood (as they would provide some flood compensation) it is proposed that these lakes would not contain any non-native species (and so they would need to be removed). The fish would be translocated to the raised lakes which would not merge with the River Beult during flood events due to being at a higher level. Natural England considers this is reasonable and proportionate. The Environment Agency advises that the practice of stocking non-native fish and moving live fish between waterbodies requires full engagement with the Environment Agency fisheries team. They advise that this is a process assessed and secured through other official consenting process, outside of the planning regime and requires a permit so essentially there are separate regulations that cover this matter. The proposals are for non-native fish to be in the raised lakes which is acceptable, and the separate Regulations would protect the River Beult SSSI. Permits will also be required for any discharge of water to the River Beult from lakes or ditches. It is concluded that the development, individually or in combination with other developments, is not likely to have an adverse effect on the SSSI.

Other Matters

Construction

- 7.60 The development at the site has so far required significant earthworks that were carried out under a licence/permit issued by the Environment Agency. The site was subject to a Paragraph 19a Waste Exemption, originally granted in February 2004 for an estimated 1.5 million tonnes of material, and this was renewed in March 2007 for a further 1 million tonnes of material. The further soil importation to complete the development is estimated at circa 89,000m³ which would require an Environmental Permit (EP), and the ES states that inert material would be used. The Environment Agency advises that it is likely that a bespoke EP would be required for the earthworks. The EP will have to be in place prior to soil importation and associated activities taking place on site. It will cover the operation of the site whilst the lakes are being constructed, cover the materials being brought onto the site, pollution prevention measures, drainage, monitoring

(gas, surface waters, noise, dust), and post-operation monitoring requirements. Significant lorry movements have taken place and further lorry movements would be required. Such movements do not have significant adverse impacts upon neighbouring amenity. Kent Highways advise that the access to the site is suitable for the proposed development and as before request limits on the times and number of movements. Times and movements were not restricted under the previous decision and I do not consider this is necessary for any highway safety reasons.

- 7.61 It is considered that the construction works to date, which were carried out under an Environment Agency licence have not resulted in any significant adverse impacts upon the local area or local amenity, and the further works required, will be subject to an EP. Nonetheless, in view of the scale of the works and proximity to residential properties, it is considered that a Construction Management Plan is appropriate in this particular case to protect amenity.

Minerals

- 7.62 Part of the site falls within safeguarding areas for 'alluvial river terrace deposits' and 'river terrace deposits' under the Kent Minerals and Waste Local Plan (KMWLP). So as to avoid sterilisation of minerals, policy DM7 of the KMWLP states that permission will only be granted for development where certain exceptions are met. The applicant's view is that mineral extraction would not be appropriate due to potential unacceptable impacts to the River Beult SSSI, flood risks issues, and noise, vibration and air quality issues for nearby dwellings.

- 7.63 The assessment here must once more only be based on the pre-development condition of the site (2003) and not take into account any impacts associated with the development currently on site. In my view, there are certainly risks of harmful impacts upon the SSSI from a potential quarry in such close proximity to the River Beult and also from noise and disturbance to nearby properties. One may argue that this has/could occur as a result of the proposed development through the extraction and importation of soil, and general earthworks but no known harm to the SSSI has occurred as a result of the development so far. Considerable assessment of the impacts of the development has been carried out by the applicant, statutory consultees, and the LPA, and mitigation as part of any planning permission, and via Environment Agency permitting controls would prevent any harmful impacts from further works at the site. To my mind it is not practicable to have quarry operations in such close proximity to the River Beult SSSI due to the potential risks to the SSSI and to a lesser degree the potential impact upon nearby residential properties. It is therefore considered that criterion 2 of policy DM7 is satisfied. KCC Minerals have been consulted and advise that there is a basis for invoking the 'exemption' to minerals extraction and it is considered that the above reasons are sufficient.

Representations

- 7.64 Matters raised that are relevant to planning and not considered above relate to concern that contaminated material has been imported to construct the lakes and this poses a health and water quality risk; whether the landscaping is compatible with reservoir safety; lack of approval under the reservoirs act; accuracy of plans and information; confusion regarding information; water quality, and the protection of property under the Human Rights Act 1998.
- 7.65 As stated above, the material imported to date was carried out under licence by the Environment Agency and the Agency at the time deemed that the materials being brought on the site were appropriate and acceptable with regards to human health and impacts upon water.
- 7.66 With regard to reservoir safety, this is dealt with under separate legislation and the Environment Agency has confirmed that there are currently no breaches under the Reservoirs Act at the site.
- 7.67 As already stated, the Council commissioned its own survey of the site and it is considered that the amended plans submitted accurately reflect what the applicant is proposing. As a significant amount of information had been submitted on the application since it was submitted in 2011, the applicant provided an amended Environmental Statement in February 2019 to provide all the relevant environmental information in one place. Since then an Environmental Statement Addendum was submitted in October, some amended plans submitted in November, and there have been a number of responses to consultees. It is considered that all the relevant environmental information can easily be found since the new Environmental Statement was submitted in February 2019, and consultations have been carried out with relevant parties.
- 7.68 In terms of water quality, as stated above, the material imported to date was carried out under licence by the Environment Agency and the Agency at the time deemed that the materials being brought on the site were appropriate and acceptable with regards to human health and impacts upon water and the environment. As such, it is not considered that any imported material would cause any significant pollution issues. Notwithstanding this, if a permit from the Environment Agency is necessary for any discharge of ground and surface water via the proposed mitigation system this separate permitting regime would adequately cover this matter.
- 7.69 With regard to the reference to the protection of property under the Human Rights Act 1998, this states that every person is entitled to the peaceful enjoyment of his possessions and no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. For the reasons outlined in the assessment above, it is considered that the proposed development, subject to suitable mitigation, would not compromise this right, or any others under the Human Rights Act.
- 7.70 In terms of the proposed landscaping on the banks of the lakes, the Reservoirs Team at the Environment Agency have advised that it isn't ideal to plant trees on embankments due to potential root penetration causing

preferential flow routes for water and falling trees causing damage. They don't advise whether this is right or wrong but state that the opinion of the Construction Engineer appointed under the Reservoirs Act should be sought. The appointed Construction Engineer has advised that the landscaping proposals are acceptable in terms of dam safety under the Reservoirs Act. On this basis, it is considered that the proposed landscaping is acceptable.

Alternatives

- 7.71 The ES considers that there would be no significant adverse impacts from the proposed development, however, the EIA Regulations require an outline of the main alternatives studied by the applicant and an indication of the main reasons for the choice made, taking into account the environmental effects.
- 7.72 The ES has studied the 'do nothing' scenario and states that this would result in half completed reservoirs without mitigation. The ES considers the mitigation would provide benefits to the environment consisting of, but not limited to, landscaping, biodiversity, flood risk and hydrology. The 'do nothing' scenario actually means not carrying out the development at all, and means there would be no lakes on the site at all (rather than left uncomplete) but I agree that the creation of the lakes and landscaping would certainly provide some benefits to the environment, predominantly through biodiversity enhancement. In the absence of any significant adverse harm, I consider the 'do nothing' alternative is not a reasonable proposition. I agree that an alternative site is not realistic bearing in mind the applicant's existing lawful fishing business at the application site.
- 7.73 The ES considers alternative forms of development, and consideration of a reduced form of development has been raised by local residents. The ES considers a scheme that would not involve bringing any further imported soil onto the site. It states that Lake 1 could not be completed as proposed and so could not be used for angling purposes and so the associated recreational benefits would not arise. The ES concludes that alternative solutions would not provide the overarching benefits associated with the fully mitigated development. I do not consider the arguments for a lesser or alternative scale of development have been robustly studied, however, this does not mean that the EIA is not a valid EIA, or that permission should be refused, and in view of the totality of environmental information and the proposed development not causing any significant adverse harm, I do not consider there is a need for further assessment of alternatives.

Exceptional Reasons

- 7.74 EIA case law has established that retrospective EIA development should only be granted in 'exceptional circumstances' and that an applicant should not gain an unfair advantage from a retrospective development. The previous decision was challenged on the grounds that the Council failed to consider whether the applicant gained any unfair advantage but this

challenge did not succeed. The challenge did succeed on the basis that the Council failed to consider the question of 'exceptional circumstances'.

7.75 The ES has now correctly taken 2003 (pre-development) as the baseline and assessed the development against this and the assessment carried out by LPA has been on this basis. For this reason, the applicant has had to carry out the same assessment had the development not been partly retrospectively and so no unfair advantage has been gained.

7.76 Regarding 'exceptional circumstances', the site's history and how it has come to be developed is considered to be an unusual and exceptional case. The site gained planning permission for development in the form of some raised fishing lakes in 2003. This commenced, and the importation of significant materials granted under a licence from the Environment Agency occurred to implement that permission. The Council served an enforcement notice in 2008 as this was not being carried out in accordance with the approved development. Following an appeal, the enforcement proceedings took 7 years to conclude. In the meantime planning permission was granted under this application in 2012, and the applicant implemented some of the approved works. The JR then quashed the decision in 2014.

7.77 The site history demonstrates why significant retrospective development exists at this site, which has been through a combination of two planning permissions. The first was not implemented properly but significant material was brought on site (some of which would have been necessary to implement the permission) before the Council served an enforcement notice. The second was quashed but further work was carried out prior to this. The enforcement notice requires the site to be restored to its pre-2003 condition but any action in relation to the notice has been held in abeyance by Planning Enforcement pending the outcome of this planning application. All these factors and the scale of the works involved represent unique, very unusual, and exceptional circumstances as to why a retrospective EIA application is before the Council.

7.78 In addition to this, a new Section 106 legal agreement (that is being progressed) would secure the following measures:

1. To submit an Environmental Permit (EP) application within 6 months of permission being granted;
2. To submit a landscape management plan within 1 month of permission being granted;
3. To complete the landscaping along part of the western boundary with residential properties within 6 months of permission being granted;
4. To complete the surface water and groundwater drainage mitigation along the western boundary within 9 months of permission being granted;
5. To carry out an inspection, with the Council and Kent County Council, of the surface water drainage works to demonstrate that the works have

been implemented in accordance with the approved details including a verification report;

6. To complete the flood compensation works within 12 months of permission being granted;
7. To start the soil importation within 6 months of the EP being granted;
8. To complete the soil importation within 3.5 years of the EP being issued;
9. To complete the development (excluding the clubhouse) in accordance with the approved details within 6 months of the completion of the soil importation;
10. To submit a land survey of the site to the Council to demonstrate that the development has been completed in accordance with the approved plans/details within 3 months of completion of the development;
11. A s106 monitoring fee of £1,500

(Requirements 4, 5, 10 and 11 are additional to the s106 agreement that accompanied the previous decision)

7.79 The legal agreement ensures that the applicant carries out various requirements to a timetable to ensure that the development is completed in a timely manner. In addition, it requires the applicant to verify that the development has been completed in accordance with the approved plans. In view of the scale, retrospective nature, and this being EIA development, it is considered that exceptionally, such measures are necessary and reasonable. These requirements go far beyond normal practice and it is considered that the above requirements also represent exceptional circumstances that justify the granting of retrospective EIA development in this particular case.

8.0 CONCLUSION

8.01 In addition to local policies supporting the expansion of business enterprise, national policy (NPPF paragraphs 80 & 83) indicates that significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs. It also indicates that planning decisions should enable the development of land-based rural businesses and sustainable rural leisure developments which respect the character of the countryside.

8.02 For the reasons outlined above it is considered that the development, subject to the mitigation outlined and controlled by condition, would not cause any harm to the landscape or visual amenities of the area, heritage assets, residential amenity, biodiversity or the River Beult SSSI, and impacts relating to flood risk, surface water drainage, and groundwater drainage can be suitably mitigated. On this basis, the development is in accordance with the relevant policies of the Development Plan, the NPPF,

and relevant policies in the emerging Marden Neighbourhood Plan. I have also considered carefully all representations made in reaching this conclusion.

8.03 There are considered to be exceptional reasons for granting retrospective permission, namely the exceptional circumstances surrounding the history of the retrospective development, and the comprehensive legal agreement that would ensure the development is completed and verified, and the applicant has clearly not gained an unfair advantage because this is retrospective development.

8.04 For these reasons, permission is recommended subject to a legal agreement and the following conditions.

9.0 RECOMMENDATION

Subject to the prior completion of a legal agreement to provide for the Heads of Terms set out below and subject to the conditions as set out below, the Head of Planning and Development **BE DELEGATED POWERS TO GRANT PLANNING PERMISSION**, and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Heads of Terms:

1. To submit an Environmental Permit (EP) application within 6 months of permission being granted;
2. To submit a landscape management plan within 1 month of permission being granted;
3. To complete the landscaping along part of the western boundary with residential properties within 6 months of permission being granted;
4. To complete the surface water and groundwater drainage mitigation along the western boundary within 9 months of permission being granted;
5. To carry out an inspection, with the Council and Kent County Council, of the surface water drainage works to demonstrate that the works have been implemented in accordance with the approved details including a verification report;
6. To complete the flood compensation works within 12 months of permission being granted;
7. To start the soil importation within 6 months of the EP being granted;
8. To complete the soil importation within 3.5 years of the EP being issued;

9. To complete the development (excluding the clubhouse) in accordance with the approved details within 6 months of the completion of the soil importation;
10. To submit a land survey of the site to the Council to demonstrate that the development has been completed in accordance with the approved plans/details within 3 months of completion of the development;
11. A s106 monitoring fee of £1,500

Conditions:

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

PDA-MON-101	(Site Location Plan)
0183-04/02 Rev H	(Proposed Site Layout)
0183-04/03 Rev D	(Proposed Landscaping Plan)
0183-04/04 Rev B	(Proposed Clubhouse and Car Park Layout)
0183-04/05 Rev B	(Clubhouse - Proposed Floor Plans & Elevations)
0183-04/06 Rev A	(Vehicular Access Point)
0183-04/07	(Flood Compensation Plan)
2675/ML/G	(Flood Compensation Plan)
5881 3D-F XSections	(Proposed Cross Sections Sheets 1 to 3)

Reason: For the purpose of clarity, and to ensure a satisfactory appearance to the development and impact upon residential amenity.

2. Prior to the importation of any material, a Construction Management Plan and Code of Construction Practice shall be submitted to and approved in writing by the local planning. The approved details shall be fully implemented. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- a) An indicative programme for carrying out the works
- b) Measures to minimise the production of dust on the site(s)
- c) Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- d) Measures to minimise light intrusion from the site(s)
- e) Management of traffic visiting the site(s) including temporary parking or holding areas
- f) Provision of off road parking for all site operatives
- g) Measures to limit the transfer of mud and material onto the public highway
- h) The location and design of site office(s) and storage compounds

Reason: In view of the scale and length of time to carry out the development and in the interests of highway safety and local amenity.

3. Prior to the importation of any material or the carrying out of any further development, the detailed design of the groundwater interceptor drain shall be submitted to and approved in writing by the Local Planning Authority. The detailed design should be supported by site-specific data, calculations, and justified assumptions that fit with the established hydrogeological conceptual site model and shall include the following:
 - a) Detailed construction drawings showing all elements of the groundwater and surface water drainage system;
 - b) Calculations of the anticipated volume of groundwater to be intercepted by the system.
 - c) Sensitivity testing of the design to allow for uncertainties, including aquifer thickness and permeability, hydraulic gradient and future increases in groundwater level (e.g. due to climate change).
 - d) Confirmation (where possible) of the elevations of relevant off-site receptors.
 - e) A narrative explaining the operating assumptions behind the design, including how the groundwater drainage system would interact with the site surface water system and discharge to the river under a range of groundwater level and river stage conditions. This should be supported by hydrogeological cross-sections illustrating the conceptual site model.
 - f) A maintenance plan for the groundwater interceptor drain and surface drainage ditch, to ensure its long-term integrity and functionality. This should identify who is responsible for maintenance and a means of demonstrating that the plan is being adhered to.
 - g) Demonstration that the design will resist long-term threats to its integrity and effectiveness, such as climate change, settlement, further developments at the site, etc.

The scheme shall be completed in accordance with the approved details.

Reason: To protect neighbouring properties against potential groundwater level impacts.

4. Prior to the importation of any material or the carrying out of any further development, the following details shall be submitted to and approved in writing by the Local Planning Authority:
 - a) A site inspection and groundwater level monitoring plan, to be implemented during construction of the groundwater interceptor drain and associated works, to verify that site conditions are consistent with the established hydrogeological conceptual site model and design assumptions. This should include a protocol for responding to any deviations that would impact on the effectiveness of the approved design, and reporting these to the Local Planning Authority.

The groundwater level monitoring data shall be collated for submission to the Local Planning Authority in a verification report, upon completion of

the groundwater interceptor drain works. The verification report shall also include the following information:

- i) Photographs of the excavations before and after placement of the drainage system components;
- ii) As-built drawings showing the surveyed elevations of installed drainage system components.

Should any deviations from the established hydrogeological conceptual site model or design assumptions be identified, the contractor shall cease works and agree any proposed alterations to the design with the Local Planning Authority in writing, prior to their implementation.

Reason: To protect neighbouring properties against potential groundwater level impacts.

- 5. Prior to the importation of any material or the carrying out of any further development, the detailed design of the surface water drainage system, which shall be based on the strategy presented in Drawing 29431/001/SK03 prepared by Peter Brett Associates (3 July 2015), shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed in accordance with the approved details.

Reason: To mitigate any flood risks associated with surface water.

- 6. Prior to the importation of any material, details of any boundary treatments and their implementation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity.

- 7. Prior to the importation of any material or the carrying out of any further development, details of catch fences to prevent fish from entering the river system in times of flood shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To protect the River Beult SSSI.

- 8. Any surface water run-off during the construction phase shall be directed to Puma Lake and/or the proposed temporary settling pond as outlined in the 'Water Resources Management Strategy' (22/03/12).

Reason: To ensure sediment does not flow into the River Beult SSSI.

- 9. All surplus water from the new lakes shall be directed to Puma Lake as outlined in the 'Water Resources Management Strategy' (22/03/12).

Reason: To ensure sediment does not flow into the River Beult SSSI.

10. Prior to the importation of any material or the carrying out of any further development, a Construction Environmental Management Plan relating to biodiversity (CEMP Biodiversity), that shall follow the precautionary mitigation measures detailed in section 5.10 to 5.17 of the ecological report (Preliminary Ecological Appraisal (Phlorum Ltd, August 2017)), shall be submitted to and approved in writing by the local planning authority. The CEMP Biodiversity shall include the following:
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of protecting biodiversity.

11. The development of the clubhouse shall not commence above slab level until samples of the timber cladding and clay roof tiles to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

12. In addition to the requirements of the Section 106 Agreement, all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in full in the first planting season following the completion of lakes 1, 2 and 3, and prior to any use of any part of lakes 1, 2 and 3. Any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

13. The development shall be carried out in accordance with the River Beult Habitat Enhancement Scheme received on 10/11/11.

Reason: To ensure appropriate biodiversity enhancements.

14. All vehicular access for the importation of material, vehicles for the re-profiling of the lakes and the embankments, and the implementation of the planting proposals, shall use the spur off the existing access directly off the A229 (Staplehurst Road), as shown on drawing number 0183-04/06 RevA (Vehicular Access Point).

Reason: To protect the amenities of adjoining residents and in the interest of highway safety.

15. The clubhouse shall be constructed with its finished floor level no lower than 17.36m AOD and with access as shown on drawing no. 0183-04/05 RevB.

Reason: To protect the building and occupants in the event of a flood.

