

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 29 April 2010
Time: 6.00 p.m.
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Lusty (Chairman), Ash, English, Greer,
Harwood, Mrs Marshall, Moriarty,
Nelson-Gracie, Paine, Paterson,
Mrs Robertson, Thick and J.A. Wilson

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1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda

Continued Over/:

Issued on 21 April 2010

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**David Petford, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

5. Date of Adjourned Meeting - 4 May 2010
6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
7. Disclosures by Members and Officers
8. Disclosures of lobbying
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
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11. Presentation of Petitions (if any)
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13. MA/09/1510 - The Mellows, Marley Road, Harrietsham, Maidstone 9 - 31
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19. Chairman's Announcements
20. Update on Matters Referred to the Cabinet Members for Environment/Regeneration

PLEASE NOTE

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

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

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 8 APRIL 2010

Present: **Councillor Lusty (Chairman) and
Councillors Ash, Butler, English, Mrs Gooch, Harwood,
Moriarty, Nelson-Gracie, Paterson, Thick, Mrs Wilson
and J.A. Wilson**

369. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Mrs Marshall, Paine and Mrs Robertson.

370. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:-

Councillor Butler for Councillor Paine
Councillor Mrs Gooch for Councillor Mrs Marshall
Councillor Mrs Wilson for Councillor Mrs Robertson

371. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

372. URGENT ITEMS

Update Report

The Chairman stated that, in his opinion, the update report of the Development Control Manager should be taken as an urgent item because it contained further information relating to matters to be considered at the meeting.

373. ITEMS WITHDRAWN FROM THE AGENDA

The Committee considered the urgent update report of the Development Control Manager. It was noted that applications MA/10/0254 and MA/10/0255 had been withdrawn by the applicant.

374. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor J A Wilson stated that since he had just ceased to be a local authority Director of the Maidstone Housing Trust, he would leave the meeting during the discussion and voting on application MA/09/2103 to avoid any suggestion of predisposition/bias.

375. EXEMPT ITEMS

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

376. MINUTES OF THE MEETING HELD ON 18 MARCH 2010

RESOLVED: That the Minutes of the meeting held on 18 March 2010 be approved as a correct record and signed.

377. DEFERRED ITEMS

- (1) MA/08/2439 - CHANGE OF USE OF LAND TO EMPLOYMENT PURPOSES AND ERECTION OF MIXED USE BUILDING TO PROVIDE STORAGE AND WORKSHOPS (CLASS B2/B8) AND ASSOCIATED WORKS INCLUDING ACCESS AND PARKING - UNIT 15, WHEELBARROW INDUSTRIAL ESTATE, PATTENDEN LANE, MARDEN

See Minute 378 below.

- (2) MA/08/1766 - RETROSPECTIVE APPLICATION FOR THE CHANGE OF USE TO CARAVAN SITE TO PROVIDE GYPSY ACCOMMODATION WITH 4 PLOTS, INCLUDING 4 MOBILE HOMES AND 6 TOURING CARAVANS AND ASSOCIATED WORKS (INCLUDING HARDSTANDING, FENCING, UTILITY BUILDINGS AND CESS POOL) AND KEEPING OF HORSES - FIELD KNOWN AS WHEATGRATTEN, LENHAM FORSTAL ROAD, LENHAM

The Development Control Manager advised the Committee that he was awaiting the information requested in respect of this application.

- (3) MA/09/1784 - OUTLINE PLANNING PERMISSION FOR THE ERECTION OF A NEW HOTEL WITH ACCESS TO BE CONSIDERED AT THIS STAGE AND ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION - ECLIPSE PARK, SITTINGBOURNE ROAD, MAIDSTONE

The Development Control Manager advised the Committee that negotiations were continuing in respect of this application.

- (4) MA/09/2043 - ERECTION OF A REPLACEMENT DWELLING WITH DOUBLE GARAGE AND CREATION OF A NEW DRIVEWAY (RE-SUBMISSION OF MA/09/1298) - STUBBLE HILL COTTAGE, SANDWAY ROAD, HARRIETSHAM, MAIDSTONE

The Development Control Manager advised the Committee that he was awaiting the information requested in respect of this application.

378. MA/08/2439 - CHANGE OF USE OF LAND TO EMPLOYMENT PURPOSES AND ERECTION OF MIXED USE BUILDING TO PROVIDE STORAGE AND WORKSHOPS (CLASS B2/B8) AND ASSOCIATED WORKS INCLUDING

ACCESS AND PARKING - UNIT 15 WHEELBARROW INDUSTRIAL ESTATE,
PATTENDEN LANE, MARDEN

All Members except Councillors Butler and Mrs Gooch stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Development Control Manager.

Ms White, an objector, Councillor Mannington of Marden Parish Council (against) and Mr Aelen, for the applicant, addressed the meeting.

RESOLVED:

1. That permission be granted subject to the conditions set out in the report, the additional condition set out in the urgent update report and the amendment of the reason for approval as set out in the urgent update report except that:-
 - (a) The Development Control Manager be given delegated powers to amend the wording of conditions 5 and 6 to specify an 8.00 a.m. start if considered appropriate in the light of a review of other similar conditions that currently apply to the industrial estate; and
 - (b) Conditions 3 and 9 be amended as follows:-

Condition 3 (amended)

All planting, seeding or turfing comprised in the approved details of landscaping shown on drawing number DHA/6807/07/A and accompanying planting and management schedule shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and 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 and in the interests of visual amenity of the area, in accordance with PPS1 and policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan 2000 and C4 of the South East Plan 2009.

Condition 9 (amended)

The "existing woodland belt" shown to the north of the proposed building on drawing number DHA/6807/07 Rev A shall be

managed to be maintained as existing for a period of not less than ten years from the completion of the development.

Reason: To ensure a satisfactory setting and external appearance to the development and in the interests of visual amenity of the area, in accordance with PPS1 and policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan 2000 and C4 of the South East Plan 2009.

2. That the Landscape Officer be requested to consider whether a Tree Preservation Order should be made to protect the trees which are the subject of condition 9.

Voting: 11 – For 0 – Against 1 – Abstention

379. MA/09/2103 - ERECTION OF 5 NEW DWELLINGS - LAND OFF WINCH'S GARTH, WINCH'S GARTH, STAPLEHURST

Councillor J A Wilson was not present during consideration of this application.

The Chairman stated that he had been lobbied.

The Committee considered the report and the urgent update report of the Development Control Manager.

Mrs Terry, an objector, Councillor Arger of Staplehurst Parish Council (against) and Mrs Norris, for the applicant, addressed the meeting.

RESOLVED:

1. That permission be granted subject to the conditions and informatives set out in the report, as amended by the urgent update report, and the additional conditions and informative set out in the urgent update report with the amendment of condition 5 and informatives 6 and 7 and additional conditions and informative as follows:-

Condition 5 (amended)

The dwelling shall achieve Level 4 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.

Reason: To ensure a sustainable and energy efficient form of development in accordance with policies CC4 and M1 of the South East Plan 2009, Kent Design Guide 2000 and PPS1.

Informatives 6 and 7 (amended)

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank or Public Holidays.

Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays, Bank or Public Holidays.

Additional Conditions

Before development commences details of the means of surface water drainage shall be submitted to and approved by the Local Planning Authority.

Reason: To ensure that no harm occurs to protected species in accordance with PPS9.

The details to be submitted pursuant to condition 3 shall show a fenced off buffer zone at the southern end of the site in which any ecological mitigation measures shall be carried out.

Reason: In the interests of ecology and in accordance with PPS9.

Additional Informative

The details to be submitted pursuant to the surface water drainage condition shall show gully pots that are wildlife friendly and which do not present a threat to the safety of protected species.

2. That the Cabinet Member for Environment be requested to undertake, in consultation with Ward Members and the Parish Council, a review of the parking situation in this area of Staplehurst.

Voting: 10 – For 0 – Against 1 – Abstention

380. MA/10/0229 - AN APPLICATION FOR LISTED BUILDING CONSENT FOR ALTERATIONS TO VENTILATION PIPE WORK ON THE SOUTH ELEVATION OF THE TOWN HALL, REPLACING 100MM CI PIPE WITH A 150MM CI PIPE WITH BRACKET FIXINGS AND REPLACEMENT OF EXISTING 150MM CI PIPE WITH A NEW PIPE AND BRACKET FIXINGS - TOWN HALL, HIGH STREET, MAIDSTONE

The Committee considered the report of the Development Control Manager.