16. Once the approved parking/turning areas have been implemented they shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

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

17. The development hereby permitted shall be used for recreational angling and purposes ancillary only.

Reason: An unrestricted use could cause harm to the residential amenity of neighbours and the character and amenity of the countryside.

18. No angling shall take place between the hours of 10pm and 8am within the areas hatched and annotated on Layout Plan 0183-04/02 Rev H.

Reason: To protect the nearby residents from noise and disturbance at such times.

19. No parking in connection with angling shall take place within the areas hatched and annotated on Layout Plan 0183-04/02 Rev H.

Reason: To protect the nearby residents from noise and disturbance.

20. All access will be via the existing consented access directly from the A229 and there shall be no vehicular or pedestrian access to the site from Hertsfield Lane.

Reason: To protect the amenities of adjoining residents.

21. The clubhouse shall not be used for any overnight accommodation.

Reason: To prevent danger to human life in the event of a flood and to prevent inappropriate residential accommodation.

22. The clubhouse hereby approved shall be used for purposes ancillary to the use of the site for recreational angling and for no other purpose.

Reason: An unrestricted use could potentially cause harm to the residential amenity of neighbours and the character and amenity of the countryside.

23. No lighting shall be installed on the site without prior written consent from the Local Planning Authority.

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

24. Any foul water shall be passed through a Klargestar system, which is to discharge to Puma Lake as set out in the 'Phlorum' letter dated 20th May 2019, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent harm to the River Beult SSSI.

Item 13

Page 11

Monk Lakes,
Staplehurst Road,
Marden

11/1948

Representation

A 10 page representation has been received from a Planning Agent on behalf of a neighbouring resident which was sent to Members/Substitute Members of Planning Committee and officers. The representation is attached and officer's response is set out below. Where there is not a response to an issue raised it is because it has been considered in the main report.

Relevance of the Enforcement Notice Served in 2008

The representation considers the reasons for issuing the Enforcement Notice (EN) are a formal statement of the Council's assessment of the impact of the development which has taken place, and that a refusal of the application would accord with the Council's reasons for issuing the EN in 2008. Specific reference is made to reasons for issuing the EN relating to landscape impact and amenity (outlook and privacy) with the suggestion that the earthworks enforced against in 2008 were not dissimilar to what is now proposed.

The reasons for issuing the EN, (excluding those relating to the car park and access which have since been granted planning permission), are summarised as follows:

- There were no controls on the height and extent of land raising;
- It was causing a detrimental impact on the countryside;
- It had an overbearing visual impact and was harmful to the amenity of residents;
- Environmental disturbance from earthworks, vehicle movements, noise and dust;

- Lack of a technical justification for a 6m high plateau compared to the ground level lakes;
- Without any properly designed scheme of development the works were considered to be waste disposal;
- Potential highway safety issues from lorry traffic;
- Land raising within the flood zone and potential flood risks;
- Impact upon the River Beult SSSI;
- Further importation of material;
- Harm from the buildings in place to carry out works;
- Uncontrolled 24 hour use which could harm residential amenity;
- Visual harm from temporary buildings;
- Unrestricted retail use (tackle shop) contrary to policy;
- Various harmful paraphernalia (bins, signs, tables etc.);
- The fact that none of these issues were considered under planning permission 03/0836 and so these matters had not been considered.

The earthworks in 2008 as the EN sets out were uncontrolled meaning there was no properly designed final scheme of development and there were no controls over any necessary mitigation whatsoever. It is considered that the harm identified stems from the uncontrolled nature of the development.

In contrast, the proposed development under the planning application is accompanied by an Environmental Statement with substantial evidence and information and clear plans, including proposed mitigation. The planning application has been assessed by statutory consultees (with no objections), the Local Planning Authority, and local residents, and the planning issues raised under the EN are matters considered in the assessment. In recommending planning permission, the mitigation of any impacts would be secured via planning conditions and the legal agreement.

Whilst the EN is a material consideration, the applicant has submitted this planning application in an attempt to regularise the situation at the site. The proposed development including the proposed mitigation is significantly different to the earthworks and situation when the EN was served. It is therefore not accurate to compare the proposed development with the situation when the EN was served, and the EN does not preclude planning permission being granted.

Differences from the 2012 Proposal

The representation considers the development now being considered is substantially different in terms of its scale, nature, and impacts from that considered in 2012, referring specifically to the heights of the banks.

As outlined at paragraph 7.04 of the main report, the main changes from the previous decision are lower sloped banks in places around Lakes 2 and 3 by no more than 2m, and slightly higher slopes in places of no more than 1m. The height of the lake crests for Lakes 2 and 3 have not significantly changed but where they have, they would be marginally lower.

Whilst the 2012 report refers to various heights including 5m and 4m heights, the Council commissioned its own land survey in September 2019 and this compares the previously proposed levels to that now proposed and this is what the above assessment has been based on. It is therefore considered that the lakes would not be over 2m higher than the previous scheme as suggested.

As also outlined at paragraph 7.04, the western banks begin to rise closer to the western boundary in places than previously proposed and the corners of the lakes are at slightly different angles and the islands within the lakes would be different in shape and location.

Officers have fully assessed the latest proposals and consider the changes from the previous determination are minor in nature in the context of the wider development and so the previous planning judgement is still a material consideration. However, it is for Members to decide what weight to give to the previous decision and ultimately to reach a decision on the development now proposed.

'Matters of Judgement'

The issues relating to landscape, amenity, and heritage including the fabric of Hertsfield Barn have been raised previously and are fully considered in the main report.

Other Matters

The representation considers that the proposed development is a 'waste disposal operation' because the EN considered this to be the case in 2008 and this has not been assessed. As outlined above, the EN referred to works being carried out in 2008 and in the absence of any properly designed scheme of development there was uncertainty what the works were for, and therefore the works were considered to represent 'waste disposal'. However, since that time, and as evidenced through the supporting documentation for the planning application the material brought on site (that was permitted under an Environment Agency licence) forms an integral part of the development for which planning permission is now sought. Therefore it is now apparent, furnished with the additional application documents that this does not represent 'waste disposal' but works in connection with the planning application.

As outlined in the main report, the Council's consultant (Mott MacDonald) are advising that the proposed drainage system to mitigate groundwater impacts is a suitable solution subject to the fine detail being provided via recommended conditions 3 and 4. Their expert view is that the proposed scheme will be effective in mitigating any impact, and their expert advice will be sought when the details are submitted for consideration.

The safety of the raised lakes is dealt with via separate legislation under the Reservoirs Act and so is not a planning matter. Notwithstanding this, the Environment Agency confirmed in September 2019 that an enforcement notice was served on the site in early 2018 for non-compliance with the Reservoirs Act but this has been removed and any issues have been resolved.

The grant of permission would effectively nullify the EN because the Council would have decided that the proposed development is acceptable. If there was any breach of planning permission or planning conditions should it be granted, enforcement action could be taken as would be the case for any other breach of planning control.

Representation

An 8 page representation and legal opinion has been received from the applicant.

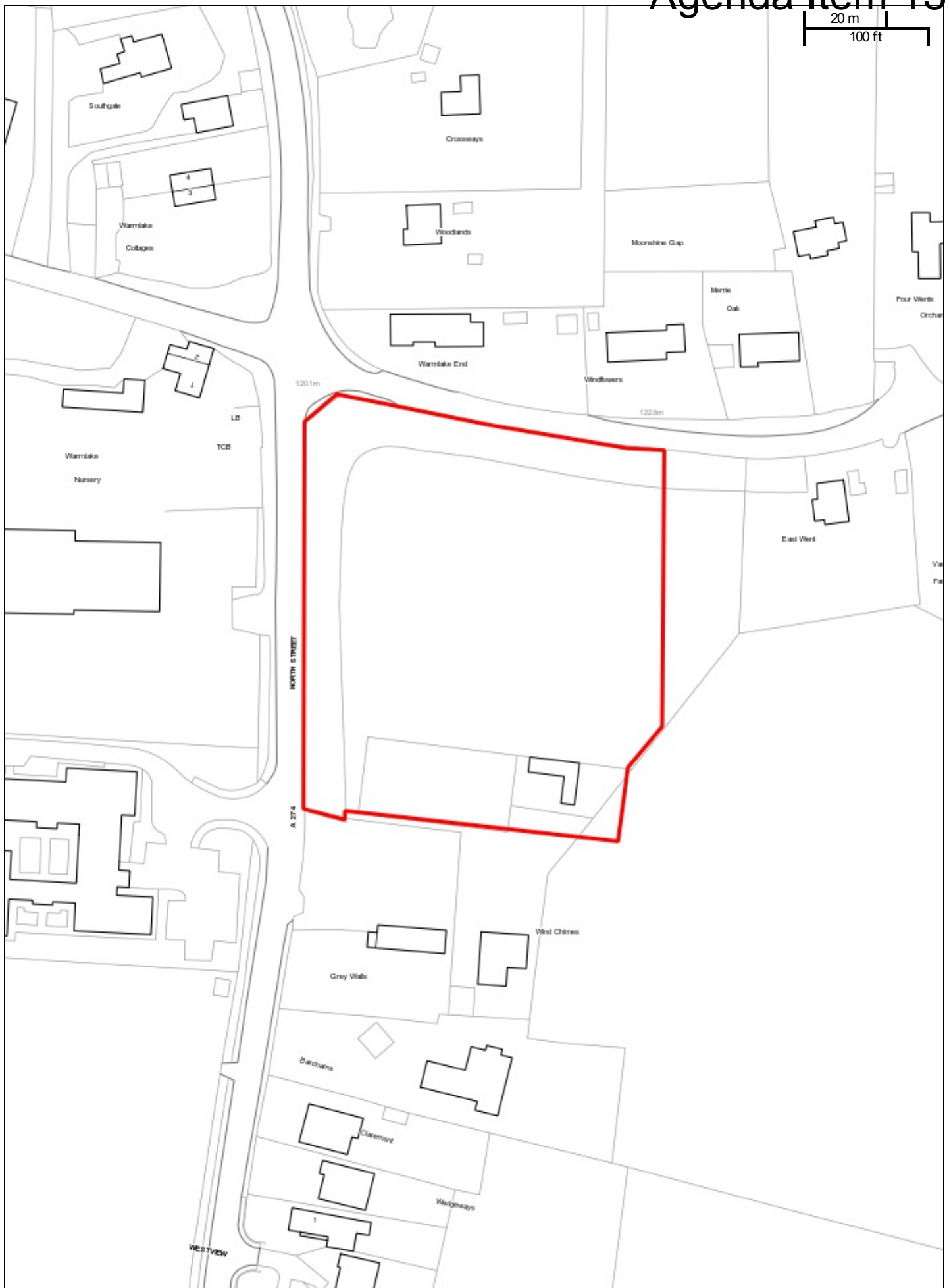
Officer Comment

At the end of Page 2 and start of Page 3 the applicant suggests that officers advised on what local residents may think about potential changes to the proposed development. This is incorrect and officers did not comment on what any third parties may or may not think.

At Pages 7 and 8 the applicant refers to the works and alleged costs necessary to comply with the Enforcement Notice (EN) and restore the land back to its 2003 state.

It is important for Members to note that any implications for compliance with the EN cannot be taken into account as part of the decision making process on this planning application and this application must be decided on its own merits.

In terms of the legal opinion, this does not affect the officer advice and Counsel's opinion that Members have been provided with.



19/506070/REM - Wind Chimes

Scale: 1:1250

Printed on: 19/2/2020 at 11:38 AM by StevieH

REFERENCE NO - 19/506070/REM		
APPLICATION PROPOSAL Approval of Reserved Matters for the erection of 9no. detached residential dwellings (layout, scale, landscaping and appearance being sought, with access already approved as part of the earlier outline approval) following 15/507493/OUT (allowed on appeal APP/U2235/W/16/3145575). (Resubmission of 19/504293/REM) and approval of condition 3 of APP/U2235/W/16/3145575.		
ADDRESS Wind Chimes Chartway Street Sutton Valence Maidstone Kent ME17 3JA		
RECOMMENDATION : GRANT subject to the planning conditions set out in Section 8.0 of the report		
SUMMARY OF REASONS FOR RECOMMENDATION The application site benefits from outline permission for the erection of up to 9 dwellings on the site, such that the principle of residential development has been established. The proposed scheme for 9 dwellings is considered to be acceptable in terms of the reserved matters scale, appearance, layout and landscaping such that the development would not cause undue harm to the visual amenity of the street scene and character of the area, to existing or future residential amenity and would be acceptable in terms of highways impacts and all other material planning considerations such that the proposed development would be in accordance with current policy and guidance.		
REASON FOR REFERRAL TO COMMITTEE The recommendation is also contrary to the views of Sutton Valence Parish Council who have requested the application be presented to the Planning Committee		
WARD Sutton Valence and Langley	PARISH/TOWN COUNCIL Sutton Valence	APPLICANT Sheer Ambition Ltd AGENT Peter Court Associates
DECISION DUE DATE 03/03/20	PUBLICITY EXPIRY DATE 10/02/20	OFFICER SITE VISIT DATE 13/12/19

Relevant Planning History

19/504293/REM : Approval of Reserved Matters for the erection of 9no. detached residential dwellings (layout, scale, landscaping and appearance being sought) following 15/507493/OUT (allowed on appeal). – Withdrawn

18/500063/MOD106 : Modification of Planning Obligation under reference APP/U2235/W/16/3145575 to include a financial contribution towards off-site affordable housing. – Withdrawn as could not deal with modification through an application as legal document referred to is a Unilateral Undertaking, however modification agreed to by mutual agreement.

15/507493/OUT : Outline planning application for residential development of up to nine dwellings considering access from Chartway Street with all other matters (appearance, landscaping, layout and scale) reserved for future consideration. – Refused for following reason (allowed at appeal):

‘The proposals would consolidate existing development and result in the urbanisation of the site, which would be harmful to the character and appearance of the countryside, contrary to

Policy ENV28 of the Maidstone Borough Wide Local Plan 2000, the NPPF 2012 and the NPPG 2014. Any planning benefits would not outweigh the planning harm.'

Various applications relating to the history of Wind Chimes itself, these include for the original dwelling, extensions, access and stables.

Appeal History:

APP/U2235/W/16/3145575 in relation to 15/507493/OUT : Outline planning application for residential development of up to nine dwellings considering access from Chartway Street with all other matters (appearance, landscaping, layout and scale) reserved for future consideration. – Appeal ALLOWED

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site relates to a parcel of land sited on the junction of North Street (A274), to the west and Chartway Street, to the north. The site measures approximately 0.9 hectares and its authorised use is equestrian purposes (as approved under application 04/0268 and varied by application 13/0461). There is an existing menage and single storey stable building to the south of the site, with an access from Chartway Street dissecting the site. The access currently serves the stables and the residential dwelling Wind Chimes.
- 1.02 There is existing sporadic residential development along Chartway Street itself and along the eastern part of North Street to the south of the site. Warmlake Nursery and Warmlake Place (Residential home) are located to the west of the application site. The land to the east of the site is open fields with Public Rights of way located across.
- 1.03 The site is outside the settlement boundary of Sutton Valence, which lies approximately 600m to the south of the site.
- 1.04 The site is enclosed by mature trees and planting along the northern and western boundaries, with fencing. The southern boundary with Grey Walls is enclosed by fencing and mature hedging. To the east there is open wooden post fencing, affording views in and out of the application site. The site is relatively flat and predominantly laid to grass.
- 1.05 Outline planning permission was granted for up to 9 dwellings in 2016.

2. PROPOSAL

- 2.01 The application seeks approval of the reserved matters not considered at outline stage, these being, layout, scale, landscaping and appearance.
- 2.02 The proposal is for 9no detached residential dwellings.
Layout
- 2.03 Means of access from the highway was approved as part of the outline stage. The proposed layout would utilise this access point from Chartway Street and would

create a linear access drive through the centre of the site which would serve the new dwellings, together with the existing dwelling at Wind Chimes to the south of the site.

- 2.04 7 private accesses would be taken off the internal road, 5 would serve individual dwellings and the other 2 would serve 2 dwellings.
- 2.05 2 dwellings would be orientated north/south and face towards Chartway Street. The other 7 dwellings would be orientated east/west, with the frontages facing towards the internal access road.
- 2.06 Each dwelling would benefit from a surfaced driveway and would have either a single or double garage which would be either detached, integral or link detached.
- 2.07 Each dwelling would have a private enclosed garden and would be predominantly 2-storey.

Scale

- 2.08 Nine detached dwellings are proposed, these would all be 2-storey and would have eaves heights between approximately 4.4m-5.1m, with ridge heights of between approximately 8.3m-9.3m.
- 2.09 The dwellings would be a mix of 3, 4 and 5 bedroomed units.

Landscaping

- 2.10 The site currently benefits from 'buffer' planting along the northern and western boundaries. This is approximately 10m deep on the North Street frontage and approximately 13m deep fronting Chartway Street. This is proposed to be retained with the application accompanied by a tree survey report. Condition 4 of the outline consent requires the submission of a woodland management plan to secure the long-term retention of this planting.
- 2.11 Hedge planting is proposed along the eastern boundary, together with tree planting which would consist of silver birch, oak and sweet cherries.
- 2.12 Planting within the site would consist of hedges demarcating boundaries to the side and rear, together with frontage and 'street trees and shrubs' consisting of field maples, cherries and lavender.
- 2.13 The landscaping strategy plan and landscape planting plan also identifies methods to promote biodiversity enhancement (as required by condition 3 of the appeal decision). The plan identifies the provision of log piles to the woodland area around the perimeter of the site, together with bat and bird boxes. Bat and bird boxes would also be attached to the dwellings as shown on the site context plan. Hedgehog movements would also be made possible with gaps under fencing.

Appearance

- 2.14 The nine dwellings would be individually designed with a contemporary appearance utilising varied roof pitches, materials and fenestration. The palette of materials would be consistent across the development, consisting of wooden cladding, PV roof tiles, aluminum windows, facing brickwork and white render.

3. POLICY AND OTHER CONSIDERATIONS

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

Maidstone Borough Local Plan 2017 Policies SS1, SP17, SP19, DM1, DM2, DM3, DM12 and DM30

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 Six representations (two objections and four in support) received from local residents raising the following (summarised) issues

Objections

- No provision to extend footpath eastwards (objector owns land to the east)
- Impact on overstretched infrastructure
- Erosion of countryside
- Traffic survey is out of date, 5 years old
- Concerns about the legitimacy of the applicant

Support (letters of support received from the current land owner and residents of Kingswood)

- Well planned development
- Supports the needs of Sutton Valence
- The mix and varied materials proposed are in keeping with surrounding area
- Revised scheme is more favourable with softer boundaries and improved landscaping
- No negative impact on traffic
- Likely to increase house values
- Proposed widening of road favoured
- Modest development in keeping with area

5. CONSULTATIONS

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

5.01 Sutton Valence Parish Council

1. The issue of the external landscaping that abuts the A274 and Chartway Street has still not been addressed. More specifically ownership and maintenance. On the plans it states that it is a public verge, this is not the case it is within the boundary of the application. There needs to be a condition placed on this development that covers the landscape maintenance.

2. The Parish Council would like to see condition that the tree/hedge line should be retained in perpetuity to ensure the current street scene of North St and Chartway Street is maintained.
3. The Parish Council believe that the dropped kerb at the existing access point should be removed.
4. The Parish Council is concerned that the public verge and fencing does not continue on the East side of plot 3.

5.02 Kent Police

Recommends higher boundary treatment

5.03 KCC Highways

Following amended plans and additional information

Now consider that the reserved matters proposed within the site, in highways terms are acceptable. Applicant needs to consider wheel washing, highways matters relating to construction and condition 11 of the outline consent relating to a S278 application.