RESOLVED: That this application be referred to the Secretary of State for determination with a recommendation that listed building consent be granted subject to the condition set out in the report.

Voting: 12 – For 0 – Against 0 – Abstentions

381. MA/10/0254 - APPLICATION FOR THE PROVISION OF NEW RAMPS, STEPS AND LANDING AREAS ON THE SOUTH SIDE OF BISHOPS WAY TO IMPROVE PEDESTRIAN CONNECTION FROM THE HIGH STREET TO THE BRIDGE AND THE CLOSURE OF ONE EXISTING SUBWAY, RELOCATION OF THE CANNON AND ITS PLACEMENT ON A NEW PLINTH, REMOVAL OF 4 NO. EXISTING PLANE TREES AND THEIR REPLACEMENT WITH 8 NO. CHERRY AND 7 NO. HORNBEAM TREES, PROVISION OF ILLUMINATION FOR THE QUEEN'S MONUMENT, THE RELOCATED CANNON AND OTHER LISTED BUILDINGS AND ANCILLARY WORKS THERETO, TOGETHER WITH OTHER WORKS INCLUDING THE REALIGNMENT AND RE-PAVING OF CARRIAGEWAYS AND PEDESTRIAN AREAS AND CROSSING POINTS, THE RELOCATION OF 'BUS STOPS AND SHELTERS, TAXI RANKS, LOADING BAYS AND DISABLED PARKING BAYS AND THE REMOVAL/RELOCATION AND/OR PROVISION OF NEW STREET FURNITURE INCLUDING BENCHES, LIGHTING, LEANING-POSTS, TELEPHONE BOXES, REMOVAL OF PLANTERS AND SHRUBS AND THE RELOCATION OF THE EXISTING CCTV POLE BY THE CANNON – TOWN CENTRE REDEVELOPMENT, HIGH STREET AND KING STREET, MAIDSTONE

This application was withdrawn by the applicant.

382. MA/10/0255 - APPLICATION FOR LISTED BUILDING CONSENT FOR THE RELOCATION OF THE CANNON AND ITS PLACEMENT ON A NEW PLINTH TOGETHER WITH INSTALLATION OF LIGHTING TO ILLUMINATE THE QUEEN'S MONUMENT, THE RELOCATED CANNON AND OTHER LISTED BUILDINGS AND ANCILLARY WORKS THERETO - TOWN CENTRE REDEVELOPMENT, HIGH STREET, MAIDSTONE

This application was withdrawn by the applicant.

383. CHAIRMAN'S ANNOUNCEMENTS

There were none.

384. UPDATE ON MATTERS REFERRED TO THE CABINET MEMBERS FOR ENVIRONMENT/REGENERATION

It was noted that there was nothing to report at present.

385. DURATION OF MEETING

6.00 p.m. to 7.20 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

29 APRIL 2010

REPORT OF THE DEVELOPMENT CONTROL MANAGER

1. DEFERRED ITEMS

- 1.1. The following applications stand deferred from previous meetings of the Planning Committee. The Development Control Manager will report orally at the meeting on the latest situation. The applications may be reported back to the Committee for determination.

- | 1.2. <u>Description of Application</u> | <u>Date Deferred</u> |
|---|----------------------|
| (1) <u>MA/08/1766 - RETROSPECTIVE APPLICATION FOR THE CHANGE OF USE TO CARAVAN SITE TO PROVIDE GYPSY ACCOMMODATION WITH 4 PLOTS, INCLUDING 4 MOBILE HOMES AND 6 TOURING CARAVANS AND ASSOCIATED WORKS (INCLUDING HARDSTANDING, FENCING, UTILITY BUILDINGS AND CESS POOL) AND KEEPING OF HORSES - FIELD KNOWN AS WHEATGRATTEN, LENHAM FORSTAL ROAD, LENHAM</u> | 18 March 2010 |

Deferred to enable the Officers to:-

- Seek a noise assessment and any necessary mitigation measures.
- Seek an ecological survey in relation to the adjacent pond in the south west corner of the site and any necessary mitigation measures.
- Investigate the agricultural grading of the land.

- | | |
|--|---------------|
| (2) <u>MA/09/1784 - OUTLINE PLANNING PERMISSION FOR THE ERECTION OF A NEW HOTEL WITH ACCESS TO BE CONSIDERED AT THIS STAGE AND ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION - ECLIPSE PARK, SITTINGBOURNE ROAD, MAIDSTONE</u> | 18 March 2010 |
|--|---------------|

Deferred to enable the Officers to seek to negotiate conditions to ensure that the height, form and mass of the development sympathetically considers the setting of the Kent Downs Area of Outstanding Natural Beauty.

(3) MA/09/2043 - ERECTION OF A REPLACEMENT DWELLING WITH DOUBLE GARAGE AND CREATION OF A NEW DRIVEWAY (RE-SUBMISSION OF MA/09/1298) - STUBBLE HILL COTTAGE, SANDWAY ROAD, HARRIETSHAM, MAIDSTONE

18 March 2010

Deferred to enable the Officers to:-

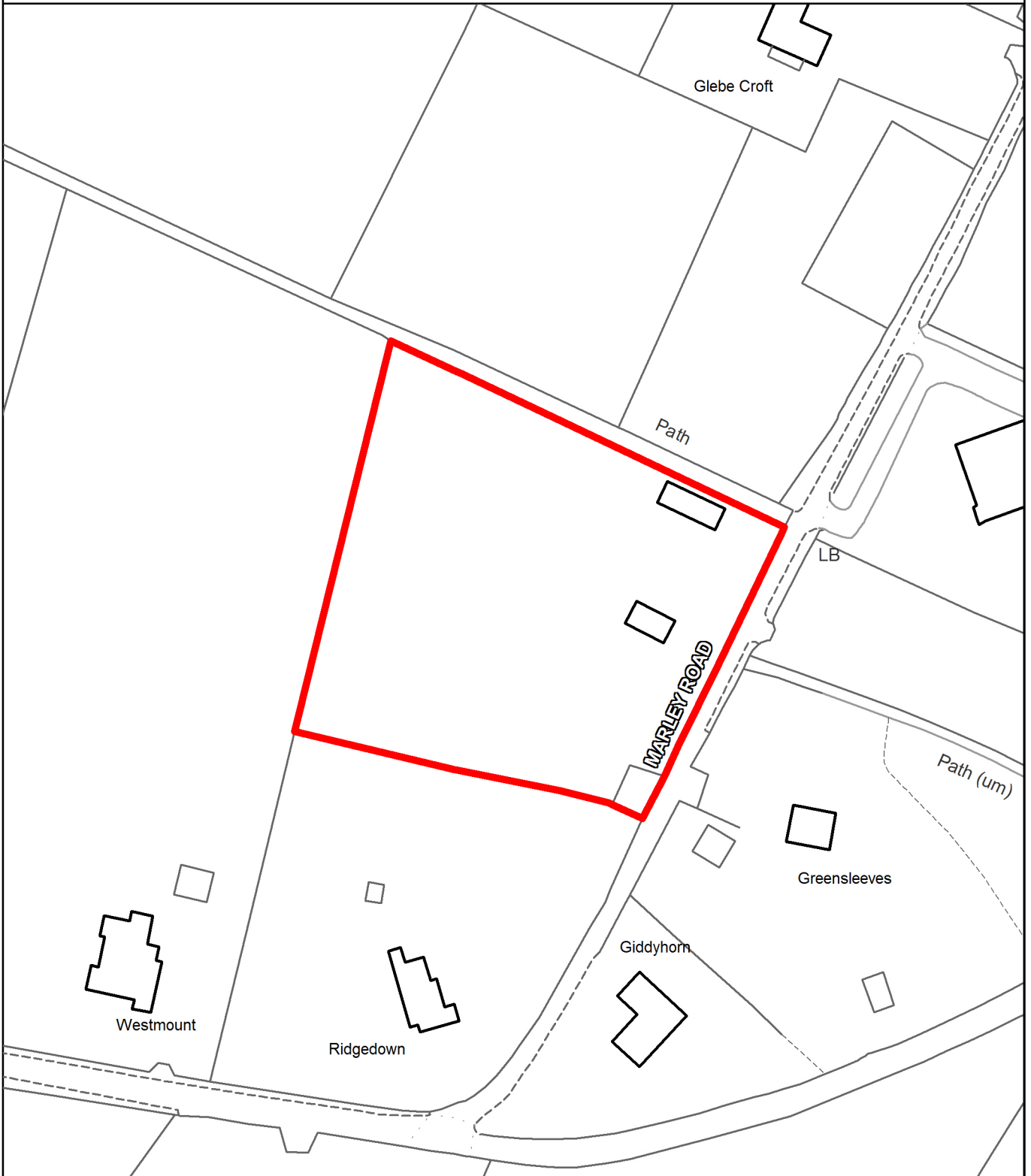
- Seek an ecological survey with any necessary mitigation measures.
- Seek a more comprehensive and detailed landscaping scheme to enhance the setting of the site.
- Discuss with the applicant the possibility of improving the design of the replacement dwelling.