5.04 Natural England

No comments

5.05 Southern Water

No objection

5.06 Landscape Officer

With regards to the above application, the submitted tree protection details and proposed landscaping for the site (both supplied by LaDellWood) are considered acceptable.

No details submitted for conditions 4 and 14.

6. APPRAISAL

Main Issues

6.01 The key issues for consideration relate to:

- Principle of development
- Reserved Matters details (Layout, Scale, Appearance, Landscaping)
- Residential amenity
- Highways matters
- Other matters

Principle of development

6.02 The application site benefits from an extant outline consent for residential development for up to 9 dwellings. This consent was granted on 9 December 2016 by the Planning Inspectorate following the refusal of application 15/507493/OUT.

This approval reserved all matters (layout, scale, appearance and landscaping), other than access which was approved as part of the outline consent.

- 6.03 Due to the extant outline consent the principle of residential development on the site remains and it is solely now for considerations as to whether those matters reserved are considered acceptable.
- 6.04 This application is a re-submission of an earlier withdrawn scheme, the key changes to this scheme include greater landscaping along the eastern boundary of the site, further landscaping details, reduced scale of some of the larger units (including the removal of flat roofs at roof apexes), provision of refuse turning and greater detail of materials, biodiversity enhancements, tree protection and layout changes to improve future residential amenity.

Reserved matters details

- 6.05 The Inspectors decision sets out some key points in considering the acceptability of developing the site for residential development, these include:

'Whilst some degree of urbanisation would inevitably result from the proposed development through buildings, hardstanding and the access road the visibility of the site at the junction would not be material reduced as the boundary screening would be largely maintained. The removal of some trees on the Chartway Street frontage would be necessary to create the new access but subject to a suitable landscaping scheme the proposed access would not have an adverse visual impact. Consequently, the proposed development would have limited impact on this visual break in the existing built form.' (Paragraph 11)

'Additionally, with no more than nine dwellings the density of development would be low and not out of keeping with the immediate setting or harmful to the character of the countryside.' (Paragraph 12)

'The introduction of woodland planting on the eastern boundary could be secured through conditioning of the landscape strategy. This would ensure that the impact of the proposed development when viewed from outside of the site, and particularly from the public right of way would be limited. Consequently, with existing and proposed screening the visual impact of the proposed development would be acceptable.' (Paragraph 13)

- 6.06 An indicative layout was submitted at outline stage which demonstrated that 8no. dwellings could be accommodated on the site, albeit the consent was granted for up to 9 units. This indicative layout followed a similar layout pattern to the scheme now proposed, whereby a central access through the site would facilitate access to dwellings facing either towards Chartway Street or internally towards the access road. This indicative layout also included retention of the woodland planting along the northern and western boundaries, together with planting along the eastern boundary and the provision of turning within the site for refuse vehicles. The Inspector in his decision did not explicitly refer to this plan, as it was not for consideration but would have been aware of it and it would be usual practice to address any concerns with the plans when determining the appeal.
- 6.07 The site occupies a prominent corner site, whereby there are two frontages one onto North Street and one onto Chartway Street. Both street scenes are varied with a mix of bungalows, chalet bungalows and 2-storey properties, together with commercial buildings and a mix of newer and older buildings. The proposed development would be seen in context of both these street frontages, but also as its own entity due to the nature of screening along the road frontages and the inwards looking nature of the development.

- 6.08 The main constraint when designing the layout for this site is the retention of access to the existing dwelling at Wind Chimes to the south of the site. This property currently benefits from an access track from Chartway Street which dissects the site north to south. The existing access is situated to the east of the proposed access from Chartway Street (as approved by the outline consent) and it is proposed that there would be a new internal road which would mirror the north to south layout of the existing access. From this access seven of the proposed dwellings would face inwards towards the road and two would face northwards towards Chartway Street and be served by a private driveway.

Appearance

- 6.09 The design of the proposed dwellings would be individual and although not a pastiche of Kentish vernacular would introduce a common palette of materials and design elements to provide a cohesive form of contemporary design. The dwellings would all be two-storey, the height of the dwellings varies slightly but within the wider street scene this would not be a discernible difference. The mix of roof pitches, fenestration and materials would allow for a visually varied appearance that would enable the development to be cohesively drawn together by landscaping and external finishes.

Landscaping

- 6.10 The proposed landscaping takes into consideration the comments made by the Inspector at appeal and retains the important screening to the road frontages, together with providing landscaping along the eastern boundary and within the site. It is considered that the proposed development takes advantage of the opportunities and constraints of existing landscaping and provides a development which would be acceptable in terms of landscaping and is supported by the tree/landscape officer.
- 6.11 The Parish Council has raised concerns regarding the long-term ownership and maintenance of the existing boundary planting. Condition 4 of the outline consent does require the submission of a woodland management plan, which should include details for the long-term retention and enhancement of the wooded eastern and northern boundaries. The condition however does not specifically address the matter of ownership. The submitted landscaping and site plan does demarcate this wooded area to be outside the curtilage of the plots, however to strengthen this and to ensure this in perpetuity it is considered necessary to attach a condition requiring details of land ownership and for this area to be outside the curtilages of the dwellings.
- 6.12 To further ensure that the landscaping along the eastern boundary provides the soft landscape screening considered necessary to satisfactorily assimilate the development with its setting and preserve views from the Public Right of Way to the east of the site it is considered that the maintenance of this boundary hedge at a height of 2.5m should be conditioned.
- 6.13 The landscaping plan and strategy also identifies methods for the enhancement of biodiversity (as identified in the proposal section above), as required by condition 3 of the outline consent. The details submitted are considered satisfactory such that the plans are acceptable to discharge this condition through this reserved matters application.

Scale

- 6.14 The Inspector did not consider it necessary that the scale of the development should be conditioned with parameters and commented that development on the site would not be visually harmful with nine dwellings being a reasonable density for the site.

As highlighted above, the street scenes along the A274 and Chartway Street are mixed, in the immediate vicinity there is a greater number of bungalows/chalet bungalows, however these are interspersed with 2-storey dwellings. The application site itself is generally flat, whereby the new dwellings would not be significantly elevated when compared to neighbouring properties and due to the enclosed nature of the site with the wooded boundaries the dwellings to some extent would be seen in their own context rather than compared to neighbouring properties. The cohesive design, lack of neighbouring dwellings to the immediate east and the road separation to the north are such that the 2-storey design is considered acceptable.

Layout

- 6.15 The proposed layout makes best use of the site and its constraints without visual harm to the character or visual amenity of the area. The site satisfactorily accommodates the proposed nine dwellings, enabling them to all benefit from private amenity space, car parking and suitable access/turning. The amenity (as discussed in further detail below) of the future occupiers would be acceptable. The layout has been slightly amended from the withdrawn submission to orientate all the dwellings to the west of the site internally, which although this would not be acceptable in all situations, in this enclosed site this would appear logical and two dwellings would still orientate towards Chartway Street allowing for there to be some context to the dwellings and relationship with the street scene.
- 6.16 Overall the proposed development in terms of those matters reserved, scale, layout, appearance and landscaping would be acceptable and would not harm the visual amenity of the street scene, character of the area and would result in a well designed development.
- 6.17 To ensure that the development remains of a satisfactory appearance and to not add undue additional pressures on the surrounding planting it is considered reasonable to remove permitted development rights for extensions, outbuildings and fencing, with fencing details to be conditioned to submit details (indicative details are shown on the submitted plans, which would consist predominantly of post and rail stock fencing).

Residential amenity

Existing occupiers

- 6.18 The nearest residential properties are to the south of the site (Grey Walls and Wind Chimes). Those to the north (Warmlake End and Windflowers) are considered to be a significant distance away from the proposed development due to the separation of Chartway Street. Similarly, the property to the east (East Went) is separated by a field access and approximately 40m from the nearest proposed dwelling such that no significant harm would result to neighbouring amenity.
- 6.19 The nearest proposed units to the south would be plots 6 and 5, there would be an approximate 30m separation between the dwellings themselves and approximately 6m to the boundaries. The side elevations of Plots 5 and 6 would have first floor windows serving the staircase, this would be vaulted into the ceiling, with glazing in both the flank wall and roof. Due to the non-habitable nature of the area that the windows would serve and the nature of the level changes of the staircase, it is not considered that there would be undue overlooking or harm from these windows.
- 6.20 It is not considered that the new dwellings would result in harm by reason of being unduly overbearing, overshadowing or cause loss of light due to their proposed siting, design and orientation.

Future occupiers

- 6.21 The scheme has been designed to ensure that each dwelling would benefit from private amenity space and has been oriented and designed to ensure that no dwelling would have an adverse impact on future neighbouring occupiers. Windows, balconies and other fenestration would not cause undue overlooking or loss of privacy to neighbouring occupiers, nor would the dwellings be unduly overbearing or overshadowing to each other.
- 6.22 It is considered that the development would provide a satisfactory amenity for the future occupiers.

Highways matters

- 6.23 Matters relating to access were approved at outline stage, together with improvements to the footpath link from the site to the existing footpath on the corner of Chartway Street and the A274. Details of which are to be approved through a S278 highways application and are conditioned by condition 11 of the outline approval.
- 6.24 Condition 6 of the outline permission requires the reserved matters application to show adequate land for parking or garaging and Condition 7 requires the application to show adequate land for vehicle loading/unloading and turning to meet the needs of the development.
- 6.25 KCC Highways are satisfied that the development provides adequate land for both parking, loading/unloading and turning. Each dwelling would benefit from a private drive, together with garaging and the layout shows a turning head within the site for a refuse vehicle, together with swept path analysis to demonstrate that the vehicle could practicably turn.
- 6.26 The Highways Officer has drawn attention to the need for reasonable attempts to prevent mud on the road and details of construction vehicles parking and turning. These matters are dealt with by condition 8 of the outline which requires details prior to commencement of development.
- 6.27 Overall it is considered that highways matters are satisfactorily dealt with through this application and those conditions attached to the outline approval.

Other Matters

- 6.28 Matters relating to biodiversity enhancement, archaeology, drainage, renewable energy, tree protection, long-term management of the woodland planting along Chartway Street and the A274 and arboricultural method statements are all conditioned on the outline consent with details required to be submitted either prior to commencement of development or before occupation. Indicative details have been provided which include the use of PV solar roof tiles,
- 6.29 The Parish Council has raised concerns regarding the development being gated from Chartway Street. The agent has confirmed that the development would not be gated, the visualisation indicating gates is those to serve Wind Chimes to the south of the site.

- 6.30 The proposed development would have been CIL liable, since the Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. However, the application was approved at outline prior to the introduction of CIL and the application is subject to a Unilateral Undertaking to provide contributions towards education, libraries and off-site affordable housing.

PUBLIC SECTOR EQUALITY DUTY

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

7. CONCLUSION

- 7.01 The application site benefits from outline permission for the erection of up to 9 dwellings on the site, such that the principle of residential development has been established. The proposed scheme for 9 dwellings is considered to be acceptable in terms of the reserved matters scale, appearance, layout and landscaping such that the development would not cause undue harm to the visual amenity of the street scene and character of the area, to existing or future residential amenity and would be acceptable in terms of highways impacts and all other material planning considerations such that the proposed development would be in accordance with current policy and guidance.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing No. 8884 01 Rev B (Site Plan)
Drawing No. 8884 14 Rev B (Site Plan context)
Drawing No. 8884 03 Rev A (Plot 1 Floor Plans and Elevations)
Drawing No. 8884 04 Rev A (Plot 2 Floor Plans and Elevations)
Drawing No. 8884 05 Rev A (Plot 3 Floor Plans and Elevations)
Drawing No. 8884 06 Rev A (Plot 4 Floor Plans and Elevations)
Drawing No. 8884 07 Rev A (Plot 5 Floor Plans and Elevations)
Drawing No. 8884 08 Rev A (Plot 6 Floor Plans and Elevations)
Drawing No. 8884 09 Rev A (Plot 7 Floor Plans and Elevations)
Drawing No. 8884 10 Rev A (Plot 8 Floor Plans and Elevations)
Drawing No. 8884 11 Rev A (Plot 9 Floor Plans and Elevations)
Landscape Strategy
Landscape planting plan
Tree Survey Report
Reason: To clarify which plans have been approved.
- 2) The development hereby approved shall not commence above slab level until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the local planning authority and the development shall be

carried out in accordance with the approved details before the first occupation of the building and maintained thereafter;

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

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

Reason: To ensure a satisfactory appearance to the development.

- 4) Prior to first occupation all planting, seeding and turfing specified in the approved landscape details shall be completed. All such landscaping shall be carried out during the planting season (October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.

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

- 5) The development hereby approved shall not commence above slab level until details of the land ownership of each plot have been submitted to and approved in writing by the Local Planning Authority. These details shall show the northern and western boundaries (the boundary woodland buffer) and include details of the extent of the buffer area and shall show the woodland outside the ownership of each individual plot including its long term management. Such details as agreed shall maintained as such.

Reason: To maintain the integrity of the woodland screen to these boundaries.

- 6) The proposed mixed native hedge identified on drawing number 0240/19/B/11 (Landscape planting plan) to the eastern boundary shall be allowed to grow to a height of 2.5m and then shall thereafter be maintained at a height of no less than this height (2.5m).

Reason: To protect local amenity and views from the Public Right of Way

- 7) No further development, whether permitted by Classes A, B, C, D or E of Part 1 and Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out to the dwellings hereby approved.

Reason: In the interests of the amenities of the area and to protect adjacent tree planting from further undue pressure

INFORMATIVES

- 1) The applicant's attention is drawn to the conditions attached to application 15/507493/OUT and the need to discharge the details prior to commencement and/or occupation.
- 2) The details shown on Drawing Number 0240/19/B/11 (Landscape planting plan), 8884 14 Rev A (Site Plan (context)) and 0240/19/B/1 (Landscape strategy) are considered sufficient to discharge Condition 3 of application 15/507493/OUT) and is hereby approved.

Case Officer: Rachael Elliott

Appeal Decision

Hearing held on 2 November 2016

Site visit made on 2 November 2016

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 9 December 2016

Appeal Ref: APP/U2235/W/16/3145575

Wind Chimes, Chartway Street, Sutton Valence, Kent M17 3JA.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Vincent Woodcock against the decision of Maidstone Borough Council.
 - The application Ref 15/507493/OUT, dated 9 September 2015, was refused by notice dated 15 February 2016.
 - The development proposed is described as outline application for residential development.
-

Decision

1. The appeal is allowed and outline planning permission granted for residential development of up to nine dwellings considering access from Chartway Street with all other matters (appearance, landscaping, layout and scale) reserved for future consideration at Wind Chimes, Chartway Street, Sutton Valence, Kent M17 3JA in accordance with the terms of the application Ref 15/507493/OUT, dated 9 September 2015, subject to the conditions in the schedule at the end of the decision.

Application for Costs

2. An application for costs was made by Mr Vincent Woodcock against Maidstone Borough Council. This is the subject of a separate decision.

Procedural Matters

3. During the determination of the application a revised description was agreed between the appellant and the Council. I have used this in my formal decision as I consider that this more accurately describes the proposed development.
4. The application was submitted in outline with only means of access to be determined at this stage. Appearance, landscaping, layout and scale are reserved for subsequent consideration.
5. A signed and dated Unilateral Undertaking (UU) in accordance with Section 106 of the Town and Country Planning Act, 1990 was submitted by the appellant prior to the hearing. This contains obligations in respect of affordable housing and contributions towards libraries and education. I return to the obligations later in my decision.

Main Issues

6. The main issues are:

- a) The effect of the proposed development on the character and appearance of the area; and
- b) Whether or not the proposed development would provide a suitable site for housing having regard to the principles of sustainable development and the supply of housing.

Reasons

Character and Appearance

7. The appeal site is located at the junction of North Street to the west of the site and Chartway Street to the north. On both of these boundaries there is a well-established tree belt although the site is visible from breaks in the trees on Chartway Street. One of these breaks is formed by the existing access to the site whilst a second break marks the location of the proposed access. Glimpses of the site are also possible from further east on Chartway Street.
8. The eastern boundary of the site is marked by wooden post fencing which allows views out of and into the site from the public right of way which runs north-south approximately 100m to the east beyond an arable field.
9. Outline planning permission is being sought for up to nine dwellings. Some off-site highways works are also proposed to the west of the proposed access in order to widen Chartway Street, extend the existing footway and relocate the existing bus stop westwards.
10. The Warmlake area of Sutton Valence has seen development approved on a number of sites recently particularly to the north of the appeal site. Approaching the site from the north, along Maidstone Road demonstrates that there is no clear break in development apart from the appeal site. The appeal site is the only undeveloped quadrant of the Warmlake crossroads and because of its corner location it has some prominence. At its western end, Chartway Street has a residential character with houses to the north and east of the appeal site. Whilst the sites to the west, namely Warmlake Nursery and Warmlake Place, are not densely developed the presence of development does demonstrate that the site is not situated in open countryside.
11. Whilst some degree of urbanisation would inevitable result from the proposed development through buildings, hardstanding and the access road the visibility of the site at the junction would not be materially reduced as the boundary screening would be largely maintained. The removal of some trees on the Chartway Street frontage would be necessary to create the new access but subject to a suitable landscaping scheme the proposed access would not have an adverse visual impact. Consequently the proposed development would have limited impact on this visual break in the existing built form.
12. In terms of depth the site would not extend eastwards much beyond the depth of other properties on North Street. The proposed development would consolidate the existing pattern of frontage development along Chartway Street but would not result in an extension of built form into open countryside. Development would infill the existing linear development along North Street

and Chartway Street but would be closely related to existing development. Additionally, with no more than nine dwellings the density of development would be low and not out of keeping with the immediate setting or harmful to the character of the countryside.

13. The introduction of woodland planting on the eastern boundary could be secured through conditioning of the landscape strategy. This would ensure that the impact of the proposed development when viewed from outside of the site, and particularly from the public right of way would be limited. Consequently, with existing and proposed screening the visual impact of the proposed development would be acceptable.
14. Policy ENV28 of the Maidstone Borough Wide Local Plan, 2000 (the MWBLP) states that within the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers subject to a number of exception, none of which cover the proposed development. Whilst the proposed development would not cause harm to the character and appearance of the area, being development outside of the development boundary for Sutton Valence would bring it into conflict with Policy ENV28. It would also conflict with Policy SP17 of the Maidstone Borough Local Plan, May 2016 (the MBLP) which similarly seeks to protect the character and appearance of the open countryside and restrict new development identifying the provision of small scale residential development to meet local needs as an exception.
15. According to the Maidstone Landscape Character Assessment, 2012 the appeal site lies within the Kingswood Plateau. On the basis of my findings in respect of character and appearance I do not consider that the proposed development would result in material harm in respect of landscape character or be contrary to the Landscape Character Assessment which includes the aim to maintain open space between swathes of development.
16. With regard to the National Planning Policy Framework (the Framework) I find that the proposal would not be in conflict with paragraph 58 which requires developments to respond to local character or paragraph 61 which seeks to ensure that development is integrated into the environment.

Suitability of the Site for Housing

17. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development. Where relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.
18. Paragraph 47 of the Framework advises that in order to boost significantly the supply of housing, local planning authorities should ensure that they meet their full and objectively assessed need (OAN) for housing and can demonstrate a supply of specific deliverable sites sufficient to provide more than five years' worth of housing against this need. At the time when the application was determined by the Council its position was that it had a 3.3 year supply of housing assessed against the OAN of 18,560.
19. The MBLP is currently progressing through its examination. Based on the OAN figure and a 5% buffer the Council indicated that it now had a supply of 5.12

- years. This was set out in depth in the Council's Housing Topic Paper which has a base date of 1 April 2016 which accompanied the MBLP submission. The appellant is of the view that the Council can only show a 4.48 year supply.
20. Paragraph 49 of the Framework also states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Policy ENV28 of the Local Plan seeks to restrict development outside of defined settlement boundaries and is therefore relevant to the supply of housing. However, on the basis of its MBLP submission the Council considers that housing policies could be considered up to date.
21. Paragraph 216 of the Framework advises that the weight to be given to emerging plans is dependent upon their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of relevant policies in the emerging plans to the policies in the Framework. Whilst the plan is at an advanced stage of preparation I understand that there are significant unresolved objections to a number of policies including Policy SP17 which mirrors the adopted Policy ENV28. The MBLP is also subject to challenge in terms of the Council's OAN.
22. In terms of five year housing land supply the Council case as set out in the original Housing Topic Paper totals 6,896 dwellings comprising extant permissions of 4260 dwellings, proposed allocations in the MBLP of 2540 and 96 dwellings on windfall sites. At the hearing the Council provided an update to its Housing Topic Paper dated 1 September 2016 showing an increase in five year housing land supply to 5.71 years. However, this document has not been subject to the full review provided by the local plan examination and therefore it too must be treated with caution.
23. The OAN has yet to be fully tested through the local plan process and this figure is fundamental to the determination of whether supply addresses housing need. With regard to the buffer, whilst the appellant argued that this should be 20% on the basis of a persistent record of under delivery I am not convinced by this argument. During the first two years of the plan period when the South East Plan was the relevant development plan the target was exceeded and taking account of longer terms housing market cycles I consider that a persistent record of under delivery has not been demonstrated and so a 5% buffer is reasonable.
24. The evidence I heard at the hearing leads me to conclude that in a number of cases the Council has over-estimated the capacity of its allocations as the permission granted was significantly below the identified allocation. This leads to doubts about the capacities of other sites to meet their allocation. As these allocations have yet to be fully tested through the local plan examination it is far from clear that all of the proposed allocations would be deliverable.
25. On behalf of Warmlake Residents Association it was argued that the windfall sites contribution was too low and that an allowance for small sites should be made in each of the first five years together with a large site windfall figure. The Council's approach which avoids double counting sites with planning permission and the assumption that fewer large windfall sites will come forward

as they are likely to have already been allocated is both reasonable and in line with the Framework.

26. Consequently I find that the Council cannot demonstrate a five year supply of deliverable housing sites. Therefore, as Policy ENV28 of the MBWLP and Policy SP17 of the MBLP are relevant policies for the supply of housing they are out of date and so little weight should be given to the fact that the appeal site is located in the countryside. Additionally, having regard to the provisions of paragraph 49 of the Framework, the need for housing weighs in favour of the proposal.
27. On the basis of paragraph 7 of the Framework it is necessary to consider whether the proposed development would address the economic, social and environmental roles of sustainable development. The proposed development would contribute to the economic role as house building promotes economic growth through construction activity and future occupiers of houses would provide custom for existing shops and services in Sutton Valence.
28. In terms of the social role the provision of up to nine houses would make a modest contribution towards meeting housing need within the borough and would meet the Framework requirement to boost housing supply. The site is also reasonably accessible to Sutton Valence on foot and bus services to Maidstone can be accessed from bus stops at the Warmlake crossroads.
29. I have found that the proposals would not be harmful to the character and appearance of the area and I have identified no other environmental harms. Consequently the environmental role of sustainable development would be met.

Other Matters

30. Concern was expressed by many residents in writing and at the hearing that the proposal would result in a danger to highway users. However, the access and off-site highway works would be in accordance with the relevant technical standards and have been accepted without objection from the highway authority, subject to a number of conditions. In the absence of substantive evidence to the contrary, I have no reason to disagree with that view.
31. On behalf of Warmlake Residents Association it was suggested that the density of the proposed scheme was low and that subsequently a higher density scheme could be proposed which would create additional traffic. However, that is not the scheme before me and if such proposals were to emerge they would need to be considered as part of a fresh application.
32. Other concerns raised in representations including air quality, pollution, noise and disturbance have not been substantiated through evidence and therefore provide no reason to dismiss the appeal. Concerns about drainage can be addressed through an appropriately worded planning condition.

Conditions

33. The Council suggested a number of conditions to be imposed were I to allow the appeal. These were discussed with the main parties at the hearing and I have also had regard to the conditions in the light of the Framework and Planning Practice Guidance (PPG).

34. A condition relating to the submission of reserved matters and the timing of commencement is needed due to the outline nature of the application (Condition 1). A condition is necessary to address the potential archaeological interest in the site (2) as are conditions to address the biodiversity and woodland of the site (3 and 4). Condition 5, relating to external lighting is necessary in order to protect the appearance of the area and to limit the impact of lighting on the wider environment.
35. Conditions 6 and 7 are necessary to address the layout of the scheme submitted under condition 1 and to ensure that the parking and manoeuvring of vehicles is not detrimental to other road users or amenity. However, I have amended these conditions to remove those elements which would have restricted permitted development rights as PPG states that such conditions should not normally be imposed. The elements I have deleted would not meet the tests of necessity or reasonableness.
36. Conditions are also required in order to address matters of highway safety during the construction phase (8) and when operational (9 and 11). It is also necessary to impose a condition to ensure that the existing vehicular access to the site is removed in the interests of the appearance of the area (10). Conditions are also required to ensure appropriate arrangements for sustainable water management (12) and to protect the existing trees in the interests of amenity (13 and 14). I have amended the proposed condition relating to energy efficiency as this does not directly relate to the reserved matters (15). The condition is necessary in the interests of sustainability. Finally, a condition specifying the relevant plans is required as this provides certainty (16).
37. It is not necessary to have conditions relating to the materials to be used in construction or to address landscaping details as these would be dealt with at reserved matters stage or to specify that no surface water shall discharge onto the public highway as this would not meet the tests of enforceability and in any event can be addressed through condition 12.
38. PPG advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In this respect it is necessary for conditions 2, 3, 4, 8, 9, 12, 13 and 14 to be conditions precedent as they are so fundamental to the development that it would otherwise be necessary to refuse the application.

Planning Obligations

39. The appellant has undertaken to contribute £2360.96 per dwelling for the provision of educational needs arising from the proposed development and £48.02 per dwelling in respect of a library contribution. On the basis of Kent County Council's comments I am satisfied that the contributions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to the development and therefore consistent with Policy CF1 of the Local Plan and Regulation 122 of the Community Infrastructure Levy Regulations, 2010 (as amended). Whilst, PPG states that tariff-style contributions should not be sought from developments of 10 dwellings or less, as the gross floor area is likely to exceed 1000sq.m the criteria for seeking contributions would be met. The contributions are also in line with pooling restrictions as set out in Regulation 123 which requires

obligations to relate to projects where fewer than five contributions have already been provided. On this basis I find the contributions towards education and library provision to be acceptable.

40. The UU also makes provision for 40% of the housing to be affordable. This would be in line with the guidance as set out in PPG and with Policy AH1 of the Local Plan and the Council's Affordable Housing SPD because the site area exceeds 0.5ha and the gross floors area would be likely to exceed 100sq.m notwithstanding the fact that the number of units would be less than 10. On this basis the provision of affordable housing is appropriate.

Conclusion

41. The proposal would result in development outside of the defined settlement boundary in conflict with Policy ENV28 of the MBWLP and Policy SP17 of the MBLP. However, these are policies for the supply of housing and are not up to date. I have found that in other respects the proposed development would accord with development plan policies and the provision of housing would be a clear benefit in the light of the Framework aim to boost significantly the supply of housing. I have also concluded that the development would meet the three dimensions of sustainable development as set out in the Framework. These are very significant considerations that are sufficient to outweigh the limited conflict with Policies ENV28 and SP17 in this case.
42. For these reasons, and taking into account all matters presented in evidence and raised at the hearing, I conclude that on balance the appeal should be allowed.

Kevin Gleeson

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Peter Court	Peter Court Associates
Tom La Dell	La Dell Wood
Heather Sargent	Landmark Chambers

FOR THE LOCAL PLANNING AUTHORITY

Rachael Elliott	Maidstone Borough Council
Stuart Watson	Maidstone Borough Council

INTERESTED PARTIES

Paul McCreery	PMC Planning, on behalf of Warmlake Residents Association
Eileen Riden	Chairman, Sutton Valence Parish Council
Janet Burnett	Clerk, Sutton Valence Parish Council
Paul Burnett	Neighbouring Resident
Patricia Trodd	Neighbouring Resident
Simon Green	Neighbouring Landowner

DOCUMENTS SUBMITTED AT THE HEARING

1. Housing Topic Paper Update 1 September 2016, submitted by the Council.
2. Supplementary Statement by Paul McCreery.
3. Up to date Position on the Threat of Urbanisation, submitted by Paul McCreery.
4. Housing Sites Assessment – Site 9 and Site 3, submitted by Paul McCreery.
5. Letter from Simon Green to The Planning Inspectorate dated 1 November 2016.
6. Statement of Common Ground.
7. Costs application submitted by the appellant.

DOCUMENTS SUBMITTED AFTER THE HEARING

8. Details of Warmlake Residents Association submitted by Paul McCreery.

9. Extract from Landscape Character Appraisal, 2012 submitted by the Council.
10. Council's response to appellant's cost application.

SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout and scale (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

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

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

2. Prior to development commencing a programme of archaeological works in accordance with a written specification and timetable shall have been submitted to and approved in writing by the Local Planning Authority. No development shall take place other than in accordance with the programme and written specification.
3. Prior to development commencing, a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall take account of any protected species that have been identified on the site, shall include the enhancement of biodiversity through integrated methods into the design and appearance of the dwellings by means such as swift bricks, bat tube or bricks and in addition shall have regard to the enhancement of biodiversity generally. It shall be implemented in accordance with the approved proposals prior to occupation and shall be maintained permanently thereafter.
4. Prior to development commencing, a woodland management plan for the site shall have been submitted to and approved in writing by the Local Planning Authority. This shall include details of the long-term retention and enhancement of the wooded western and northern boundaries of the application site. It shall be implemented in accordance with the approved proposals within it and shall be maintained permanently thereafter.
5. No external lighting shall be installed until details have been submitted to, and approved in writing by the Local Planning Authority. This submission shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles). The approved scheme shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation. The scheme shall be in

accordance with the requirements outlined in the Bat Conservation Trust and Institution of Lighting Engineers documents Bats and Lighting in the UK.

6. The details submitted in pursuance of Condition 1 shall show adequate land, reserved for parking or garaging to meet the needs of the development. The approved area shall be provided, surfaced and drained in accordance with the approved details before the buildings are occupied and shall be retained for the use of the occupiers of, and visitors to, the premises, permanently thereafter.
7. The details submitted in pursuance of Condition 1 shall show adequate land, reserved for vehicle loading/unloading and turning facilities to meet the needs of the development. The approved area shall be provided, surfaced and drained in accordance with the approved details before the buildings are occupied and shall be retained permanently thereafter.
8. Prior to development commencing the following shall be submitted to and approved in writing by the Local Planning Authority:

Details of facilities, by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances at the application site. The approved facilities shall then be provided prior to the works commencing on site and thereafter shall be maintained in an effective working condition and used before vehicles exit the site and enter onto the adopted highway for the duration of the construction works;

Details of construction vehicle loading/unloading and turning facilities; and

Details of parking facilities for site personnel and visitors during construction phase.

The works shall be carried out in accordance with the approved details and retained for the duration of the construction works.

9. Prior to development commencing, the proposed new access shall be provided and the area of land within the vision splays shown on the approved plan shall be reduced in level as necessary and cleared of any obstruction exceeding a height of 0.6 metres above the level of the nearest part of the carriageway and be so retained in accordance with the approved plan.
10. Prior to occupation of the first dwelling, the existing vehicular access from Chartway Street shall be blocked up and landscaped in accordance with the details submitted and approved as part of the landscaping scheme.
11. Prior to development reaching damp proof course level the applicant shall enter into a Section 278 Agreement with the highways authority for works to include closure of the existing access, localised road widening, establishing visibility splays and construction of new access, footway and kerbing details including a step free raised border at the bus stop where suitable. All approved works, including any diversions of statutory undertakers' equipment, and necessary signage and restrictions shall be completed prior to the occupation of any part of the development in accordance with a copy

of the approved agreement for works that shall have been previously submitted to and approved by the Local Planning Authority.

12. Prior to development commencing a scheme for the disposal of (a) surface water (which shall in the form of a SUDS scheme) and (b) waste water shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained permanently thereafter.
13. Prior to development commencing full details of tree protection shall have been submitted to and approved in writing by the Local Planning Authority. Any trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority.
14. Prior to development commencing an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837:2012 shall have been submitted to and approved in writing by the local planning authority. This shall include details such as the positions of any service/drainage runs and any access facilitation pruning requirements.
15. Details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved shall be submitted to and approved in writing by the local planning authority prior to occupation of the first dwelling. The development shall be implemented in accordance with the approved details and all features shall be maintained permanently thereafter.
16. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Ecology Phase 1 Habitat Survey
 - Ecology Bat Activity Surveys
 - Transport Statement
 - Tree Survey Issue 2
 - Drawing number 2245/15/B/6A (Site Location Plan)
 - Drawing number 2245/15/B/5A (Site Layout) (Illustrative) - Matters relating to point of access only.

20 m
100 ft



19/504300/FULL - Wierton Hall Farm

Scale: 1:1250

Printed on: 19/2/2020 at 11:07 AM by StevieH

REFERENCE NO - 19/504300/FULL		
APPLICATION PROPOSAL Variation of condition 6 of 19/501536/FULL (Erection of a single storey building to provide staff accommodation/holiday let and staff training room) to allow no time restriction on staff accommodation.		
ADDRESS Wierton Hall Farm East Hall Hill Boughton Monchelsea Maidstone Kent ME17 4JU		
RECOMMENDATION Grant Planning Permission subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION As long as the residential use in support of Aspen Tree Services is tied to this use and for no other purpose (and which has already been conditioned), it is considered there is no objection to amending condition 6 as sought.		
REASON FOR REFERRAL TO COMMITTEE Recommendation contrary to the views of Boughton Monchelsea Parish Council		
WARD Boughton Monchelsea And Chart Sutton	PARISH/TOWN COUNCIL Boughton Monchelsea	APPLICANT Mr & Mrs Curteis AGENT CF.Architects Ltd
TARGET DECISION DATE 05/03/20 (EOT)		PUBLICITY EXPIRY DATE 04/10/19

Relevant Planning History

- 19/501536/FULL
Erection of a single storey building to provide staff accommodation/holiday let and staff training room. Approved. Decision Date: 21.05.2019

MAIN REPORT

1. SITE DESCRIPTION

- 1.1 The application site lies immediately to the south of large corrugated iron barn used in connection with the applicant's tree surgeon business.
- 1.2 Abutting the application site to the south west is a dense tree screen while to the east is an open paddock with a public footpath running along its east boundary.
- 1.3 The application site forms part of the Wierton Hall Farm complex of buildings fronting onto an enclosed courtyard.
- 1.4 Abutting the Wierton Hall Farm complex to the west is the Grade II Listed Building Wierton Hall.
- 1.5 The Greensand Ridge landscape of local value lies to the south of the complex.

2. PROPOSAL

- 2.1 The following information was submitted in support of the original planning application:
 - The intention is to remove the existing mobile home and replace it with a small single storey building.
 - The building will have two functions – as a training room and changing area for use by Aspen Tree Services with the remainder used to accommodate employees.

- The business does not have an acceptable purpose built training facility and there is a need to keep employees up to date with latest best practice.
 - Due to the difficulty in employing suitably skilled staff, Aspen Tree Services sometimes employ staff from outside the immediate locality. The accommodation will be used to accommodate staff living some distance away and also as a holiday let. Business Case:
 - Aspen Tree Services employ specialist staff and as such often have to recruit from outside the local area to get suitable employees. Often employees come from outside the county of further afield - sometimes to such an extent that employees need to find accommodation away from where they live.
 - There is a lack of suitable accommodation locally that can satisfy their needs.
 - The additional problem involved in finding accommodation is that it is not necessarily available from local B&B's when Aspen Tree Services need to accommodate staff.
 - There are 15 local Bed and breakfasts in within 3 miles which are often booked.
 - The owners of Aspen tree services also have a holiday let cottage which they rent out during the year. They would like to expand this business by building an additional one bedroom cottage.
 - The current accommodation is booked approximately 70% of the time and is full for the entire holiday season when rents are at their highest.
 - There is a niche for additional tourist accommodation that, based on their current holiday let, will easily be filled.
 - This will work in tandem with Aspen Tree Services employees as times when building will be required for tourist and business accommodation are at different times of the year.
 - There are other benefits to developing this as a rural business in that tourism provides additional income to tourist attractions in the area, local builders who will construct the project and support workers as part of the longer term running of the business.
 - The application has also been accompanied by an ecological survey
- 2.2 Condition 6 currently appended to planning permission ref: 19/501536 is worded as follows:
"Single occupation of this building as tourist/staff accommodation shall be restricted to no more than 28 days at any one time. Reason: To prevent the establishment of a permanent residential presence in an area where such development would not normally be permitted".
- 2.3 Consent is sought to amend the wording of the above condition so that use of the building as 'staff accommodation' can be carried out without the 28 day restriction. The 28 day restriction would still apply for the use of the building for tourist accommodation. With the amended condition reading as follows:
"Single occupation of this building as tourist/~~staff accommodation~~ shall be restricted to no more than 28 days at any one time. Reason: To prevent the establishment of a permanent residential presence in an area where such development would not normally be permitted".
- 2.4 The justification from the applicant for seeking this amendment is set out below:
- *Difficulty in employing suitably skilled staff locally brings with it the need to seek staff from outside the area requiring accommodation away from where they live.*
 - *Though there are B&B's within 3 miles of the site these are often booked while not being sufficiently flexible to accommodate the businesses working practices.*
 - *Lack of suitable on site accommodation could compromise the businesses ability to recruit and retain the right calibre of staff to the detriment of the businesses continuing ability to function viably and efficiently.*

- 2.5 The use by staff would still be restricted by condition 3 which states the building shall be used for staff training and restricts the staff accommodation to those associated with the commercial operations of Aspen Tree Services located at Wierton Hall Farm, ME17 4JU.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 DM1, DM4, SP17, DM30, DM37

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.1 One representation received from a local resident raising the following (summarised) issues: Concerned that relaxation of the condition will result in the building becoming a permanent residence.

5. CONSULTATIONS

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

- 5.1 **Boughton Monchelsea Parish Council:** Objects on the following grounds:

- Condition imposed to prevent the establishment of a permanent residential presence in an area where such development would not normally be permitted.
- See no reason why the condition should be removed or why staff need to live permanently on the site.

- 5.2 **Kent Highways:** Nature of proposal does meet consultation criteria.

- 5.3 **EHO:** No objection

6.0 APPRAISAL

Main Issues

- 6.1 Planning permission has already been granted under application ref:19/501536 (report attached as **Appendix 1**) for on site accommodation to support this rural business.

- 6.2 The key issues are therefore whether relaxation of the condition 6 will result in any
- material harm to the rural character or setting of the area,
 - harm the amenity of nearby residents,
 - adversely affect the character or setting of the nearby Listed Building or
 - bring any material change in highway terms.

Impact on the character and setting of the countryside:

- 6.3 The planning permission already granted under ref: 19/601536 means that it is already accepted that neither the building nor its use will result in demonstrable harm to the character or setting of the countryside or materially intrude into views from the public footpath to the east.