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/09/1510

GRID REF: TQ8852

THE MELLOWS,
MARLEY ROAD, HARRIETSHAM.



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Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/09/1510 Date: 16 August 2009 Received: 21 August 2009

APPLICANT: Ms B Cash

LOCATION: THE MELLOWS, MARLEY ROAD, HARRIETSHAM, MAIDSTONE, KENT, ME17 1BS

PARISH: Harrietsham

PROPOSAL: Retrospective planning permission for change of use of land for residence by a gypsy family including stationing of one mobile home, one touring caravan, use of former stable building as ancillary to mobile home and associated works including fencing and hardstanding (re-submission of MA/09/0851) as shown on site location plan and unnumbered site and landscape plan received on 21/8/09.

AGENDA DATE: 29th April 2010

CASE OFFICER: Peter Hockney

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by Harrietsham Parish Council
- Councillors Tom Sams and David Marshall have requested it be reported for the reason set out in the report

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, ENV33, ENV34, T13
South East Plan 2009: C4, C5, T4
Government Policy: PPS1, PPS7, Circular 01/2006

2. HISTORY

MA/09/0851 – Retrospective planning permission for change of use of land for residence by a gypsy family including stationing of one mobile home, one touring caravan and use of former stable building as ancillary to mobile home – WITHDRAWN.

MA/06/1508/C06 – Retrospective application for the stationing of two mobile homes for occupation by two travellers families, erection of polytunnels, retention of stable building and access road/hardstanding, drainage works and entrance gates - the submission of details received 31 January 2008, pursuant to Condition 6 of

MA/06/1508 being details of fencing, landscaping, gates, lighting and satellite receiving equipment required in appeal number APP/U2235/A/07/2037800 – REFUSED.

MA/06/1508 – Retrospective application for the stationing of two mobile homes for occupation by two traveller families, erection of polytunnels, retention of stable building and access road/hardstanding, drainage works and entrance gates – REFUSED – ALLOWED ON APPEAL 19/12/07.

MA/06/0471 – Use of land for the stationing of 2 no. chalet mobile homes; nursery; erection of stable block for agricultural use. Applicants claiming Gypsy status – REFUSED.

MA/93/0814 – Erection of a bungalow – REFUSED.

MA/88/1428 – Construction of two detached houses – REFUSED – APPEAL DISMISSED.

3. CONSULTATIONS

3.1 Harrietsham Parish Council wishes to see the application REFUSED stating:-
“Harrietsham Parish Council wishes to draw the following points to your attention regarding this application which is a re-submission of MA/09/0851 but with additional fencing, brick walls and hard standing.

- 1 This site was given a temporary permission in 2007 for Mrs Cash or her dependants for 5 years to reside at this site due to insufficient gypsy sites being available. Maidstone Borough Council is in the process of accessing and designating gypsy sites which should be available before the expiry of the existing temporary permission. The applicant has failed to identify any change in circumstances to warrant a new application which has not been fulfilled by the temporary permission already granted by the Planning Inspector in 2007.
- 2 It was also highlighted by the inspector that the front gates and brick piers should be replaced with something more in keeping. This has not been adhered to by the applicant. Also in the same paragraph the inspector requested a reduction in the size of the hard standing; we fail to see how you could recommend approval of this new application as it is requesting an increase in hard standing and the building of further brick walls within the site.
- 3 In respect of Application MA/09/0851 the council request an Ecological Survey which has not been submitted with this application. It has been drawn to the Borough Council’s attention the measures undertaken by the applicant to remove all possible vegetation and ecological habits prior to this second application. I must draw to your attention that it was a condition that any removal, uprooting or destroying of any tree, shrub or hedge that forms part of the approved site should be replaced. This condition was placed by the

inspector to protect this sensitive site, located within an A.O.N.B., from the applicant destroying the habits of protected species located within this area.

Whilst we sympathise with Mrs Cash's predicament of insufficient designated gypsy sites we feel strongly that the Special Landscape Area of the North Downs should be protected, so therefore these breaches in planning conditions should be investigated by MBC enforcement and at the same time we recommend this application should be refused."

3.2 Kent Highway Services raise no objections to the application with regard to highway matters.

3.3 MBC Environmental Health Manager raises no objections to the application.

4. REPRESENTATIONS

4.1 Twenty letters of objection have been received including one from a Planning Consultant on behalf of neighbours on the following grounds:-

- The site is in the countryside and not suitable for residential use.
- Concern that damage may have occurred to protected species contrary to the Wildlife and Countryside Act 1981.
- Impact on the Kent Downs Area of Outstanding Natural Beauty.
- Concern that more families would move onto the site.
- The access is inadequate.
- Concern regarding the applicant's gypsy status and that they have previously lived in a house.

4.2 Cllrs Tom Sams and David Marshall have called the application to Planning Committee stating:-

- "As you will be aware this is a contentious application and one which has attracted a great deal of public interest;
- This site has been the subject of previous contested applications and we feel that the full Planning Committee should consider this latest application."

4.3 CPRE Maidstone raise concerns with regard to the impact of the development on the Kent Downs Area of Outstanding Natural Beauty and the conditions imposed on appeal should be strictly adhered to.

5. CONSIDERATIONS

5.1 Site Location

5.1.1 The application is a field located on the west side of Marley Road within the countryside in Harrietsham Parish. It is approximately 80m north of the junction of Marley Road and Dickley Lane and 400m south of the junction of Marley Road

and the Pilgrims Way. The site is approximately 0.68 hectares. The northern boundary of the site is bounded by Public Bridleway KH291.

5.1.2 The site is within the nationally designated landscape of the Kent Downs Area of Outstanding Natural Beauty and the locally designated North Downs Special Landscape Area.

5.1.3 The site is enclosed by close-boarded fencing on all sides which is partially screened by an existing hedge along the Marley Road frontage. The access to the site is located in the south east corner.

5.2 Proposed Development and Background

5.2.1 The application is retrospective and is for the change of use of land to allow the continued stationing of a mobile home and touring caravan for permanent residential occupation by a gypsy family. The applicants originally moved onto the site just over four years ago and Enforcement Notices were served in March 2006.

5.2.2 The applicant is Mrs Bridget Cash and her children Anne, Eileen and Patrick. Patrick is registered as disabled, epileptic, partially sighted and has speech problems and attends a special school for children with profound and severe disabilities in Maidstone, a taxi is provided (on health grounds). A cross agency team of health workers and social workers are assisting with Patrick's care. Eileen has a problem with her lungs and needs to use an inhaler and gets tired quickly although is not on any regular medication. She attends school in Maidstone and a taxi is provided (on health grounds) to take her to and from school. Anne has no particular health problems and attends school in Maidstone.

5.2.3 Members will see from the History section above that permission was granted on appeal under MA/06/1508 on 19 December 2007 for gypsy accommodation on this site. The permission granted was temporary and personal to Mrs Cash and her dependants on the basis of the harm caused and the personal circumstances of the appellants. I attach a copy of this decision as Appendix 1 to this report.

5.2.4 Maidstone Borough Council considered and refused an application for the stationing of two mobile homes, polytunnels and the retention of a stable building under reference MA/06/1508 on the grounds that the development would harm the character and appearance of the area, the Kent Downs Area of Outstanding Natural Beauty and the North Downs Special Landscape Area and that the access would have inadequate visibility and as a result its use would be a hazard to highway safety. During the appeal the description of the development was altered and considered on the basis of 1 mobile home and 1 ancillary touring caravan, stable building, access, hardstanding, drainage works

and entrance gates. The polytunnels were removed from the proposed development.