- 6.4 The purpose of condition 6 is to avoid the establishment of a permanent residential presence in an unacceptable rural location. However as long as the residential use in support of Aspen Tree Services is tied to this use and for no other purpose (and which has already been conditioned), it is considered there is no objection to amending the condition as sought.

Amenity, heritage and highway considerations:

- 6.5 It is considered the proposed change will not bring about any material alteration to the amenity of existing residents, the character or setting of the nearby heritage asset or local highway conditions contrary to the provisions of policies DM1 and DM4 of the local plan.

Wildlife:

- 6.6 Wildlife mitigation and enhancement measures have already been approved in connection with application ref: 19/501536 and these will continue to be secured in the event of planning permission being granted for this proposal.

Public Sector Equality Duty

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

Other matters

- 6.8 The proposal needs to be 'screened' as to whether it should have been accompanied by an Environmental Impact Assessment (EIA).
- 6.9 As the site does not fall within an AONB nor does it exceed any of the Schedule 2 thresholds set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 no requirement for an EIA is identified. It should be stressed this conclusion does not imply support for the proposal or set aside the need to assess the proposal against normal planning criteria.
- 6.10 The proposed development is CIL liable. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

7. CONCLUSION

- 7.1 As long as the residential use in support of Aspen Tree Services is tied to this use and for no other purpose (condition 3), it is considered there is no objection to amending condition 6 as sought.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions:

- (1) The development hereby permitted shall be begun before the 21st May 2022.

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

- (2) Prior to the development hereby approved reaching damp proof course details of all external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved Details

Reason: In the interests of amenity.

- (3) The building hereby approved shall be used (a) for staff training and staff accommodation and (b) for tourist accommodation and for no other purposes whatsoever and only in connection with the commercial operations of Aspen Tree Services located at Wierton Hall Farm, ME174JU

Reason: To reflect the special circumstances of the application and to prevent the establishment of a permanent residential presence in an area where such development would not normally be permitted.

- (4) The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS 5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained as shown on drawing no: 253(P)010 rev2 must be protected by barriers and/or

ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

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

- (5) The trees shown on drawing no: 253(P)010 rev2 must be retained at a height of no lower than 6 metres above ground level. Any of these trees becoming dead, dying, diseased or dangerous shall be replaced by a heavy standard specimen /s of the same species and in the same location in the first available planting season.

Reason: In the interests of visual amenity.

- (6) Single occupation of this building as tourist accommodation shall be restricted to no more than 28 days at any one time. Reason: To prevent the establishment of a permanent residential presence in an area where such development would not normally be permitted.

- (7) Prior to first occupation of the development hereby approved details of a native species landscaping scheme to screen the building from views from the east shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be implemented within the first planting season following approval. Any specimens becoming dead dying or diseased within 5 years of planting shall be replaced by specimen/s of the of the same size and siting.

Reason: In the interests of visual amenity.

- (8) The development hereby approved shall be carried out in accordance with the recommendations set out in paragraphs 3.1-3.3 (inc) of the preliminary ecological appraisal carried out by Brindle & Green Ecological Consultants Ltd approved as part of application ref:19/501536.

Reason: In the interests of wildlife protection.

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

Reason: To safeguard the night time rural environment.

- (10) On first use of the development hereby permitted the mobile home currently occupying the site shall be permanently removed from the site.

Reason: In the interests of visual amenity.

- (11) The development hereby approved shall be carried out in accordance with the with the following approved plans being drawing nos: 253(P)001 Rev 0 , 002 rev 1, 003 rev 1, 005 rev2, 010 rev2 and 015 rev 1.

Reason: In the interests of amenity.

Informatives:

- (1) Details submitted pursuant to condition 9 above must show the use of low intensity luminaires orientated and screened to ensure that light spread is contained within the site boundaries and to avoid skyglow.
- (2) It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highwayboundary-enquiries> The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
- (3) The site lies within a KCC minerals safeguarding area. You should contact KCC mineral planning to see whether it wishes to comment on the proposals from this perspective.
- (4) The proposed development is CIL liable. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

Case Officer: Graham Parkinson

APPENDIX 1

NOTES FOR TECH		
APPLICATION PROPOSAL Erection of a single storey building to provide staff accommodation/holiday let and staff training room.		Ref No 19/501536/FULL
ADDRESS Wierton Hall Farm East Hall Hill Boughton Monchelsea Maidstone Kent ME17 4JU		
RECOMMENDATION - Application Permitted		
WARD Boughton Monchelsea And Chart Sutton	PARISH/TOWN COUNCIL Boughton Monchelsea	APPLICANT Mr & Mrs Curteis AGENT CF.Architects
DECISION DUE DATE 23/05/19		PUBLICITY EXPIRY DATE 03/05/19

Relevant Planning History

18/500223/FULL

Variation of condition 2 of appended to planning permission ref: 11/1352 seeking retrospective consent to permit the movement of vehicles within the application site between 0600-1730 hrs Mon-Sat (currently 0700-1730 hrs Mon-Sat) but retaining restriction on no movements whatsoever on Sundays, Bank and Public Holidays.

Refused Decision Date: 09.03.2018

SITE DESCRIPTION

The application site lies above a KCC minerals safeguarding area.

The application site lies immediately to the south of large corrugated iron barn used in connection with the applicants tree surgeon business. There is currently a mobile home occupying the application site.

Abutting the application site to the south west is a dense tree screen while to the east is an open paddock with a public footpath running along its east boundary.

The application site forms part of the Wierton Hall Farm complex of buildings fronting onto an enclosed courtyard.

Abutting the Wierton Hall Farm complex to the west is the Grade II Listed Building Wierton Hall occupying a well screened and enclosed site.

To the south the complex fronts the Greensand Ridge landscape of local value.

Finally the site lies within a KCC minerals safeguarding area.

PROPOSAL:

The intention is to remove the mobile home and replace it with a small single storey building.

The following has been submitted in support:

1. The building will have two functions – as a training room and changing area for use by Aspen Tree Services with the remainder used to accommodate employees.
2. The business does not have an acceptable purpose built training facility and there is a need to keep employees up to date with latest best practice.
3. Due to the difficulty in employing suitably skilled staff, Aspen Tree Services sometimes employ staff from outside the immediate locality. The accommodation will be used to accommodate staff living some distance away and also as a holiday let.

Business Case:

4. Aspen Tree Services employ specialist staff and as such often have to recruit from outside the local area to get suitable employees. Often employees come from outside the county of further afield - sometimes to such an extent that employees need to find accommodation away from where they live.
5. There is a lack of suitable accommodation locally that can satisfy their needs.
6. The additional problem involved in finding accommodation is that it is not necessarily available from local B&B's when Aspen Tree Services need to accommodate staff.
7. There are 15 local Bed and breakfasts in within 3 miles which are often booked.

Holiday let:

8. The owners of Aspen tree services also have a holiday let cottage which they rent out during the year. They would like to expand this business by building an additional one bedroom cottage.
9. The current accommodation is booked approximately 70% of the time and is full for the entire holiday season when rents are at their highest.
10. There is a niche for additional tourist accommodation that, based on their current holiday let, will easily be filled.
11. This will work in tandem with Aspen Tree Services employees as times when building will be required for tourist and business accommodation are at different times of the year.
12. There are other benefits to developing this as a rural business in that tourism provides additional income to tourist attractions in the area, local builders who will construct the project and support workers as part of the longer term running of the business.

The application has also been accompanied by an ecological survey

POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 SP17, DM30, DM37

LOCAL REPRESENTATIONS

1 representation received which is summarised below:

13. Sceptical about the proposal but subject to the retention of the boundary trees should be sufficiently concealed.

CONSULTATIONS

PC: No objection but would like assurance that the existing mobile home will be removed from the site.

Kent Highways: Does not meet criteria triggering a response.

EHO: No objection

APPRAISAL

Key Issues:

The site is located in the countryside and the proposed development will be principally subject to the following planning considerations.

The NPPF at paragraph 83 supports the rural economy and that planning decisions should, amongst other things, enable the following types of development:

- the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- the development and diversification of agricultural and other land-based rural businesses and;
- sustainable rural tourism and leisure developments which respect the character of the countryside.

The local plan policies relevant to this proposal are summarised below:

-

Policy SP17 states that proposals which accord with other policies in the plan and which do not harm the countryside will be permitted.

- Policy DM30 requires, amongst other things, that the type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features; that impacts on the appearance and character of the landscape will be appropriately mitigated and that any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation reflecting the landscape character of the area.

- DM37 permits the sustainable growth and expansion of rural businesses subject to new buildings being small in scale, be integrated into the local landscape, will not harm local highway conditions or result in harm to the amenity of the area of nearby properties.

It is also necessary to assess the impact on the nearby heritage asset and the amenity of the occupants of this property.

Principle:

Employee accommodation in the countryside will only be permitted if it is demonstrated that (a) there is a business case for the type of accommodation sought and (b) there is no existing accommodation in the locality which could reasonably serve this purpose.

It is considered that given the nature of the applicants business where continued training, not least for health and safety reasons is a prerequisite and the need to attract and retain staff who are not local, that the business case has been demonstrated for the proposed training area and overnight accommodation.

It is also accepted that sufficient information has been submitted to demonstrate that there is no accommodation in the locality which could serve the same purpose.

Regarding the use of the building for tourist accommodation, it considered sufficient evidence has been submitted to demonstrate there is a need.

Given the seasonal nature of both uses it is only necessary to append a condition restricting the use of the building to the purposes specified and condition restricting days of accommodation to ensure that use as a separate dwelling does not become established.

Impact on the character and setting of the countryside:

Given the small size, appropriate low key design and well screened location of the proposed building it is considered that it will not result in demonstrable harm to the character or setting of the countryside or materially intrude into views from the public footpath to the east. However landscaping should be sought to safeguard views from the east.

To safeguard the night-time rural environment restrictions on external lighting should be secured by condition.

Trees:

Abutting and completely enclosing the south west boundary of the site is a dense tree screen of Lawson cypress and one Ash Tree. The site layout shows the building not encroaching into the RPA's and subject to a tree protection condition it is considered these trees will be retained.

The applicants arboricultural consultants advises the existing caravan will be removed and the new building sited in this location. Confirm there is concrete hard core with minimal top soil in this area, so it is highly unlikely that tree roots will have grown under the caravan.

The tree grouping located to the south of the wall is also approximately 400 mm higher than the site, further reducing the likelihood of tree roots under the site but it is intended to crown the trees to 6 metres to reduce the risk of falling trees.

This will continue to ensure that the building is screened from this direction.

Heritage considerations:

The proposed building will be largely screened by the bulk of the adjoining large building from views from Wierton Hall. No adverse impact on the character and setting the LB is therefore identified.

Amenity:

For the reasons set out above it is considered the use of the building will be carried out without harming the aural amenity or outlook of any nearby dwellings.

Highways:

No additional traffic will be generated by training/staff accommodation use. The tourist use will generate a nominal number of additional traffic movements which in the context of site having sufficient on site turning and good access will not cause any highway issues.

Wildlife:

The application site area is grassland of low ecological value but is bordered by trees and scrub. The ecological appraisal concludes the proposal will have little direct impact on protected species but recommends mitigation measures.

It is considered these are proportionate to the modest scale and impact of the proposal.

Conclusions:

This is a small scale development in support of an existing rural business which will not result in any material harm to the character and setting of the countryside, nearby heritage asset while being acceptable in its amenity, highway and wildlife impacts.

It is therefore recommended that planning permission is granted.

EIA Screening

EIA Development	No
Comments	Not Schedule 2 and not in AONB

CIL Liable – Yes

RECOMMENDATION – Application Permitted subject to the following conditions/reasons:

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

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

(2) Prior to the development hereby approved reaching damp proof course details of all external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of amenity.

(3) The building hereby approved shall be used (a) for staff training and staff accommodation and (b) for tourist accommodation and for no other purposes whatsoever and only in connection with the operations of Aspen Tree Services located at Wierton Hall Farm, ME174JU

Reason: To retain control over the use in the interests of amenity.

(4) The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS 5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained as shown on drawing no: 253(P)010 rev2 must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

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

(5) The trees shown on drawing no: 253(P)010 rev2 must be retained at a height of no lower than 6 metres above ground level. Any of these trees becoming dead, dying, diseased or dangerous shall be replaced by a heavy standard specimen /s of the same species and in the same location in the first available planting season.

Reason: In the interests of visual amenity.

(6) Single occupation of this building as tourist/staff accommodation shall be restricted to no more than 28 days at any one time.

Reason: To prevent the establishment of a permanent residential presence in an area where such development would not normally be permitted.

(7) Prior to first occupation of the development hereby approved details of a native species landscaping scheme to screen the building from views from the east shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be implemented within the first planting season following approval. Any specimens becoming dead dying or diseased within 5 years of planting shall be replaced by specimen/s of the of the same size and siting.

Reason: In the interests of visual amenity.

(8) The development hereby approved shall be carried out in accordance with the recommendations set out in paragraphs 3.1-3.3 (inc) of the preliminary ecological appraisal carried out by Brindle & Green Ecological Consultants Ltd.

Reason: In the interests of wildlife protection.

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

Reason: To safeguard the night time rural environment.

(10) On first use of the development hereby permitted the mobile home currently occupying the site shall be permanently removed from the site.

Reason: In the interests of visual amenity.

(11) The development hereby approved shall be carried out in accordance with the with the following approved plans being drawing nos: 253(P)001 Rev 0 , 002 rev 1, 003 rev 1, 005 rev2, 010 rev2 and 015 rev 1.

Reason: In the interests of amenity.

INFORMATIVES

(1) Lighting:

Details submitted pursuant to condition 9 above must show the use of low intensity luminaires orientated and screened to ensure that light spread is contained within the site boundaries and to avoid skyglow.

(2) Highways:

It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to

avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look

like roads or pavements but are actually part of the road. This is called 'highway land'. Some of

this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at

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

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

(3) KCC MINERALS:

The site lies within a KCC minerals safeguarding area. You should contact KCC mineral planning to see whether it wishes to comment on the proposals from this perspective.

(4) CIL:

The proposed development is CIL liable. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

The Council's approach to this application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.


In this instance:

The application was acceptable as submitted and no further assistance was required.

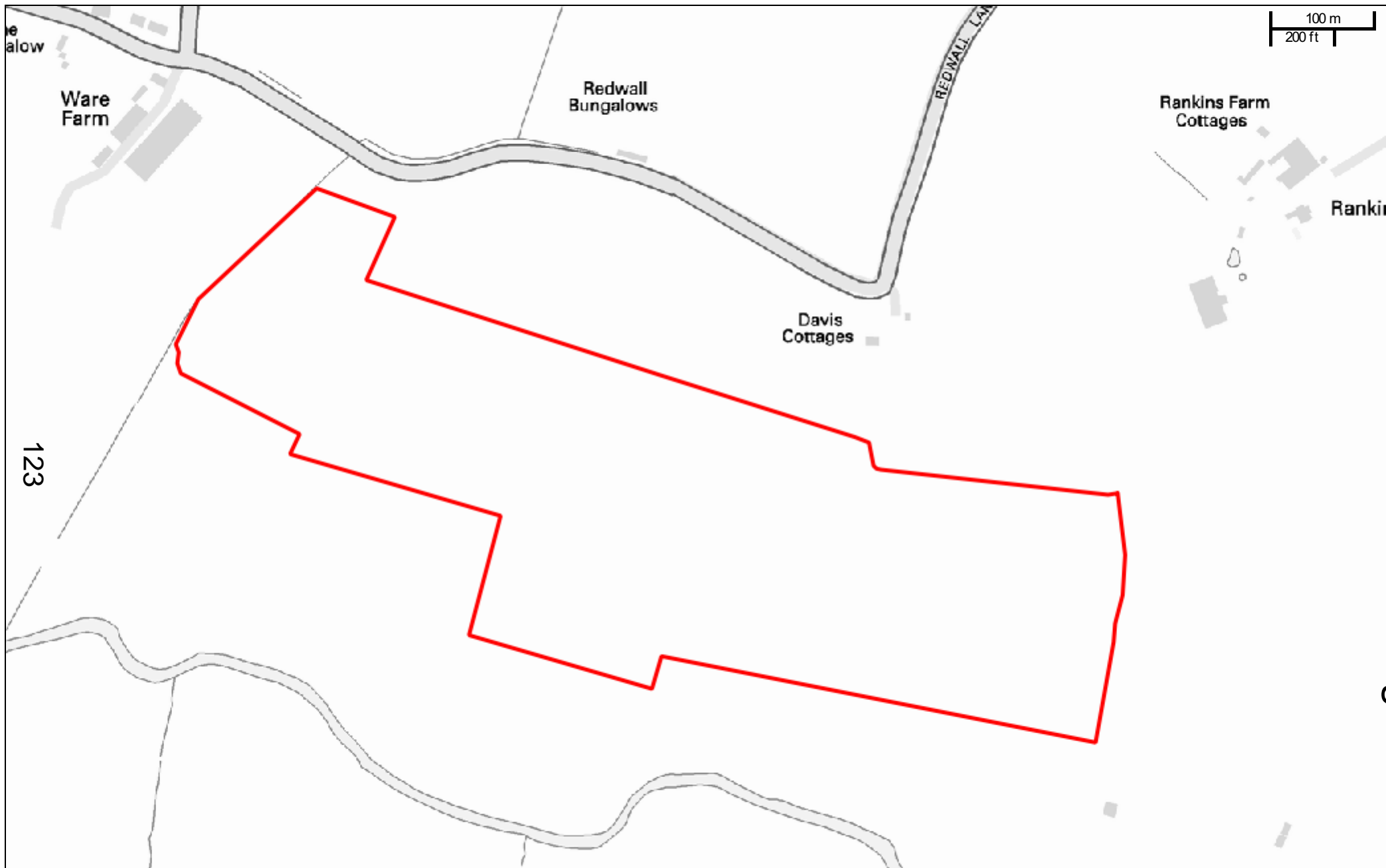
The application was approved without delay.

The applicant/agent was provided with formal pre-application advice.

There is a separate application process to discharge conditions. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').

Delegated Authority to Sign:	Date:
	21.05.2019

PRINT NAME: T Ryan	
--------------------	--



19/505352/FULL - Land at Rankins Farm

Scale: 1:5000

Printed on: 19/2/2020 at 10:52 AM by StevieH

REFERENCE NO - 19/505352/FULL			
APPLICATION PROPOSAL Erection of polytunnels with associated soft landscaping and drainage works, including the provision of swales.			
ADDRESS Land at Rankins Farm Linton Hill Linton Kent ME17 4AU			
RECOMMENDATION Grant Planning Permission subject to planning conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is justified as being essential to the continuing development and viability of this important rural business while being acceptable in in landscape, amenity, flooding, wildlife and highway impacts.			
REASON FOR REFERRAL TO COMMITTEE Contrary to the views of Linton Parish Council			
WARD Coxheath and Hunton	PARISH/TOWN Linton	COUNCIL	APPLICANT Mr O Pascall AGENT Bloomfields
TARGET DECISION DATE 05/03/20		PUBLICITY EXPIRY DATE 06/12/19	

Relevant Planning History

- 18/500214/FULL
Application for the erection of polytunnels with associated landscaping
Approved Decision Date: 10.05.2018
- 19/505068/ENVSCR
EIA Screening Opinion - Installation of polytunnels.
The land has been intensively farmed and the development is not so significant or wide ranging so as to warrant an Environmental Statement an Environmental Impact Assessment Decision Date: 29.10.2019

MAIN REPORT

1. SITE DESCRIPTION

- 1.1 The application site has an area of approximately 20 ha comprising a mainly level area of farmland located on the west side of Linton Hill to the south west of Rankins Farm and immediately abutting the western side of 10 ha of polytunnels permitted under ref: 18/500214.
- 1.2 Abutting the application site to the west is the main processing, packing and distribution centre serving this farming enterprise known as Clock House Farm.
- 1.3 In a wider context the site lies in open countryside with part of the site falling within a KCC minerals safeguarding area.
- 1.4 To the south of the site and some distance away from it is the River Beult Site of Special Scientific Interest (SSSI). Public footpath KM 129 runs in an east -west direction to the south of the site.

2. PROPOSAL

- 2.1 Permission is sought for a further 20 ha of polytunnels for soft fruit production (strawberries and blackberries). Cross section details show the polytunnels having a width of 5 metres and a height of 4.6 metres. The polytunnels will only be covered between March and November.

- 2.2 Also proposed as part of the current application are a series of narrow swales running along the southern perimeter of the application site. The proposed swales and existing measures are sufficient to manage the runoff from the proposed polytunnels. The reservoir shown on the proposed plans is outside the application site boundary, it does not form part of the water management system for the current proposal and does not form part of the current proposal.
- 2.3 The landscape strategy plan shows existing hedgerows defining the northern site boundary, running east west through the centre and along the southern site boundary being thickened up. In addition, a length of the southern site boundary is to be defined by a new hedge and tree line. All new planting will be native species comprising a mix of Hawthorn, Field Maple, Hornbeam, Dogwood, Beech, Holly, Blackthorn, and Dog Rose.
- 2.4 The application is accompanied by supporting information the key points of which are paraphrased below:
- Clock House Farm Ltd has approximately 385 hectares of land spread over a number of farms in Kent producing top and soft fruit.
 - Clock House Farm Ltd supply Tesco, Marks and Spencer, Waitrose, Morrison's, Asda, Sainsbury's, The Co-operative and local outlets.
 - Clock House Farm have received awards relating to food standards and the quality of their produce.
 - Currently employ 45 full time staff with 600 seasonal staff (May to November)
 - Polytunnels are essential to support the farming practices of Clock House Farm for the growing of strawberries, blackberries and raspberries, to meet customer and market demands over an extended season.
 - Since 2012 supermarkets no longer accept soft fruit for onward sale unless grown under polytunnels.
 - 10% of the raspberries and 40% of the sweet blackberries sold in the UK are from Clock House Farm Ltd. Without the use and associated benefits of polytunnels, Clock House Farm Ltd would not be able to provide the amount and level of quality to meet a growing market and which provide 80% of farm turnover.
 - Polytunnels permit earlier fruit production, extend the growing season, allowed substantial increase in yields, less wastage, weather protection, improved pollination need to use less pesticides continuity of supply and better protection for staff as a consequence of the controlled environment achieved by their use.
 - Over the last fifteen years the sale price of soft fruit has not increased despite large increases in input, harvesting and labour costs.
 - Increases in yields and crop reliability through tunnel use means the productivity of Clock House Farm has continued to rise, allowing the farm to remain competitive.
 - However increased input costs without increases in sale prices means there is even more importance for the fruit to be delivered to the market in larger higher quantities and of a higher quality to maintain contracts and provide a sustainable income.
- 2.5 The application is accompanied by an ecological appraisal, landscape strategy and landscape and visual impact assessment (LVIA), Flood Risk Assessment (FRA) along with farm policy statements relating to Landscape and Nature Conservation/Enhancement, use of energy, water and other natural resources, recycling, health and safety, pollution prevention and nuisance management.

3. **POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 SP17, DM1, DM3, DM30, DM36
Maidstone Landscape Character Assessment (2015)

4. **LOCAL REPRESENTATIONS**

Local Residents:

- 4.1 2 objections received from local residents raising the following (summarised) issues:
- Proposal will have a significant impact on the landscape character of Linton while being visible from the Greensand Ridge, footpaths along the Beult River, and also from Redwall Lane (including being visible from my property at Redwall Bungalows).
 - The landscape character assessment states that the landscape in this area is sensitive to development and that the undeveloped nature of the landscape with orchards and small fields should be maintained.
 - If permitted will be a swathe of polytunnel almost a mile long running along the Beult Valley, a SSSI.

5. **CONSULTATIONS**

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

- 5.1 **Linton PC:** Object on the following grounds: The proposed polytunnels will directly affect the view from the Greensand Ridge, (various footpaths, but notably KM134, the Greensand Way), from Redwall Lane, from footpath KM146 (between Redwall Lane and the A229) and from the two footpaths alongside the Beult, ie KM129 and KM229.
- The site also falls within the Beult Valley SSSI.
 - Area falls within the Yalding Farmland designation which seeks to conserve the traditional small-scale field pattern, largely undeveloped rural landscape and remote quality of existing development, the rural setting of traditional buildings and farmhouses, distinctive ragstone walling, the undeveloped character of the landscape, resist conversion to arable land, avoid linear infill development along roads.
 - Consider the majority of the above guidelines will be breached by the proposal.
- 5.2 **Kent Highways:** Does not trigger criteria justifying a response.
- 5.3 **MBC Landscape:** There are no protected trees on, or immediately adjacent to, the site. However, there are hedgerows marking the lines of field boundaries which may be considered as 'important'.

A third of the site is located in the Beult Valley landscape character area (58) and public footpath KM129 is in closer proximity.

The landscape guidelines for this latter character area contains a guideline to plant oak standards within new hedgerow planting which can be dealt with by condition.

- 5.4 **KCC Ecology:** No objection as the provision of polytunnels within low biodiversity value agricultural land means they are unlikely to result in any significant ecological impacts.
- 5.5 **Natural England:** No objection but mitigation measures are required to avoid damage or destruction to the River Beult Site of Special Scientific by the use of sustainable drainage systems (SuDS) to ensure water quality in the SSSI is

not affected and reuse of run-off from the SuDS for use in the polytunnels to minimise the need for abstraction which may affect the River Beult SSSI.

5.6 **EHO:** No objection

5.7 **Environment Agency:** No objection as proposal has a low environmental risk.

5.8 **Southern Water:** As proposal involves the use of SUDS to maintain its effectiveness details need to be secured by condition specifying who is responsible for implementation of the SUDS, a timetable for implementation and a management and maintenance plan for the lifetime of the development.

5.9 **KCC Flood and Water Management:** No objection subject to conditions dealing with the following:

- Attenuating runoff rate to 1 in 1 year greenfield rates acceptable.
- Recommend rainwater harvesting/reuse is incorporated into the drainage design to reduce runoff while providing additional benefits to the land owner.
- The detailed design stage needs to include cross sections of the proposed swale including details of the available freeboard and outfall including the hydrobrake.

5.10 **Rural Planning:** No objection subject to conditions:

- Clock House Farm Ltd. is a large and well-established top and soft fruit farming business which currently occupies a total of 385 ha of land across several farms in Kent. Growing soft fruit under polytunnels forms a significant part of their overall production.
- It has been recognised for some years that the use of polytunnels is now a necessary part of modern soft fruit production. The system has a number of advantages over conventional unprotected growing including the ability to protect crops from the wind and rain, reduce pesticide/ fungicide use, extend the growing season, provide better yields and continuity of supply, and greater ease of managing the plants and picking the fruits.
- The use of tunnels assists UK growers to meet customer demand as opposed to what might be regarded as the less sustainable alternative of foreign imports.
- In effect the tunnels comprise units of production in themselves, and can be regarded as inherently required and appropriate for the purpose of modern UK soft fruit production.
- Such tunnels have been allowed on many other holdings across the County, as well as on the applicants' farms, subject to the imposition of appropriate conditions.

5.11 **Health and Safety Executive:** No objection

APPRAISAL

6. Main Issues

6.1 The key issues for consideration relate to:

- Principle
- Impact of the proposal on the character and setting of the countryside
- Highways
- Flooding
- Wildlife

Principle

6.2 The NPPF at paragraph 83 seeks to promote a prosperous rural economy, by amongst other things, promoting the development and diversification of agricultural and other land-based rural businesses;

- 6.3 Policy SP17 of the local plan states, amongst other things, that proposals which accord with other policies in the plan and which do not harm the countryside will be permitted.
- 6.4 Policy DM30 of the Local Plan specifically requires, amongst other things, that the type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features; that impacts on the appearance and character of the landscape will be appropriately mitigated and that any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation reflecting the landscape character of the area.
- 6.5 Policy DM36 sets out specific requirement for new agricultural buildings and structures.
- 6.6 Given the above it is considered that there is no objection to the proposal in principle and consideration turns on whether it can be seen to meet the detailed criteria of policy DM36 set out below.

Compliance with policy DM36:

- 6.7 The first test is whether the proposal is necessary for the purposes of agriculture.
- 6.8 The applicants advise that soft fruit production is a growing market providing 80% of farm turnover. Notwithstanding, the sale price of soft fruit has not increased despite large increases in input, harvesting and labour costs. As such it is only by increasing yields through polytunnel use that productivity continues to rise allowing the farm to remain competitive and to provide a sustainable income.
- 6.9 The Agricultural Advisor confirms that the use of polytunnels assists UK growers in meeting customer demand as an alternative less sustainable foreign imports and can be regarded as inherently required and appropriate for the purpose of modern UK soft fruit production.
- 6.10 Given the importance of this enterprise both in its local and wider economic impacts along with its significant employment generating benefits, it is considered the proposed polytunnels are necessary to enable the enterprise to continue to operate profitably and by implication are therefore necessary for the purposes of agriculture.
- 6.11 Regarding whether the proposal will have an impact on the amenity of local residents, there are not considered to be any neighbouring properties sufficiently close to be adversely affected contrary to the provisions of policy DM1 of the local plan. In making this comment it is acknowledged that concerns have been raised regarding harm to the character and setting of the wider rural landscape. However, this is protected in the public interest in accordance with the provisions of policy SP17 and DM30 of the local plan.
- 6.12 Policy DM36 also seeks to avoid isolated structures and where this is necessary a siting should be chosen minimising the impact of the structures on the character and appearance of the countryside.
- 6.13 Given the scale of the proposed development and the need to locate it close to the existing processing complex there is not considered to be any reasonable less harmful alternative siting. It therefore becomes necessary to deal with the application on its merits and whether on its own or in conjunction with the polytunnels permitted on the adjoining site to the east (30 ha in total) it will result in unacceptable landscape harm to the locality.

Landscape impacts:

- 6.14 The site is mainly located in the Yalding farmlands, as designated in the Maidstone Landscape Character Assessment with a small area in the Beult Valley.
- 6.15 Both areas are categorised similarly in the Landscape Capacity Study: Sensitivity Assessment in that they have a high landscape character sensitivity and a moderate visual sensitivity. Therefore, they are assessed as being of high overall landscape sensitivity and sensitive to change. The key guidelines and mitigation recommendations for each area below:
- Yalding Farmlands
- 6.16 Development potential is limited to within and immediately adjacent to existing settlements and farmsteads in keeping with existing. Other development could be considered to support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.
- 6.17 Guidelines and Mitigation:
- New development should respect the local vernacular in scale, density and materials
 - Conserve orchards and the traditional small scale field pattern
 - Conserve the largely undeveloped rural landscape and the remote quality of existing development
 - Conserve the undeveloped character of the landscape
 - Soften the impact of agricultural buildings and fruit growing equipment storage areas with native planting
 - Increase habitat opportunities around water bodies and ditches by promoting a framework of vegetation in these areas
 - Soften the visual prominence of large agricultural barns through native planting
- Beult Valley
- 6.18 Pressure for development to spread onto the visually sensitive valley floor, notably at Yalding and Headcorn, should be resisted to maintain the open character of the floodplain. Minor development to support existing scattered settlements and farmsteads could be considered.
- 6.19 Guidelines and Mitigation:
- New development should respect the local vernacular in scale, density and materials
 - Conserve the river and its corridor by promoting improved water quality and reducing nitrogen-rich runoff from nearby arable fields and discharges
 - Conserve oak as a dominant hedgerow tree species, and plant new oak standards within hedgerows to replace ageing species
 - Conserve the species rich hedgerows, ensuring that they are correctly managed and gaps replanted
 - Encourage the restoration of lost hedgerow boundaries in arable areas
 - Conserve the pastoral land and occasional orchards and resist conversion to arable land
 - Conserve and restore habitat features around water bodies and ditches by promoting and managing a framework of vegetation with links to the river
- 6.20 Regarding the impact on the Yalding Farmlands not all the above criteria can be considered as relevant to the application site. The application site is characterised by large open fields with one sparse hedgerow traversing it in an east/west direction with hedgerows on the north and south site perimeters.
- 6.21 The site in its current condition is therefore not considered to materially contribute to conserving the traditional small scale field pattern in the locality.
- 6.22 As to conserving a largely undeveloped rural landscape, polytunnel development

now forms an increasingly accepted part of the rural landscape. As such it is considered it would be difficult to make a case they are out of character in a rural landscape.

- 6.23 Increasing habitat opportunities around water bodies and ditches by promoting a framework of vegetation in these areas is an integral part of the proposal. This is demonstrated by the intention to 'gap up' existing hedgerows, provision of a new hedge and tree line along with the construction of swales to attenuate surface water runoff, to provide a water recycling resource all of these measures helping to increase wildlife habitat in what otherwise appears a species poor habitat.
- 6.24 The River Beult SSSI lies to the south of the site with a public right of way running along it. Taking into account the generally low laying nature of the locality, low height and profile of the polytunnels and additional planting along the southern site perimeter, it is considered that any visual impact on the River Beult corridor falls within acceptable limits.

Wider Landscape Impacts:

- 6.25 It is contended that the proposed polytunnels on their own and in connection with those approved on the adjoining site adversely affect long range views from the Greensand Ridge to the north. The LVIA accompanying the application concludes the following:
- That agricultural practices would continue on the land
 - That polytunnels are a common feature in the area and would not appear incongruous as a consequence
 - Polytunnels have most impact when covered by polythene. However this would only be between March and November when planting would be in leaf and providing maximum screening.
 - As such the proposal will not have a significant impact on the Low Weald. Greensand Ridge and the Grade II* Listed Parks and Gardens, Linton Park and its Grade I Listed House.
 - There would be views from the public footpath approximately 40-100m south of the Site running along the River Beult and KM 229 located 450m south of the site along with occasional, partial views from the Greensand Ridge and Greensand Way. Views from all PRoW footpaths not be significant after mitigation planting became established.
- 6.26 The LVIA concedes that there are three viewpoints along PRoW KM129 and a south facing view from the Greensand Way (PRoW KM125) which would experience a direct significant impact. However, once the proposed mitigation planting along the northern and southern site boundaries becomes established (after 5 to 10 years) there would no longer be significant views of the proposed development.
- 6.27 Subject therefore to the implementation of the proposed landscaping scheme and the polytunnels only being covered between March and November, it is considered the conclusions of the LVIA are sound. As such any harm to the wider landscape falls within acceptable limits thereby meeting the provisions of policies SP17, DM30 and DM36 of the local plan.

Control of surface water runoff:

- 6.28 The proposed swales are sufficient to attenuate surface water runoff for the proposed polytunnels in the interests of flooding to avoid any adverse impact on the River Beult SSSI. A condition is recommended requiring the swales to be in place before any polytunnels can be placed on site.

Maintenance and enhancement of existing field margins to encourage biodiversity:

- 6.29 The ecological appraisal submitted with the application concluded that the majority of the proposed development area consists of intensively managed farmland though existing hedgerows within the site provide some habitat. This view is supported by KCC Ecology who agree the site mainly comprises low biodiversity value agricultural land.
- 6.30 There may be incursions into the site by reptiles and it is intended that 6 metre mown margins will safeguard their interests but no other specific wildlife measures are proposed.
- 6.31 Turning to wildlife enhancements, the proposed landscaping scheme and provision of swales will add significantly to wildlife habitat in this otherwise species poor location.
- 6.32 It is considered these are proportionate to the scale and impact of the proposed development meeting the provisions of the NPPF and policy DM3 of the local plan.

Highways:

- 6.29 Traffic associated with the operation and harvesting of the polytunnels will not impact upon the local road network with access to them gained via internal routes. Though there may be some increase in traffic movements entering and leaving the site due to increased production, the Clock House Farm complex has good access onto Redwall lane and then onto Linton Hill. As such in the absence of adverse comment from Kent Highways the proposal is considered to be acceptable in its highway impacts.

Public Sector Equality

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

Other matters

- 6.31 The proposal has already been 'screened' (application ref:19/505068) where it was determined it does not need to be accompanied by an Environmental Impact Assessment. It should be stressed this does not imply support for the proposal or set aside the need to assess the proposal against normal planning criteria.

7. CONCLUSIONS

- 7.1 It is considered that the proposal is justified as being essential to the continuing development and viability of this important rural business while being acceptable in landscape, amenity, flooding, wildlife and highway impacts. It is therefore recommended that planning permission be granted.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions:

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

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

- (2) The polytunnels hereby permitted shall (a) only be covered with clear/colourless polythene and (b) only be covered between the 1st March and 31st November in each year.

Reason: In the interests of visual amenity.

- (3) The landscaping and planting details shown on the Landscape Strategy Plan hla 343 01 (which shall include the provision of oak standard trees to reflect the landscape character area guidelines) shall be designed using the principle's established in the Council's adopted Landscape Character Assessment 2012 and planted in accordance with BS:5837: 2012.) The approved landscaping details shall be carried out in the first available planting season following first erection of any of the polytunnels hereby permitted.

Reason: In the interests of visual amenity.

- (4) Any landscaping becoming dead, dying or diseased within 5 years of planting shall be replaced with specimens of the same size, species and siting in the next available planting season.

Reason: In the interests of visual amenity.

- (5) Prior to the development hereby approved commencing details of (a) the size of the proposed swales shown as sited on drawing no: 5114-01 (showing levels and long and cross sections) and (b) their long term maintenance shall be submitted to and approved in writing by the Local Planning Authority. The swales shall be provided in accordance with the approved details before erection of any polytunnels hereby permitted and maintained in accordance with the approved details for the life of the development.

Reasons: In the interests of flood prevention and to protect the habitat of the River Beult Site of Special Scientific Interest.

- (6) In the event the application site is not used for soft fruit production for more than two years in a row all polytunnels including all equipment and covering material shall be removed from the land which shall be restored to its former condition,

Reason: In the interests of visual amenity.

- (7) The wildlife enhancement and mitigation measures set out in the report by KB Ecology dated the 16th October 2019 shall be carried out as proposed prior to first use of the polytunnels hereby approved.

Reason: In the interests of wildlife.

- (8) The development hereby approved shall be carried out in accordance with the following approved plans drawing nos: 5114-01, 01a, 02b, 03 and Landscape Strategy Plan hla 343 01.

Reason: In the interests of amenity.