5.2.5 The Inspector considered the main issues to be the effect of the development on:-

- The character and appearance of the area having regard in particular to the nationally recognised designation;
- Highway safety;
- The need for gypsy sites in the area; and
- The appellant's need for a site.

5.2.6 On these issues, the Inspector considered that the development would cause significant harm to the character and appearance of the area and fails to protect or conserve the landscape character and beauty of the surrounding nationally important landscape (paragraphs 19 and 42). The Inspector concluded that there would be no significant impact on highway safety from the development (paragraphs 27 and 42). The Inspector identified that there was an immediate general need for the provision of gypsy accommodation and that the specific needs of the appellant should be given significant weight.

5.2.7 The Inspector balanced the issues and concluded that the absence of alternative accommodation combined with the specific personal circumstances of the appellant meant that a temporary 5 year personal permission (from 19 December 2007) would be appropriate.

5.2.8 When the Inspector allowed the appeal, she attached conditions that included condition 6 as follows:-

The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

i) Within 3 months of the date of this decision a scheme for:

- *External lighting on the boundary of an within the site;*
- *Any existing and proposed satellite receiving equipment;*
- *The internal layout of the site, including the siting of caravans, areas of hardstanding, access roads, parking and amenity areas and any means of boundary treatments to define these areas;*
- *Proposed measures to screen the existing close boarded fence around the perimeter of the site or details of any replacement means of enclosure including the replacement of the existing entrance gates and brick pillars.*

- *Tree, hedge and shrub planting and seeding of any former areas of hardstanding which shall include details of species, plant sizes and proposed numbers and densities;*
(hereafter referred to as the site development scheme) shall have been submitted for the written approval of the Local Planning Authority and the said scheme shall include a timetable for its implementation.
- ii) *Within 11 months of the date of this decision the site development scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.*
- iii) *If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.*
- iv) *The approved scheme shall have been carried out and completed in accordance with the approved timetable.*

5.2.9 The applicant submitted a site development scheme in order to satisfy this condition under reference MA/06/1508/C06 on 31 January 2008. This was refused on the 19 March 2008 on the grounds that there was insufficient information on the screening of the close boarded fencing and that the retention of the existing entrance gates and pillars would have an unacceptable impact on the Kent Downs Area of Outstanding Natural Beauty and Special Landscape Area.

5.2.10 The applicant did not appeal this decision and did not submit a revised scheme for consideration within the requisite time and as such the permission expired. This has led to the submission of the current planning application.

5.3 Gypsy Need and Status

5.3.1 There remains an established general gypsy need within the Borough despite the continued permissions that have been granted and a lack of alternative available sites. I will not look too in depth at the 'general gypsy need' as the Inspector has already confirmed that the specific need of the applicant and her dependents warranted the granting of a temporary and personal consent.

5.3.2 I will briefly outline the current situation with regard to the general need for gypsy accommodation. There is a clear and identifiable need for gypsy accommodation within the Borough that stems from the findings of the Gypsy and Traveller Accommodation Assessment (GTAA), which was undertaken in 2005/06 and covers four local authorities – Ashford, Maidstone, Tonbridge & Malling and Tunbridge Wells. Based on this assessment, there is a need for some 32 new pitches in the Borough over the five year period which equates to 6.4 pitches/year. The extremely low turnover of pitches on the Council sites, which

is confirmed by the Council's Gypsy and Caravan Sites Officer, increases the yearly requirement by 2 to 3 pitches, meaning a yearly requirement of 8 to 10.

5.3.3 Work has begun on a gypsy DPD with consultation expected spring 2010 with adoption planned for July 2011.

5.3.4 At the time of writing this report the number of pitches allowed since 2006 is as follows:-

- 30 permanent permissions
- 9 temporary permissions
- 12 permanent with personal permissions
- 16 temporary with personal permissions

(The appeal decision on this site is included within the 16 temporary with personal permissions).

5.3.5 There remains an identified need for gypsy accommodation within the Borough even though permissions have broadly kept pace with the identified need in the GTAA. The general need for gypsy accommodation needs to be given weight in the determination of this application.

5.3.6 Many residents have questioned the gypsy status of the applicant due to the fact that she had previously lived in a house. The agent for the applicant has stated within the application that the residents comply with the definition of a gypsy as set out in Circular 01/2006. Furthermore, the Inspector considered that the applicant meets the definition of a gypsy (paragraph 33 of her decision).

5.4 Visual Impact

5.4.1 The site is within the national designation of the Kent Downs Area of Outstanding Natural Beauty, which recognises its particular natural beauty. Its character and natural beauty should be protected above other planning considerations. There are national and local policies that support this view.

5.4.2 The development, including the stationing of the caravans and the use of the site for residential purposes and the associated domestic paraphernalia and parked vehicles would introduce new development that would cause considerable harm to the character and natural beauty of the Kent Downs Area of Outstanding Natural Beauty and Special Landscape Area.

5.4.3 The Inspector agreed with this assessment and considered that there was significant harm caused by the development.

5.4.4 The application to discharge the development scheme was refused on the grounds that there was insufficient information on the screening of the close boarded fencing and that the retention of the existing entrance gates and pillars would have an unacceptable impact on the Kent Downs Area of Outstanding Natural Beauty and Special Landscape Area. The current application proposes the replacement of the entrance gates with wooden gates and the planting of hedgerows around all boundaries of the site. I consider that these details overcome the reasons for refusal and help to reduce the effect of the development on the Kent Downs Area of Outstanding Natural Beauty.

5.5 Highway Safety

5.5.1 The application proposes the use of the existing access in the south eastern portion of the site. The access was assessed by the Inspector at the appeal and she concluded that there was no significant highway safety issue arising from the use of the site and access.

5.5.2 Kent Highway Services raise no objections to the use of the access on highway safety grounds.

5.5.3 I conclude on this issue that the access is suitable for the purpose and there would be no significant highway safety concerns.

5.6 Residential Amenity

5.6.1 There are residential properties on the opposite (eastern) side of Marley Road 'Giddhorn', 'Greensleeves', 'Little Kempford', 'Ringstead', 'Stanmore Lodge' and 'Eaglesham' also properties to the south 'Ridgedown' and 'Westmount' and 'Glebe Croft' to the north.

5.6.2 The nearest property to the site is 'Greensleeves', approximately 28 metres from the boundary of the site. This distance is sufficient to prevent any significant impact on residential amenity with regard to loss of light, privacy, an overbearing impact. The other properties are further away and would also not suffer from an unacceptable level of amenity.

5.6.3 I consider that the development would not result in any harm to the level of amenity enjoyed by the neighbouring residents. The Inspector did not consider that the impact on residential amenity was unacceptable and was not a key issue in the determination of the appeal.

5.7 Ecology

5.7.1 The applicants have been on site for approximately 4 years. The Enforcement Notices were originally served in March 2006. The site is not in any area of

nature conservation and the nearest pond is approximately 225m away from the western site boundary across a number of separate parcels of land. The application is retrospective and there is no additional development proposed as part of this application. There would be no trees removed and the landscaped margins would be maintained and indeed enhanced. For this reason I consider that the application is acceptable with regard to its impact on biodiversity.

- 5.7.2 I note that application MA/09/0851 was withdrawn following the request for an ecological survey. However, when considering the appeal in 2007 the Inspector did not identify ecology as a significant issue in its determination. There was no ecological survey submitted as part of the 2006 application, the subsequent appeal or as part of this application.
- 5.7.3 Many objectors allege that damage and harm has been caused to protected species and that an offence has occurred under the Wildlife and Countryside Act 1981. The Planning System is not the method to investigate or regulate such alleged offences.
- 5.7.4 I consider that on balance and in these circumstances it would be unreasonable to request an ecological survey at this stage given that the applicants have been on site for four years and the Inspector did not require such a survey to determine the appeal in 2007 or indeed request its submission by way of a condition.