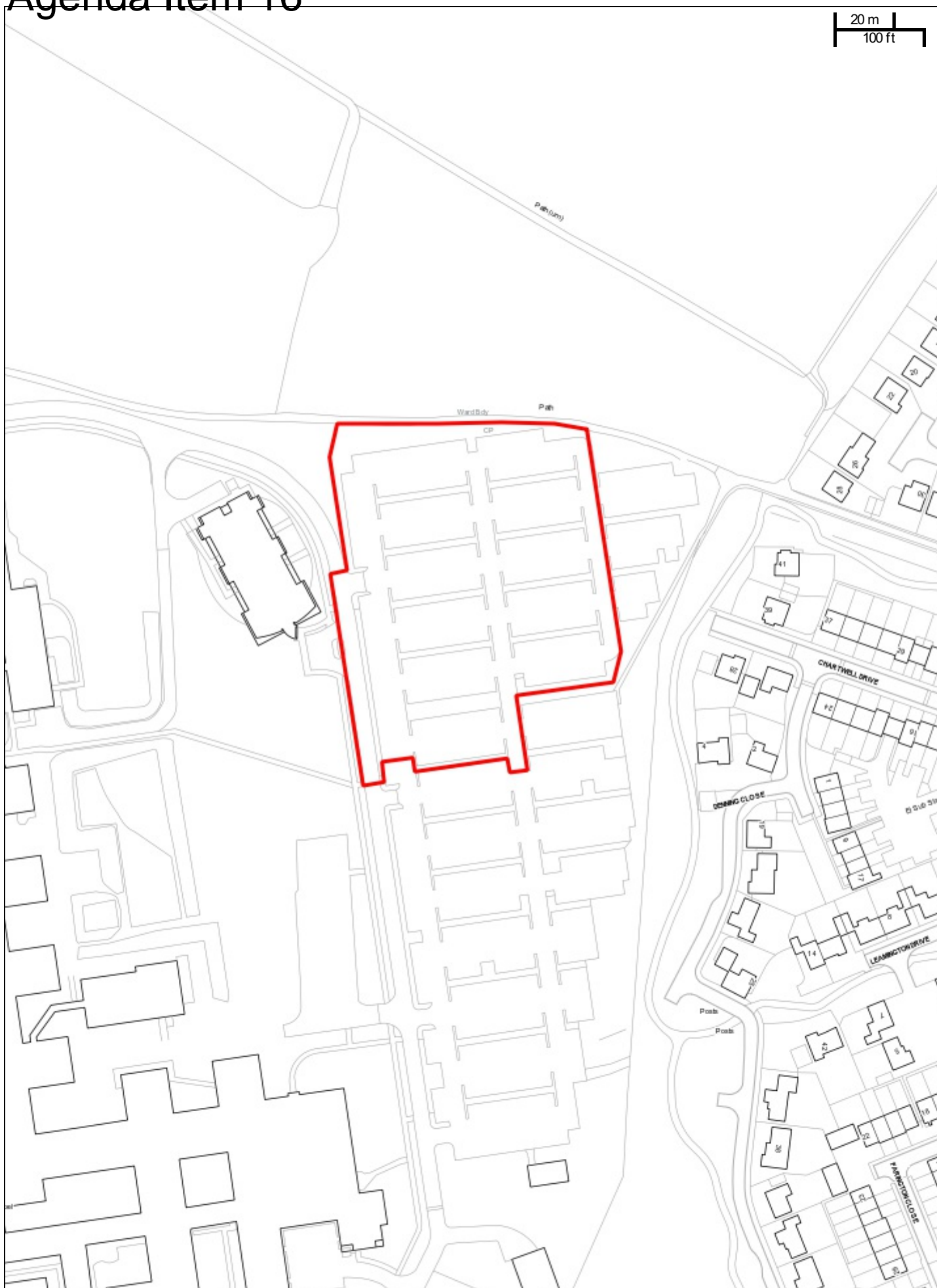
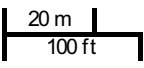
Informative(s):

- 1) A significant part of the site lies falls within a KCC Minerals Safeguarding Area and KCC should be contacted for advice on how this is likely to affect the development hereby permitted.
- 2) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the

- topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highwayboundary-enquiries>
- 3) The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
 - 4) Due to the in-combination effects from the proposal and existing nearby polytunnel sites, rainwater harvesting should be employed as well as buffer strips between the polytunnels. Natural England has Catchment Sensitive Farming officers working in the Beult catchment who offer free specialist advice through a water resources audit and water pathway management. If the Applicant would like to take up this offer, please get in touch with Ben Thompson (ben.thompson@naturalengland.org.uk)
 - 5) Bats: Lighting can be detrimental to roosting, foraging and commuting bats¹⁰, the recommendations from the Bat Conservation Trust and the Institution of Lighting Professionals, titled ‘Guidance Note 8 Bats and Artificial Lighting’¹¹, should be considered when designing any lighting scheme for the proposed development, if any lighting is proposed.
 - 6) It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119), www.southernwater.co.uk or by email at developerservices@southernwater.co.uk
 - 7) Other consents may be required for different activities (such as water abstraction or discharging to a stream), and the Environment Agency has a regulatory role in issuing and monitoring them. The applicant should contact 03708 506 506 or consult our website to establish whether a consent will be required. <https://www.gov.uk/environmental-permit-check-if-you-need-one>

Case Officer: Graham Parkinson

Agenda Item 16



REFERENCE NO - 20/500163/FULL		
APPLICATION PROPOSAL Erection of a deck above (part of) the existing car park to provide 211 additional parking spaces, with associated lighting and other ancillary works.		
ADDRESS Maidstone And Tunbridge Wells NHS Trust Maidstone Hospital, Hermitage Lane Maidstone, Kent, ME16 9QQ		
RECOMMENDATION Grant subject to the conditions listed below.		
SUMMARY OF REASONS FOR RECOMMENDATION The provision of additional car parking will allow the Hospital to address an existing shortfall of parking accommodation on the site for staff and patients / visitors. The proposals is adequately separated from neighbouring residents and enhanced planting will mitigate any potential additional impacts.		
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Vizzard in order to allow landscape and other potential impacts to be assessed.		
WARD Heath	APPLICANT Maidstone And Tunbridge Wells NHS Trust AGENT Stripe Consulting	
TARGET DECISION DATE 13/04/20		PUBLICITY EXPIRY DATE Neighbour / stat' consultees - 11/02/20 Site Notice – 20/02/20 Press Notice – 21/02/20
RELEVANT PLANNING HISTORY The Hospital is a large site with a complex planning history, the majority of which is not relevant to this application. However, Members should note that the case below is referred to within the Officer assessment. 16/501007/FULL - Construction of new 145 space patient and visitor car park with lighting columns. Approved Decision Date: 25.04.2016		

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site comprises part of the Hospital's existing eastern car park (circa 320 – 330 spaces), together with the southern vehicle circulation route (the latter only being shown to demonstrate access to the public highway).
- 1.02 The wider Hospital campus contains a range of clinical buildings and supporting infrastructure, with the principal staff and visitor parking areas being located to the east and western sides respectively. Both car parks are accessed via the main access and egress points to Hermitage Lane via the internal circulation road.
- 1.03 This car park lies on the eastern part of the hospital campus, with clinical buildings located to the west and south. Whilst the helipad lies west of the car park, behind a small clinical block, the submission of the application follows an agreement between the Hospital and the Air Ambulance Service (and liaison with the CAA in terms of their advisory capacity) in regard of the location and height of the car park.
- 1.04 The northern boundary is marked by a public footpath and wooded area beyond, which separate the Hospital campus from residential development sites. The

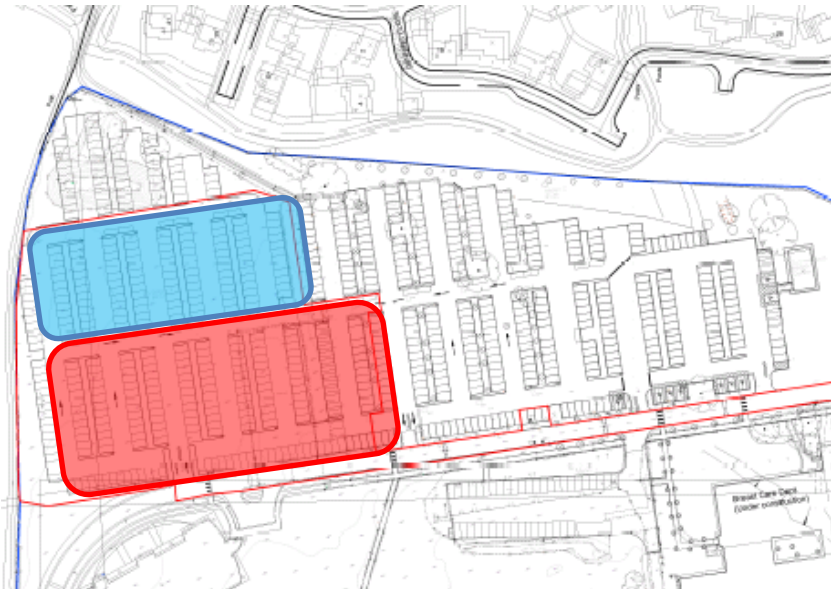
eastern boundary to the car park contains a narrow strip of planting within the site, together with an adjacent footpath / green wedge which separates the site from residential properties located within Chartwell Drive and Denning Close.

- 1.05 Many of these properties have an open frontage onto the green wedge and the car park beyond, particularly during seasons when the vegetation is not in full leaf. A degree of inter-visibility therefore exists between the site, residential neighbours and parties using the adjacent public footpaths.

2. BACKGROUND AND PROPOSAL

- 2.01 The Hospital's submissions highlight that the site provides acute in and outpatient care for a population catchment of over 150,000 with the hospital providing the Cancer Centre for the whole Kent area and having been identified as one of Kent's future Hyper Acute Stroke Services. Circa 3,000 staff are employed, with staff based at the Trust's other sites / services, attending Maidstone at certain times in their role of delivering Trust-wide services.
- 2.02 The Hospital advises that difficulties arising from inadequate levels of car parking impact beyond the convenience of staff or visitors, as they adversely affect the levels of clinical care due to, for example, missed or delayed appointments.
- 2.03 The Trust advises that it is seeking to provide a balanced improvement in the level and availability of parking for both staff and visitors.
- 2.04 Evidence from past site visits confirms that the site (and the surrounding area) have experienced issues associated with overspill parking, including unneighbourly parking on nearby residential streets and vehicles parked in inappropriate areas within the Hospital site itself. Evidence submitted with the application suggests that up to 180 vehicles have been parked illegally on site, with parking taking place on, for example:
- service roads and service bays
 - green verges / open spaces
 - central isles, circulation routes and turning areas within the car park, including double parking
- 2.05 In 2016, the Hospital received planning permission for 145 additional spaces, which were to be located on open land to the west of the application site, between it and the main Hospital building complex. However, if this approved car parking area were implemented, it would potentially reduce the future operational flexibility of the Hospital complex and would, for example, increase the proportion of the site covered by hardstanding. The Hospital therefore proposes an alternative parking scheme, in the form of a deck over part of the existing eastern car park. However, the previously approved location will be made available, with temporary surfacing, to provide additional parking capacity during the construction period for these works.
- 2.06 The sketch below identifies the two elements of the existing car park where changes are proposed.
- The smaller shaded area identifies an area of the existing car park where the alignment of existing parking bays and isles at surface level may be slightly changed following completion of the deck (in order to ensure that free circulation is maintained). There will be no increase in the total number of parking spaces within this area (indeed a potential reduction to allow the boundary planting to be extended) and no change to the character or intensity of artificial lighting.

- The larger shaded area identifies the approximate footprint of the proposed deck, which is set away from the boundary, with the closest residential properties being separated by a distance of circa 60-65 metres.
- The unshaded area of the car park will remain unchanged, including those parts closest to residential neighbours.
- The deck is located adjacent to the car park entrance in order to encourage the greatest turnover of spaces within the area farthest from neighbours.



- 2.07 The car park will be constructed off a steel frame structure with the ramps and deck surfaces comprising pre-cast concrete panels. This modular form of construction is designed to reduce the overall construction programme and, for example, to limit the amount of intrusive ground works; a benefit to both the sensitive operational nature of the Hospital and its neighbours.
- 2.08 The sides of the upper deck will be contained by galvanised mesh panels, with those on the more sensitive eastern elevation being more solid in order to avoid headlamp spillage towards residential neighbours.
- 2.09 The application is supported by a tree survey, ecological survey and a biodiversity enhancement scheme that looks at the wider hospital site and these reports are addressed within the assessment below.
- 2.10 The scheme will include the installation of 12 No. electric vehicle charging bays, to be located within an area of the car park that is most flexible to future needs.
- 2.11 The proposed footprint of the new deck is circa 96 metres by 52.5 metres with ramps at both ends and pedestrian stairs. The height of the new parking slab will be circa 3.6 metres, with the guard screens rising to circa 4.8 metres. The upper height of any lighting columns will be circa 6.5 metres. As a comparison, a typical two-storey house could rise to say 5 - 6 metres to eaves and say 8 - 9 metres at ridge. The height of the car park will therefore be lower than the majority of buildings on the campus.
- 2.12 As recommended by the NPPF (para 38) and both MBC and KCC guidance, the application has been the subject of pre-application discussions with both MBC Officers and the Highway Authority. The Hospital has also engaged with Local Members and committed to further liaison with residents groups. This process has

assisted in identifying potential issues and the level of material that would be necessary to support the application. However, in response to resident concerns about, for example, early fencing of the site; it should be emphasised that whilst the pre-application process is intended to support the formal assessment process, it does not in any way represent pre-determination on any issue.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017

Relevant MBLP policies are:

- SS1 – infrastructure schemes will be supported
- SP23 – sustainable transport
- DM1 – good design
- DM3 – natural environment
- DM4 – brownfield land
- DM6 – air quality
- DM8 – external lighting
- DM21 – transport impacts

National Planning Policy Framework (NPPF)

The assessment process has also been guided by the following NPPF references:

- 8/92 – support healthy communities
- 38 – positive decision-making
- 39 – pre-application engagement
- 108 – assess transport impacts and promote sustainable development
- 117 – make effective use of land
- 127+ design quality
- 175 – biodiversity considerations
- 180 – noise

4. LOCAL REPRESENTATIONS

Local Residents:

4.01 Six local residents have raised the following (summarised) issues:

- Support the principle of the deck being set further back
- Support the concept of a green wall
- Loss of privacy
- Increased traffic, noise and pollution (air quality dust and light)
- Impacts will be exacerbated by the height of the deck
- Hospital should consider a second exit
- Proposed lighting scheme acceptable
- Loss of trees and ecological impacts
- Concern over premature commencement
- Additional on-site parking will not prevent off-site parking
- Suggest western car park would be a better option
- Inadequate noise assessment
- Existing noise attenuation should be retained
- Inadequate EV parking

- 4.02 Matters raised, which are not material planning considerations and therefore cannot be taken into account in the determination of this application include; loss of value and parking charges.

5. CONSULTATIONS

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

Ward Cllr Vizzard

- 5.01 Expresses concern in relation to the loss of trees, light spillage and the potential impacts on residents to the east.

County Councillors Bird and Daly

- 5.02 Support the principle of additional staff parking on-site and measures by the Hospital to encourage the use of park and ride. However, concerned with the loss of 69 trees and would expect to see more details of the replacement planting. Support the proposals to incorporate a green wall system and request early implementation. Support the introduction of EV charging points, but request that the capacity for future expansion is in-built.

Natural England

- 5.03 No comments to make.

KCC PRoW

- 5.04 No relevant comments to make.

MBC Environmental Health

- 5.05 No comments submitted.

Kent CC Highways

- 5.06 The application has been the subject of pre-application discussions with KCC Highways in relation to the submitted TA and a draft Travel Plan. KCC are currently assessing the submitted transport assessment in order to ensure that the methodology used is robust and that any potential impacts that may arise can be suitably mitigated.
- 5.07 In terms of the overall parking strategy KCC Highways recognise the importance of parking being available at the Hospital, but having regard to local conditions wish to ensure that increased congestion on local journey times, road safety and air pollution are not exacerbated.
- 5.08 Members will be updated as necessary should any further mitigation measures be identified beyond those detailed below.

6. APPRAISAL

Main Issues

- 6.01 During the assessment of this application a number of meetings have taken place with local residents and between Ward Members and the Applicant. The assessment and mitigation measures discussed below therefore reflect and respond to both these discussions and the formal written comments summarised below.

The case officer has also visited neighbouring properties in order to view their relationship with the site. The main issues for consideration are therefore:

- The principle of additional parking on-site
- Design and appearance
- Impact upon trees / landscaping and ecology/biodiversity
- Traffic and transport
- The potential impact upon neighbours in terms of:
 - Privacy, Noise, Air Quality, Artificial Light

Principle of Additional Parking

- 6.02 Whilst complex sites such as this do not have a formal parking standard guideline, it is acknowledged that the Hospital has experienced a long-term deficiency in the level of car parking available to both staff and patients / visitors and that this has led to unacceptable parking conditions, both on-site and within surrounding residential streets.
- 6.03 However, whilst providing an adequate level of parking to meet current needs may be desirable, as with all land uses, it is important that the Hospital acknowledges the need for and promotes sustainable modes of travel and alternatives to the use of low occupancy private cars. These issues are addressed in further detail below.
- 6.04 The position of a parking deck over an existing hard landscaped area is considered to be preferable to the previously approved option of hard landscaping the green area to the west of the access road. This is not only preferable in terms of say future biodiversity opportunity and existing surface water drainage; but also offers the Hospital greater flexibility in planning for future clinical care provision.
- 6.05 One representation questions whether the Hospital's western car park would be a better option, however, this application has to be considered on its own merits and in the absence of an overriding level of harm, it would not be necessary for this current process to consider whether there are other alternatives.
- 6.06 To summarise on the principle of the car park, there is broad support for additional parking provision, although this subject to the wider policy and environmental considerations identified below, including matters that have been raised by residents that must be considered carefully.
- 6.07 Subject to the following considerations, the principle of development accords with policy SS1 of the MBLP in that it supports the provision of infrastructure and responds to MBLP policy DM4 and the NPPF in making the best use of land.

Design and Appearance

- 6.08 MBLP Policy DM1 seeks to promote high quality design which, where appropriate, should:
- respect the amenity of neighbours
 - respond to local context
 - protect or enhance biodiversity
 - ensure safe vehicle movements
- 6.09 The car park is by its nature, a structure the form of which is driven by function rather than design. It's appearance is utilitarian and the use of steel and concrete do not incorporate natural elements.

- 6.10 The Hospital site as a whole is not considered to be visually sensitive and contains a wide range of buildings styles, hard surfacing and supporting operational plant. The location of the car park is set well away from the primary road frontage, but is nevertheless visible from two public footpaths and will be visible to varying degrees from existing residential properties to the east. It is therefore relevant to assess the visual impact of the proposal in relation to these potentially sensitive receptors.
- 6.11 To the east, residential properties in both Chartwell Drive and Denning Close are situated close to the Hospital boundary. As identified above, the new deck is set back within the existing parking area. Distances between the deck structure and neighbouring houses vary from circa 60metres to circa 90-100metres. This distance is, in itself, an appropriate level of separation to avoid any overbearing impact and as the new structure will be viewed in the context of the existing expanse of car parking, it will not appear alien in function.
- 6.12 The same principle applies to the footpath that separates the housing from the hospital site. However, as the proposal will introduce a relatively utilitarian structure within an otherwise surface level area, it is considered that appropriate mitigation should be proposed to reduce its visible impact.
- 6.13 The proposal will be sited relatively close to the northern boundary, circa 10 – 15 metres and will clearly be visible to users of the adjacent footpath, which links through to Hermitage Lane. The character of the footpath is dominated by the tall established woodland immediately to the north, with the younger landscaping to the south, within the car park, being less mature.
- 6.14 Whilst the footpath's character is therefore defined by significant extents of natural planting, users will potentially perceive the bulk of the structure as they pass by its circa 50 metre shorter elevation. This impact is not considered to be unacceptable in principle, but an enhanced level of landscaping within the site will ensure that its existing character is maintained.
- 6.15 In addition to the landscaping details assessed below, the Trust proposes that the car park structure incorporates a living wall. This is considered to be a positive feature that will offer significant visual and potentially biodiversity benefits. It is proposed that the scheme is secured through condition as part of the wider landscape and biodiversity enhancements listed below. A well executed living wall will have the potential to create a feature of interest within the Hospital campus.
- 6.16 Having regard to the Hospital's procurement programme for the proposed works, this landscaping scheme would be submitted within 3-6 months of the commencement of the car park works and be carried out within the first appropriate planting season. Whilst there may therefore be a short term visual impact, this is not in itself justification to oppose the scheme on design grounds and will be outweighed by the net benefits in the longer term as the planting scheme becomes established.
- 6.17 It is therefore considered that subject to the mitigation measures identified, the proposal is able to respond positively to the objectives of MBLP Policy DM1 and the NPPF.