5.8 Applicant's Circumstances

- 5.8.1 The applicant is a gypsy and the gypsy status in accordance with the definition in Circular 01/2006 has been accepted by the Inspector at the last appeal.
- 5.8.2 The personal circumstances of the applicant and in particular her children are a significant issue in the determination of this application. Mrs Cash's son Patrick is registered as disabled, epileptic, partially sighted and has speech problems and attends a special school for children with profound and severe disabilities in Maidstone, a taxi is provided (on health grounds). A cross agency team of health workers and social workers are assisting with Patrick's care. The Inspector gave the personal circumstances of the applicant considerable weight at the last appeal. She stated "I consider the personal needs of this family are pressing and that there is a clear need for a gypsy site for this family. There are no alternative sites available for her at present." (paragraph 40 of the appeal decision).
- 5.8.3 The circumstances of the Mrs Cash and her children have remained unchanged since the appeal and the health considerations of the children, in particular Patrick, shall be given considerable weight in the determination of the application. There are no allocated gypsy sites immediately available for this family and no space on public sites. The issue of the lack of alternative available

gypsy accommodation is effectively unchanged since permission was granted on appeal in December 2007. This is an issue that has significant weight in the determination of this application, as it was at the last appeal and was in fact the determining factor for the Inspector in the appeal.

5.9 Summary and Conclusion

5.9.1 It is clear that the development does cause demonstrable visual harm to the national landscape designation of the Kent Downs Area of Outstanding Natural Beauty. This visual harm to a national landscape designation weighs significantly against the development. The previous Inspector came to the same conclusion.

5.9.2 However, the personal circumstances of the applicant and in particular her children combined with the lack of immediately available alternative accommodation leads me to the same conclusion as the Inspector at the appeal for MA/06/1508 and I recommend that a temporary and personal permission is given on the same grounds as the Inspectors decision. I consider that the appropriate temporary period would be to end on 19 December 2012. This was the same temporary period imposed by the Inspector at the appeal and will allow the completion of the Gypsy DPD and allow sufficient time for the applicant to find an alternative site.

6. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use hereby permitted shall be carried on only by Mrs Cash and her dependants and shall be for a limited period being until 19 December 2012, or the period during which the premises are occupied by them, whichever is the shorter.

Reason: To prevent inappropriate development in the Kent Downs Area of Outstanding Natural Beauty in accordance with policies ENV33 of the Maidstone Borough-Wide Local Plan (2000), C3 of the South East Plan (2009) and Circular 01/2006.

2. When the premises cease to be occupied by Mrs Cash and her dependants or at the end of the temporary period (19 December 2012), whichever shall first occur, the use of the land and former stable building hereby permitted shall cease, all materials and equipment brought on to the premises in connection with the use, shall be removed and the land restored to its former condition.

Reason: To safeguard the natural beauty of the Kent Downs Area of Outstanding Natural Beauty in accordance with policies ENV33 of the Maidstone Borough-Wide Local Plan (2000), C3 of the South East Plan (2009) and Circular 01/2006.

3. No commercial activities shall take place on the land, including the storage of materials and the erection of polytunnels.

Reason: To safeguard the natural beauty of the Kent Downs Area of Outstanding Natural Beauty in accordance with policies ENV33 of the Maidstone Borough-Wide Local Plan (2000), C3 of the South East Plan (2009) and Circular 01/2006.

4. The former stable building shall be used for purposes ancillary to the residential use of the site only.

Reason: To prevent inappropriate development in the Kent Downs Area of Outstanding Natural Beauty in accordance with policies ENV33 of the Maidstone Borough-Wide Local Plan (2000), C3 of the South East Plan (2009) and Circular 01/2006.

5. No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan or mobile home) shall be stationed on the site at any time.

Reason: To safeguard the natural beauty of the Kent Downs Area of Outstanding Natural Beauty in accordance with policies ENV33 of the Maidstone Borough-Wide Local Plan (2000), C3 of the South East Plan (2009) and Circular 01/2006.

6. Any tree, hedge or shrub that forms part of the scheme on the approved plans that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, within the temporary period that ends on 19 December 2012 or during the period which the premises are occupied by Mrs Cash and her dependants, whichever is shorter, shall be replaced with another of the same species and size as that originally planted in the first available planting season.

Reason: To safeguard the natural beauty of the Kent Downs Area of Outstanding Natural Beauty in accordance with policies ENV33 of the Maidstone Borough-Wide Local Plan (2000), C3 of the South East Plan (2009) and Circular 01/2006.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.



Appeal Decision

Hearing held on 13 November 2007

Site visit made on 13 November 2007

by **Claire Sherratt** DipURP MRTPI

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

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Decision date:
19 December 2007

Appeal Ref: APP/U2235/A/07/2037800

The Mellows, Marley Road, Harrietsham, ME17 1BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Bridget and John Cash against the decision of Maidstone Borough Council.
- The application Ref MA/06/1508, dated 8 June 2006, was refused by notice dated 19 September 2006.
- The development proposed is the stationing of 2 mobile homes for occupation by 2 No traveller families, erection of polytunnels, retention of stable building & access road / hardstanding & drainage works & entrance gates.

Summary of Decision: The appeal is allowed.

Preliminary Matters

1. Notwithstanding the description of development, permission is sought for one mobile home and one touring caravan (to be used as ancillary residential accommodation) for one family. The polytunnels are no longer proposed. The Council did not consider its case would be prejudiced if I were to determine the appeal on this basis. I agree. The main parties also agreed that the description of development should be amended to reflect these changes.
2. Part of the development for which planning permission is sought has taken place, namely the stationing of one (double unit) mobile home, the erection of a stable building (currently used as a utility and storage area), together with extensive areas of surfacing, drainage and the entrance gates. Permission is sought to regularise this development.
3. I consider the proposed development would be more accurately described as the retrospective change of use of land to a gypsy site for one family involving the stationing of one mobile home and one touring caravan, the retention of and use of the former stable building for purposes incidental to the residential use of land, access, hardstanding, drainage works and entrance gates. I have determined the appeal on this basis.
4. Although the application was originally made by Mrs Bridget Cash and John Cash (her brother), permission is now only sought by Mrs Bridget Cash who would occupy the site with her children, Anne (aged 13), Eileen (12) and Patrick (7).
5. Enforcement Notices were issued in March 2006 which took effect in April 2006 in respect of the use of the site and former stable building and the associated operational development. Stop Notices were also issued. Enforcement action is currently being held in abeyance pending the outcome of this appeal.

Development Plan

6. The draft Regional Spatial Strategy has only recently been through the Public Examination Stage and does not yet form part of the development plan. The Kent & Medway Structure Plan 2006 (SP) is the most up to date element of the development plan. I have also been referred to policies contained within the Maidstone Borough-Wide Local Plan (LP). All the LP policies relevant to this appeal have been saved under a direction by the Secretary of State under Schedule 8 to the Planning and Compulsory Purchase Act 2004. I have been referred to a number of policies of which I have summarised those I consider to be particularly pertinent to this appeal below.
7. Policy HP9 of the SP gives advice on the location of gypsy sites. It stipulates that where a need for gypsy accommodation is established, provisions should be made in accordance with the SP policies for protecting the countryside. Sites should be located first within the major urban areas or defined rural service location centres in preference to the countryside. In the absence of such sites, locations with good accessibility to the major / principal urban areas or rural service centres and with easy and safe access to primary and other main roads will be preferred. LP Policy H36 stipulates that planning permission will not be given for gypsy sites unless evidence of a travelling way of life is available, the site should be capable of satisfactory screening and the development should not lead to an over concentration of sites, such as to affect the character or amenity of the area. It was agreed at the hearing that the first limb of this policy would not be consistent with Circular 01/2006 'Planning for Gypsy and Traveller Caravan Sites', the site could also be satisfactorily screened and that the development would not lead to an over concentration of sites. As such, the proposal would not conflict with this LP policy.
8. SP Policy EN1 seeks to protect the countryside for its own sake and Policy EN3 protects, inter alia, land free from urban intrusion and seeks to safeguard and enhance landscape character and assets. LP Policy ENV28 limits development in the countryside to certain specific categories of development including that which is reasonably necessary for the purposes of agriculture and forestry, or mineral working, recreational uses and public or institutional uses. Gypsy caravan sites may be considered as an 'exception' to the policy provided they meet other development plan policies.
9. SP Policy EN4 relates to Areas of Outstanding Natural Beauty (AONBs) and confirms that the primary objective is to protect, conserve and enhance the landscape character and beauty of the nationally important landscapes. This is reflected in LP Policy ENV33 which confirms that within the Kent Downs AONB the conservation of the natural beauty of the landscape will be given priority over other planning considerations.
10. The primary objective of the North Downs Special Landscape Area (SLA) is the protection, conservation and enhancement of the quality of its landscape, whilst having regard to the requirement to facilitate the social and economic well-being of the communities situated within them. This is set out in Policy EN5 of the SP and reflected in Policy ENV34 of the LP. Policy T23 of the LP confirms that the Council will consider the impact of traffic generated by a development on the transport system and on the environment.