Existing Trees / Proposed Landscaping / Biodiversity Enhancement

Existing Trees

- 6.18 MBLP Policies DM 1 and 3 require development to respect and enhance the natural environment and to retain landscape features of visual and biodiversity significance. The area of car parking to the south of the application site contains a

number of TPO trees, however, the development boundary is sited well away from this group. Nevertheless, as part of the suite of planning conditions, measures to ensure that construction traffic does not affect this area will be secured. Similarly, the large area of woodland to the north of the site will not be affected by the proposed works.

- 6.19 The application is accompanied by a detailed arboricultural assessment, which has considered the net impact of the proposals.
- 6.20 The existing car park is characterised by a series of planting beds, which contain relatively young trees and shrubs. Whilst these offer visual mitigation to the car park, they substantially comprise ornamental and non-native species. These species offer relatively limited landscape and ecological value and the Trust has therefore partnered with the Kent Wildlife Trust to develop a new planting and biodiversity enhancement strategy, not simply for the car park area, but across the Hospital site as a whole. This strategy will involve a no-net loss approach in terms of trees to be replaced, with a phased naturalisation of planting across the site as a whole.
- 6.21 The assessment identifies the potential for 69 trees to be removed, but this maximum figure assumes that all surface trees within the car will be lost, which may not be necessary. The loss of a significant number of trees is regrettable as their future landscape and biodiversity benefits will be lost. However, as a significant number of these trees are relatively immature, of very limited ecological value and have introduced ornamental and invasive species, it is considered that their programmed replacement will ultimately represent a long term benefit for the site.

Ecology and Biodiversity Enhancement

- 6.22 The ecological survey identifies that no significant habitat or species are present within the application boundary. The character of the main car park area, with isolated planting beds set within high kerbs, amongst large areas of car parking is not considered to be a significant potential habitat for reptiles or amphibians, badgers or dormice. Nor does the site contain habitat suitable for bat roosting, with the main potential for bat habitat and roosting being the more substantial wooded areas to the north and east.
- 6.23 Whilst the assessment does not consider that, having regard to the existing car park use, there will be any direct impact upon the ecologically sensitive woodland to the north, it recommends measures to contain construction impacts and the effect of new lighting; both of which are to be addressed through conditions. The report also recommends that existing non-native invasive species be removed.
- 6.24 In response to the ecological assessment, the Trust has engaged the Kent Wildlife Trust to advise on; not only appropriate mitigation measures for trees and habitat that are to be removed, but to assess how a Hospital site-wide enhancement scheme can be delivered.
- 6.25 KWT identify that the peripheral areas of the Hospital site contain the greatest potential as they are less intensively managed, with the internal car parking areas and generally mown grass currently offering little potential in their current form. KWT have therefore set out a series of recommendations in relation to both direct mitigation measures and site wide enhancement opportunities. These include, for example:

Mitigation

- Incorporation of living wall to the car park
- Woodland wildflowers within the northern and eastern boundary edges

- Increased depth of planting on the eastern boundary with the introduction of native hedgerow and lower height tree species
- Introduction of native trees and shrubs within existing surface car park
- Creation of dead wood habitat and reptile refuges on the northern and eastern boundaries

Site – Wide Enhancement

- Creation of pocket wildlife meadows and beds across the site (including raised beds to provide sensory experiences for patients)
 - Further site living walls and green roofs
 - Phased replacement of non native species
 - Site wide refuges for reptiles
 - Enhancement of existing ponds to be wildlife friendly, introduction of native aquatics
 - Assess locations for additional ponds
- 6.26 It is anticipated that such measures would form part of a five year initial management plan. However, priority is to be given to the enhancement of the eastern boundary with neighbouring residential properties and the planting within the adjacent surface level car park, thus providing adjacent residents with amenity benefits early within the overall programme. As a part of this scheme, the hospital will be required to not only strengthen planting within the eastern boundary, but to increase its depth, providing both enhanced visual screening, but also an enhanced habitat. MBC Officers have encouraged the Hospital Trust and KWT to engage with residents in the design planning and implementation of this scheme, not only to secure their buy-in, but also, for example, to provide a biodiversity learning opportunity for residents.
- 6.27 Subject to the direct mitigation measures identified above, it is considered that the scheme is capable of delivering net benefits both within the application site and the wider Hospital campus, thus according with the principles of MBLP Policy DM3 and the NPPF.

Parking, Traffic and Transport

- 6.28 The Hospital currently has a total of 1,537 spaces, the majority contained within the two main parking areas, but with other smaller parking areas dedicated to clinical units around the site. The current split between staff and visitor allocation is circa 70:30. As detailed above, surveys show that for significant periods, the existing car parks operate over capacity, with the resulting issues of illegal on-site and also neighbourhood parking.
- 6.29 The transport assessment is therefore based upon the additional parking being necessary to meet existing needs and to alleviate existing issues, rather than attracting additional traffic to the site. This approach is broadly sound, although it is considered that there will be a net additional level of traffic.
- 6.30 Ensuring an adequate delivery of parking for staff to enable the delivery of clinical services and access to those services by the public (visitor and patient parking) is a recognised need. The need to address the current parking conditions is a significant material consideration, but must also be weighed against the objective of promoting sustainable alternatives.

- 6.31 The longer-term preference of KCC would be to see the balance between staff and visitor parking move towards visitors in the longer term. Whilst this is not a matter than this planning application can control, outside of the application process KCC officers have been working with the Hospital and their appointed consultants in order to prepare a new staff travel plan that encourages staff to move to more sustainable options. Measure currently being undertaken / considered include, for example:

Existing Measures

- Staff engagement events re travel habits
- Short-term shuttle service to park and ride in liaison with Arriva
- Membership of the Arriva discounted travel club
- Free staff travel on identified bus routes
- Membership of the cycle-to-work scheme

Planned Measures Being Considered

- Enhanced secure cycle parking
- Investigation of enhanced pedestrian connectivity
- An extended EV parking scheme
- Promotion of a car sharing club with dedicated car share bays
- Enhanced staff public transport information

- 6.32 The Hospital is considered to be a sustainable location, with good pedestrian / cycle accessibility to the wider area. The site is also well served by bus services, which connect with the town centre and rail routes.
- 6.33 On balance, it is considered that the additional level of parking proposed is an acceptable response to current conditions and will result in net benefits to the delivery of and access to clinical services, without adversely affecting the amenity of neighbours. Ultimately the Council would wish to see the emphasis move away from staff to visitor parking, but this is a matter that will best addressed through the ongoing development of the Hospital's staff travel plan. As this is an existing travel plan, it is not a conditional requirement of the planning application.
- 6.34 It is therefore considered that, subject to any s278 mitigation measures that may need to be agreed between KCC and the Trust, the application accords with MBLP policies SP23 and DM21 and the relevant provision of the NPPF in relation to transport impacts, parking provision and sustainable transport objectives.

Neighbour Amenity

- 6.35 Consistent with the NPPF, MBLP Policy DM 1 seeks to ensure that developments do not result in unacceptable or excessive impacts upon neighbours. In this instance potential impacts on neighbours are primarily in relation to the residential estate to the east, where the potential impacts include noise, privacy, artificial light impacts and air quality.
- 6.36 It should be noted that the existing relationship, that of a surface car park adjacent to the boundary, will not change, although there will be a widening of the boundary landscape buffer in order to increase visual and physical separation. The prevailing character of the immediate area will therefore not materially change, other than the phased implementation of replacement native landscaping.
- 6.37 Nor will the intensity of use of this surface parking area change, with no increase in parking numbers within the surface level zone. This existing surface area is

already artificially illuminated and there are no proposals to intensify the existing lighting within this area..

- 6.38 By design, the proposal seeks to avoid or mitigate potential amenity impacts. The first is by setting the new deck a substantial distance back from the boundary, with the separation with nearby houses ranging from approximately 60-100 metres.
- 6.39 As detailed above, the principle of the development is based upon the provision of additional formal car parking spaces to address the impacts of an existing deficit, with identified impacts arising from the inadequate provision including, for example:
- Staff and visitor vehicles circulate through the hospital campus and car parks 'hunting' for an available space, before:
 - attempting to park offsite in the surrounding residential areas
 - parking illegally within the estate.
 - sitting waiting for spaces to become available
- 6.40 The resulting effects are an increase in parked vehicle numbers and the number of movements and activity of vehicles manoeuvring within the hospital site, plus additional vehicle movements on the highway network and within surrounding residential estates.

Privacy

- 6.41 Whilst the proposals will introduce new car parking at a physically higher level than the existing surface; due to the significant separation distances, it is not considered that there would be a loss of privacy through overlooking of private properties. Nevertheless, there is the potential for a perception of being overlooked to make residents feel less comfortable.
- 6.42 In order to address this matter, a condition is proposed that will secure an enhanced planting buffer between the relevant homes and the car park area. This enhanced buffer will be both deeper and incorporate an increased level of planting with elements of evergreen where possible to provide year round screening. Whilst such planting may take time to develop and thus there may be some short-term impacts, the proposed conditions will require early planting within this area in order to reduce the net short-term impacts.

Noise

- 6.43 In support of the application, an assessment of existing and predicted noise levels has been undertaken, including a measurement point on the sensitive eastern boundary. The report concludes that as the character of the adjacent area of car parking is not changing, that there will be no material increase in activity and noise within this zone. Officers consider that this presumption is sound and also consider that with an increased level of parking overall, and a shift of the balance close to the main hospital complex, the net movement of vehicles within this area and the propensity for the spaces closest to residents to be used could reduce.
- 6.44 It is therefore considered that within the sensitive area closest to neighbours, the character and use of the car park will not materially change, that there will be no adverse impact and the potential for modest net benefits.
- 6.45 In terms of the increased use of the car park area where the deck is to be created, due to the separation from the boundary and having regard to existing background noise levels, it is not considered that adverse impacts would arise.

Artificial Lighting

- 6.46 The existing surface parking area closest to the eastern boundary is already illuminated and there will be no material change to artificial lighting levels within this zone. Lighting for the new upper area of the deck will comprise pole mounted lights around the deck which are designed to face downwards and inwards so as to minimise any light spillage. The technical lighting study supporting the application demonstrates that light spillage from the deck will not adversely affect the amenity of neighbours as direct light will not reach the boundary.
- 6.47 The scheme incorporates measures to use light efficiently, for example, with motion sensors and dimmed levels when not in use. A condition is proposed to ensure that the lighting scheme is installed as proposed and maintained thereafter.
- 6.48 A further potential impact arises from the projection of car headlamps circulating on the new upper deck. At this level, surface planting will have a more limited screening effect. Whilst the separation distance will be a factor to some extent, by their nature, car headlamps would be capable of penetrating some distance and their potential impact exacerbated by their moving nature. It is therefore proposed that the sides of the upper deck facing towards residential neighbours to the east (and the ecologically sensitive area to the north) are solid, so as to prevent light escaping. The condition would also require the effectiveness of the installed screen to be verified post installation and for their maintenance / retention throughout the lifetime of the car park.
- 6.49 However, as the building will be potentially be visible at night when illuminated, there is the potential that its visual prominence could be reinforced, in particular during the winter months. This, however, is an issue of visual impact rather than amenity and for the reasons set out earlier in this report, through a combination of physical separation and the provision of enhanced boundary landscaping, it is not considered that this impact would be unacceptable and that, with the mitigation proposed, the proposals therefore accord with MBLP Policy DM8.

Air Quality

- 6.50 The NPPF states that the planning system should contribute to protecting and enhancing the environment and minimising pollution by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects, to be taken into account in planning decisions.
- 6.51 Development of this type has the potential to adversely affect air quality during both the construction phase and operational phase, with the potential to generate dust and fine particulate matter (PM10) during the construction phase and for road traffic nitrogen dioxide (NO2) and fine particulate matter (PM10 and PM2.5) during its operation.
- 6.52 Whilst construction impacts are not normally a planning matter, being addressed by other legislation, in this instance, due to the sensitivity of some surrounding receptors, a dust mitigation strategy will be part of the required construction management plan.
- 6.53 In terms of operational impacts, potential worsening of air quality would potentially arise if there were a significant increase in the level of traffic using the site and factors such as congestion. The above traffic assessment advises that the net impact of the scheme will be to reduce the impact of vehicles circulating the car park and surrounding area searching for an available space and also removing inappropriate parking both within and outside of the site. Having regard to the projected reduction in activity close to the boundary with residential neighbours, it

is not considered that there would be an adverse impact upon air quality within the application site, arguably a net benefit through a more efficient availability of parking and the removal of unnecessary movements. Air quality is also a sensitive issue on the nearby road network, primarily due to net traffic flows and congestion. At this stage there is no evidence that the scheme would generate significant level of additional traffic or exacerbate congestion, so no reasonable grounds to assume that existing air quality conditions would be adversely affected.

- 6.54 To conclude, it is considered that where necessary, mitigation measures can be imposed through conditions to ensure that any potential impacts upon the amenity of neighbours is adequately mitigated.

PUBLIC SECTOR EQUALITY DUTY

- 6.55 In considering this application due regard has been had to the Public Sector Equality Duty (PSED), as set out in Section 149 of the Equality Act 2010. A defined protected group includes 'pregnancy and maternity' and obviously the Hospital site provides care to this group as a whole, with a dedicated unit located towards the southern end of the eastern car park. The above assessment has therefore had regard to the potential of a risk of negative impacts. However, for the reasons set out in the above assessment, namely, no significant increase in traffic nor material worsening of environmental conditions, due to the separation of the car park from the maternity unit and through the imposition of planning conditions, I am satisfied that the PSED will not be undermined.

7. CONCLUSION

- 7.01 There is a clear need for the additional car parking in order to alleviate both operational impacts and the delivery of clinical care. The location of the deck is considered to be the optimum location in terms of mitigating any impact upon neighbours. Proposed mitigation measures will ensure that the changed character of parking provision will not adversely affect the amenity of neighbours, with the proposed biodiversity compensation and site wide enhancements offering the potential for a significant long-term net gain.

8. RECOMMENDATION

- 8.01 Subject to the framework of conditions suggested below, it is recommended that Members GRANT delegated authority to the Head of Planning to finalise the detailed wording of the necessary conditions and to issue the planning permission.

Proposed Conditions

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

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

- 2) The materials to be used in the development hereby approved shall be as indicated on the approved plans and the Ballast Needham Design & Access Statement Ref J1335 dated 13.01.20, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development

- 3) The development hereby approved shall not commence until a construction site management plan has been submitted to and approved in writing by the Local Planning Authority. Such plan shall provide measures for:
- Management of dust to prevent off-site impacts
 - Managing the impact of construction noise, dust and artificial lighting on adjacent sensitive receptors, namely residential properties and woodland:
 - Anticipated construction programme (including works undertaken at each stage)
 - Hours of working
 - Management of artificial lighting, including temporary lighting
 - Site security
 - Construction traffic routeing
 - Working hours
 - Site contact (including out of hours)
 - Storage and removal of waste
 - Storage of construction material
 - Wheel cleaning and street cleaning measures
 - Measures to prevent discharge of surface pollutants into the drainage system
 - Any necessary scheme for the protection or temporary closure of pedestrian footways

The construction method statement shall be made available for members of public to review upon request. The works shall be carried out in accordance with the approved method statement. The method statement shall also include details of the means of recycling materials, the provision of parking facilities for contractors during all stages of the development and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials.

Reason: To ensure that the construction of the development minimises the construction impacts upon neighbours, ecological sensitivities and the hospital's delivery of clinical care.

- 4) Prior to the new parking deck hereby approved being brought into use a landscape and biodiversity enhancement scheme in accordance with the principles of the submitted Biodiversity Enhancement Report December 2019, shall be submitted for the approval in writing of the local planning authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed, provide details of on site replacement planting to mitigate any loss of amenity and biodiversity value [together with the location of any habitat piles] and include a planting specification, a programme of implementation and a [5] year management plan.

The landscape scheme shall specifically address the need to provide enhanced planting to screen the eastern boundary and notwithstanding the submitted plans, shall show an increased depth to the existing eastern boundary landscaped area.

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

- 5) Any existing trees or hedges retained on site or planted as part of the scheme to be approved under Condition 4, which, within a period of five years from the completion of the deck, die or become, in the opinion of the local planning authority, so seriously damaged or diseased that their long term amenity value has been

adversely affected, shall be replaced in the same location during the next planting season (October to February), with plants of an appropriate species and size to mitigate the impact of the loss as agreed in writing by the local planning authority.

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

- 6) Prior to the new parking deck hereby approved being brought into use a living wall scheme for the new car park deck shall be submitted for the approval in writing of the local planning authority. The scheme shall include, as a minimum, measures to address the eastern and northern elements. Such works shall be implemented within the first available planting season following completion of the new deck. The scheme shall include a management plan to ensure the establishment of the new planting, with measures to address the failure of any elements within the first five years.

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

- 7) Prior to the new parking deck hereby approved being brought into use, written confirmation of the installation and location of 12No. electric vehicle charging point has been installed on the given building(s) with dedicated off street parking, and shall thereafter be retained for that purpose.

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

- 8) No external lighting shall be installed on-site, other than in accordance within the 'Wirefield Maidstone Hospital MSCP-V2' lighting report dated 10.01.20 and S.11 of the Ballast Needham Design & Access Statement Ref J1335 dated 13.01.20 and maintained thereafter.

Reason: To ensure that artificial lighting is maintained at a level that does not adversely affect the amenity of residents or adjacent ecological habitat..

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

J1335-STRIPE-XX-00-SK-AX-30001-SITE LOCATION PLAN

J1335-Stripe-Xx-00-Sk-Ax-Xx-30002-Existing Site Plan

J1335-Stripe-Xx-00-Sk-Ax-Xx-30003-Proposed Site Plan

J1335-Stripe-Xx-00-Sk-Ax-Xx-30004-Proposed Ground Floor Plan

J1335-Stripe-Xx-00-Sk-Ax-Xx-30005-Proposed Level 1 Plan

J1335-Stripe-Xx-00-Sk-Ax-Xx-30500-Proposed Elevations

J1335-Stripe-Xx-00-Sk-Ax-Xx-30600-Proposed Sections

Ballast Needham Design & Access Statement Ref J1335 dated 13.01.20

Wirefield Maidstone Hospital MSCP-V2' lighting report dated 10.01.20

Kent Wildlife Trust Biodiversity Enhancement Report, December 2019

Reason: To clarify which plans and material have been approved.

INFORMATIVES

- 1) The Trust is encouraged to continue working with MBC, KCC and public transport operators with regard to the development and monitoring of a site-wide travel plan.
- 2) Works to trees could result in disturbance to wild animals, plants and important wildlife sites protected by law. It is the applicant's responsibility to ensure that appropriate precautions are taken to ensure that an offence is not committed. Further advice can be sought from Natural England and/or Kent Wildlife Trust.

Case Officer: Austin Mackie

By virtue of paragraph(s) 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

Document is Restricted