11. The Council is in the process of preparing its LDF. It is still within the very early stages. The Council has to carry out further consultation on the Core Strategy early next year (2008). This will delay the production of a Land Allocations Development Plan Document (DPD) which is now expected to go to its first consultation stage late in 2009. Adoption of the DPD(s) is currently envisaged by the end of 2010. Allocated sites are therefore anticipated to be identified in about 3 years.
12. A Gypsy Housing Needs Assessment (GTAA) has been commissioned jointly with the adjoining local planning authorities of Ashford, Tonbridge and Malling and Tunbridge Wells Councils. It has now been finalised and accepted by the Council (Document 2).

Main issues

13. The appeal site is situated within the Kent Downs AONB and the North Downs SLA. I consider the main issues are the effect of the development on:
 - (a) the character and appearance of the area having regard in particular to the nationally recognised designation;
 - (b) highway safety;
 - (c) the need for gypsy sites in the area; and
 - (d) the appellant's need for a site.

Reasons

Character and Appearance of the Area

14. National Parks, the Broads and AONBs have been confirmed by the Government as having the highest status of protection in relation to landscape and scenic beauty. Planning Policy Statement 7 'Sustainable Development in Rural Areas' (PPS7), at paragraph 21, advises that the conservation of the natural beauty of the landscape and countryside should be given great weight in planning policies and development control decisions in these areas. The statutory purpose of AONBs is to conserve and enhance the natural beauty of their area. Circular 01/2006 confirms that in areas with nationally recognised designations, as with any other form of development, planning permission for gypsy and traveller sites should only be granted where it can be demonstrated that the objectives of the designation will not be compromised by the development. Local Landscape Designations such as the North Downs SLA carry less weight and are only of limited importance compared to national landscape policies. PPS7, paragraph 25, supports this view. Circular 01/2006 confirms that local landscape designations should not be used in themselves to refuse planning permission for gypsy and traveller sites.
15. The site is situated on the outskirts of Harrietsham, outside the defined settlement boundary of the village. There are residential properties on the opposite side of Marley Road in the immediate vicinity of the site. There are also properties adjacent to the site to the south and south-west. These surrounding properties are detached dwellings occupying substantial plots. There is a public bridleway immediately to the north of the appeal site.
16. The perimeter of the site is defined by a close boarded fence. The fencing is largely concealed from Marley Road by a mature hedge situated along the

frontage. Brick pillars with fencing either side and ornate iron gates define the site access which is set back from the road. Part of the appeal site is surfaced with hardcore or tarmac, part is a formal lawn and the remainder left rather unkempt in appearance with no particular purpose. A former stable structure is used as a utility area and storage. Its overall external appearance remains as a stable block.

17. Land to the north rises up to Pilgrims Way, beyond which the land rises more steeply to the ridge of the escarpment. Whilst public views into the site are limited from Marley Road and the adjacent bridleway by the existing boundary treatments, the site can be seen from Pilgrims Way. I heard that views into the site can also be gained from the property opposite.
18. Generally, the boundaries of surrounding properties are defined by vegetation. Although I saw some examples of fencing or walls in the curtilages of surrounding properties these were not dominant or prevailing features of the area. The existing fencing and defined access together with the considerable extent of hard surfacing within the site result in a rather stark, regimented and harsh appearance. In my view, these elements are incongruous features in the surrounding landscape which bear little relationship to the rural setting. No vegetation in the site serves to soften the impact of the development. In my view, the overall site lacks a sense of cohesion and fails to integrate satisfactorily with its surroundings. The caravan and domestic paraphernalia associated with the use clearly and unacceptably encroach into the open countryside.
19. To conclude on this issue, I consider the proposed development unduly harms the character and appearance of the area and fails to protect or conserve the landscape character and beauty of the surrounding nationally important landscape. It therefore conflicts with national and local policies in this regard.

Highway Safety

20. The Council is concerned that there are inadequate visibility splays at the site access. The intensified use of the access generated by the development would, the Council asserts, give rise to conditions prejudicial to highway safety.
21. It was accepted that the visibility to the north of the site could be improved to a satisfactory standard. However this would involve the removal of a substantial part of the hedge (some 16 metres) along the site frontage which would be of further detriment to the character and appearance of the area. Visibility to the south can not be improved with the access in its present position. I consider it is most likely that most traffic leaving the site will turn right (south) and a greater proportion of vehicles will also approach from this direction given that this is the most direct route to the main road network.
22. If the position of the access is relocated some 9 metres or thereabouts north of its current location, adequate visibility would be achieved in both directions. The appellant's representative considered this would not be unreasonable given the extent of works that would be required in any event to improve the visibility to the north. I am also mindful that the enforcement notices require the removal of the entrance gates and brick pillars so the appellant would not be in a worse position than either of these scenarios. The occupier of Greensleaves, the property opposite, raised no objections to the repositioning of

- the access. He saw this as beneficial as the access is directly opposite his own at present. However, a new access was not proposed as part of the original application. It has not been considered and other than those parties present at the hearing other interested parties have not had the opportunity to comment on any revised entrance. I agree with the Council's representative that such an amendment would be material and would go beyond the remit of this appeal.
23. I note that two separate taxis collect the children and take them to school, therefore resulting in 8 traffic movements per day during the week. A local resident had recorded some 16 movements in one day earlier in the year. This broadly corresponds to the upper level of traffic the highway authority would expect to be generated by one 'dwelling'.
24. The section of Marley Road, in the vicinity of the appeal site, is a narrow lane. I would not expect vehicles to be travelling at speed. Indeed a speed check confirmed vehicle speeds of about 20mph. Furthermore, I saw little evidence that this section of Marley Road would accommodate any significant amount of traffic. It would generally serve residential properties situated beyond the site and provide access to Pilgrims Way. Even having regard to the taxi movements, the occupation of the site by the appellant and her children would result in only a modest increase in traffic throughout the day on a lightly trafficked road.
25. Concerns were raised that the site has been used for commercial use in the past, in particular a paving business. It seems to me that the restricted visibility available together with the rural and narrow nature of the surrounding roads and its location in an AONB are all compelling reasons why the site would not provide a suitable location for any form of commercial use. This is a matter that could be reasonably controlled by condition. Any subsequent breach of a condition could be enforced by the Council providing it is considered expedient to do so.
26. Interested parties raised concerns about the increased use of the junction where Marley Road meets Dickley Lane. However, this view is not shared by the highway authority which raises no objections in this respect. Although I consider most vehicles coming to and from the site are likely to turn right and therefore use this junction, I consider that the amount of traffic generated by the development would be modest.
27. Circular 01/2006 states that proposals should not be rejected if they would only give rise to modest additional daily vehicle movements and / or the impact on minor roads would not be significant. As such, I do not consider the increase in traffic using this junction or the access would be unacceptable or unduly prejudice highway safety. I do not find any conflict with Policy T23 of the Local Plan in this respect.

The provision of and general need for & availability of gypsy / traveller sites

28. There is no dispute between the parties that there are no current vacancies on the two council-operated sites in Maidstone. Both sites are currently the subject of studies which seek to rationalise the site layout and would result in a total net increase of 6 pitches. It was accepted at the hearing that pitches on the council-operated sites tend to be offered to relatives of the existing

occupiers. In addition, the sites are currently occupied by Romany gypsies. The appellant, it was established, is an Irish traveller

29. There is no dispute that there are, within Maidstone and the wider area of Kent, a considerable number of unauthorised caravans on sites without the benefit of planning permission. The number of unauthorised sites within Maidstone has not increased materially over the last 3 years and on average, during that period, an average of 10 pitches per year have been made available through the planning system, albeit most have been allowed following an appeal.
30. The GTAA indicates a current shortfall of some 70 pitches in the sub-region. An additional 24 pitches would be required to address family formation over the next 5 years (2007-2011). Having regard to a supply of 30 pitches (6 per year) available over the 5 year period, the data suggests there will be a need for 64 additional pitches between 2006-2011. The distribution of those pitches would be informed by the RSS. However, it was accepted by the Council's representative that based on a distribution informed by both existing and ideal locations expressed by respondents, a large proportion (some 32 pitches) would be required in Maidstone. There is also support from the surveys carried out that the preference would be for more privately owned sites (some 73% of respondents said their ideal site would be a private authorised site).
31. I am satisfied that there is an immediate need for the provision of further gypsy sites in both Maidstone and the wider area. This is a consideration I give considerable weight.

Personal need and circumstances of the appellant

32. Prior to moving onto the appeal site some 18 or so months ago, Mrs Cash rented a property in the village known as Tara. She lived here for over 2 years. Prior to this she has also lived in a council-owned house in High Wickham and on a plot on a council-owned gypsy site in Milton Keynes.
33. The appellant is from a traditional gypsy family and has travelled around the Kent area with her family. Whilst the local planning authority does not dispute her gypsy origins it initially expressed concern that she had ceased a pattern of travelling contrary to the first limb of LP Policy H36. However, at the hearing, in light of Circular 01/2006 which confirms it is no longer necessary to travel to retain gypsy status, it was agreed that the appellant and her family would meet the definition of a gypsy as set out in paragraph 15 of Circular 01/2006.
34. To live in a house is, the appellant told me, against her cultural gypsy traditions. However, she is a single mother and has to provide suitable accommodation for her youngest child Patrick. Living in a house contributed to the breakdown of her relationship with the children's father and I heard she experienced prejudice towards herself and her family as a result of her gypsy origins. It has not been possible for her to continue a travelling existence since having her son Patrick and in any event, she wants her children to receive an education and therefore needs a settled base. I agree that the appellant is a gypsy as defined in the Circular and that there are genuine reasons why it has been necessary for her to cease a travelling lifestyle.

35. Patrick is registered disabled, epileptic, partially sighted and has speech problems. He attends a special needs school for children with profound and severe disabilities in Maidstone and a taxi service is provided. A cross agency team of health workers and social workers are assisting with Patrick's care. I heard that he has a complexity of needs. He is unable to develop a normal pattern of skills due to delayed mental development and visual impairment. He needs assistance with general mobility and any organised activities such as dressing. He is seen by various consultants approximately 6 times per year. It is hoped to secure a disability grant to adapt the mobile home to provide wheelchair access, hoists and a ramp or step lift.
36. In assessing whether alternative accommodation is suitable for Patrick, I heard that a site would need to be reasonably level with enough room for a practical sized garden as Patrick does not enjoy the same access to public facilities. The appellant considers that she can cater for his needs well on the site as it is a more controlled environment than for example a housing estate. She is aware of vehicle movements and general comings and goings in the site and can supervise Patrick accordingly. She has received some play equipment for Patrick from a charity and is waiting for a specially adapted swing seat for him. She has been advised it would be beneficial to enclose the garden area to separate it from vehicles within the site.
37. The appellant's daughter, Eileen, attends a High School in Maidstone where I heard she is making good progress. A taxi is provided (on medical grounds) to take and collect her from school. Due to a problem with her lungs she needs to use an inhaler and gets tired quickly. Although not on any regular medication she has to attend Maidstone hospital for check-ups about twice per year.
38. Anne also attends the same High School. She is the eldest daughter and has missed some schooling while the family still travelled. She attended school while the family were settled on the council-owned gypsy site. However when the appellant experienced problems on this site and had to leave, Anne missed some further schooling. She now has some extra tutorials at school to assist her.
39. I heard that the appellant was given notice, by the owner, to leave Tara. This property was coincidentally in the same ownership as the appeal site at that time. Tara was sold to the previous occupier of the appeal site and the appellant purchased this site. This was clearly an arrangement that suited the circumstances of all the parties involved. The relationship of the three parties involved in these transactions has, in my opinion, little bearing on the land use planning considerations of this case. The Council could not direct me to any alternative sites that may be suitable for the appellant. The new Circular has been necessary because evidence shows that previous advice has failed to deliver adequate sites for gypsies and travellers in many areas of England. The appellant claims she was not aware of the enforcement notices. There is clearly a high demand for sites in the Maidstone area and I doubt if there were other sites that did have the benefit of planning permission available at the time.
40. I consider the personal needs of this family are pressing and that there is a clear need for a gypsy site for this family. There are no alternative sites available for her at present. Circular 01/2006 recognises the benefits arising

from a settled base both in terms of access to health care and education. The alternatives available to the family at present would appear to be a road side existence. I have no doubt that this would not be beneficial for the children both in respect of their continued education and the on-going health requirements of Eileen and Patrick. I give the needs of the appellant and the personal circumstances of her family considerable weight.

Other Matters

41. Various commercial activities have taken place on the site in the past including a paving business operated by the appellant's brother. There was no evidence of any continued commercial activity on the site when I visited it. No commercial use is sought on the site. As I have previously stated, it would not be an appropriate location for commercial activities and this could be controlled by a suitably worded condition.

Overall Balancing Exercise

42. The harm that I have identified to the AONB, a landscape of national importance, must be given great weight. I find the site suitable in terms of highway safety. Considerations weighing in favour of the appellant are the general need for further gypsy sites in the area and the personal needs of the appellant and her family. I give these matters considerable weight. However, in my view, these considerations would not outweigh the harm that I consider would arise to the AONB.
43. Advice on the use of temporary permissions is contained in paragraphs 108 – 113 of Circular 11/95. Paragraph 110 advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission. Paragraph 45 of Circular 01/2006 confirms that where there is an unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, local planning authorities should give consideration to granting a temporary permission.
44. Sites are not likely to be identified for at least 3 years after which time it will be necessary to obtain planning permission and implement those permissions. A 4 year period was therefore felt to be appropriate by the main parties if I were to consider a temporary permission. In response to a question I put to the parties at the hearing, and contrary to what I heard at the time, I have subsequently been informed by Maidstone Borough Council that any grant to carry out works to adapt the mobile home (to accommodate the needs of Patrick) would normally only be offered in cases where an applicant had both a site licence and planning permission of at least 5 years duration. Bearing in mind the weight I give to the personal circumstances of the appellant, I consider any temporary permission should therefore reflect this requirement.
45. Whilst the harm to the AONB is significant, some improvements could be made such as the internal screening of fencing or its replacement; the replacement of the ornate gates and brick piers; and a reduction in the extent of hardstanding. Although these mitigation measures would not be sufficient to render a permanent permission acceptable, they would nevertheless lessen the harm.

With these measures in place, I consider the general need for further gypsy sites in the area and the personal needs of the appellant and her family would outweigh the harm to the AONB subject to that harm being limited to a temporary period only.

46. I recognise that a temporary permission would result in an interference with the appellant's home and family life. However this must be weighed against the wider public interest. For the reasons given above, I have found that this proposal would be harmful to the character and appearance of the AONB which enjoys the highest status of protection in relation to landscape and scenic beauty. Nevertheless, in light of the unmet demand for gypsy sites in the area, I intend to allow the continued use of the site for a temporary period until such time as the Council has prepared a DPD to identify suitable alternative sites and having regard to the minimum duration of a permission that would facilitate grant assistance to adapt the mobile home. I consider a temporary permission would not therefore be a disproportionate response in this case.

Conditions

47. The Council suggested a number of conditions which I discussed at the hearing. As well as a condition restricting the permission to a temporary period, I agree that the permission should be personal to the appellant as it is the lack of available sites and the personal circumstances of the family that justify a temporary planning permission. To safeguard the character and appearance of the area from further harm, I agree that the number of caravans should be limited, no commercial activities should be permitted, the existing perimeter fence should be screened or replaced with a means of enclosure or planting in keeping with the area, lighting and satellite equipment should be first agreed and the internal layout approved. Although visibility can be improved to the north of the site access, I am mindful that any replacement hedge would take sometime to mature. Given the modest increase in traffic over a day and that I only intend to permit a temporary permission, I consider the benefits arising from improved visibility would be outweighed by the additional environmental harm that would arise due to the removal of the mature hedge which is an important and characteristic feature along Marley Road. I do not therefore consider a condition requiring improvements to visibility necessary in this instance. Mrs Cash confirmed she would be happy to replace the ornate gates at the entrance to the site. I consider this would be reasonable and further mitigate against the temporary harm that would arise to the AONB.

Conclusions

48. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed for a temporary period of 5 years.

Formal Decision

49. I allow the appeal, and grant planning permission for the retrospective change of use of land to a gypsy site for one family involving the stationing of one mobile home and one touring caravan, the retention of and use of the former stable building for purposes incidental to the residential use of land, access, hardstanding, drainage works and entrance gates at The Mellows, Marley Road, Harrietsham, ME17 1BS in accordance with the terms of the application, Ref

MA/06/1508, dated 8 June 2006, and the plans submitted with it, subject to the following conditions:

- 1) The use hereby permitted shall be carried on only by Mrs Cash and her dependants and shall be for a limited period being the period of 5 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
- 2) When the premises cease to be occupied by Mrs Cash and her dependants or at the end of 5 years, whichever shall first occur, the use of the land and former stable building hereby permitted shall cease, all materials and equipment brought on to the premises in connection with the use, shall be removed and the land restored to its former condition.
- 3) Notwithstanding the application plans, no commercial activities shall take place on the land, including the storage of materials and the erection of polytunnels.
- 4) The former stable building shall be used for purposes ancillary to the residential use of the site only.
- 5) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan or mobile home) shall be stationed on the site at any time.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for:
 - external lighting on the boundary of and within the site;
 - any existing and proposed satellite receiving equipment;
 - the internal layout of the site, including the siting of caravans, areas of hardstanding, access roads, parking and amenity areas and any means of boundary treatment proposed to define these areas;
 - proposed measures to screen the existing close boarded fence around the perimeter of the site or details of any replacement means of enclosure including the replacement of the existing entrance gates and brick pillars.
 - tree, hedge and shrub planting and seeding of any former areas of hardstanding which shall include details of species, plant sizes and proposed numbers and densities;(hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have

been made to, and accepted as validly made by, the Secretary of State.

- iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 7) Any tree, hedge or shrub that forms part of the approved site development scheme that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, within a period of 5 years or during the period which the premises are occupied by Mrs Cash and her dependants, whichever is shorter, shall be replaced with another of the same species and size as that originally planted in the first available planting season.

Claire Sherratt

INSPECTOR



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The Meadows
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THE MELLOWS



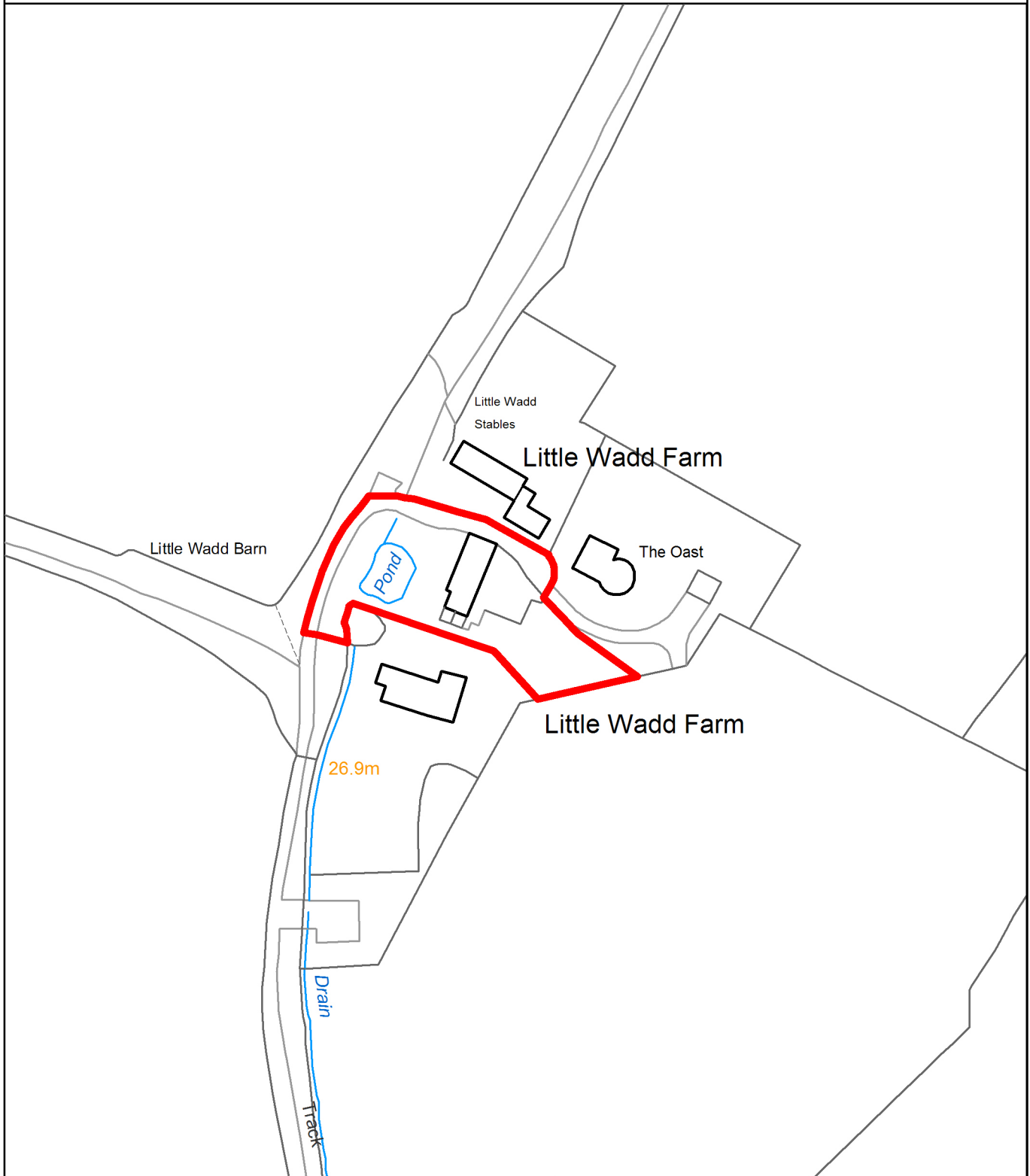
Agenda Item 14

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0037

GRID REF: TQ7940

THE BARN, LITTLE WADD FARM,
GRANDSHORE LANE, FRITTENDEN.



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Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/10/0037 Date: 12 January 2010 Received: 12 January 2010

APPLICANT: Mr & Mrs A & S Castle

LOCATION: THE BARN, LITTLE WADD FARM, GRANDSHORE LANE, FRITTENDEN, CRANBROOK, KENT, TN17 2BZ

PARISH: Staplehurst

PROPOSAL: Planning application for erection of single storey extension to garage with glazed link to main dwelling to provide additional living accommodation and insertion of window to front elevation (re-submission of MA/09/1614) as shown on drawing number(s) 549.TP1/A to TP5/A and supported by a Planning Statement received on 12 January 2010.

AGENDA DATE: 29th April 2010

CASE OFFICER: Janice Tan

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by the Staplehurst Parish Council

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, H33, ENV45
The South East Plan 2009 : SP1, CC1, CC6, C4
Village Design Statement: N/A
Government Policy: PPS1, PPS3, PPS7
Maidstone Local Development Framework, Residential Extensions Supplementary Planning Document 2009
Maidstone Planning Guidance Notes, No. 9, Converting Rural Buildings 1996

1. HISTORY

MA/09/1614 - Planning application for erection of single storey extension to garage with glazed link to main dwelling to provide additional living accommodation – WITHDRAWN

MA/02/2091 - Conversion of barn to one dwelling and erection of detached garage (amendment to permission MA/92/0930) – approved with conditions

MA/92/0930 - Conversion of barn to dwelling – approved with conditions

2. CONSULTATIONS

- 3.1 Staplehurst Parish Council** wish to see the application approved and requested that it be referred to Maidstone Borough Council Planning Committee.
- 3.2 Maidstone Borough Council Conservation Officer** recommended that the application be refused. The proposed extension is of a substantial size and would have a far greater visual impact than the existing small detached garage and is contrary to guidance given in Maidstone Borough Council Planning Guidance Notes, No. 9 Converting Rural Buildings section 6.4 which states that extensions should not be permitted to converted traditional barns.

3. REPRESENTATIONS

- 4.1 Two representations of support were received stating that the proposal would not have an impact on the immediate neighbours.

4. CONSIDERATIONS

5.1 Site and surroundings

- 5.1.1 The application concerns an unlisted traditional barn converted to residential use, located within a former farmstead in the countryside with no specific landscape designation as defined in the Maidstone Borough-Wide Local Plan 2000. The former farmstead is located at the northern end and on the eastern side of Grandshore Lane. It comprises four traditional buildings in residential use with associated outbuildings.
- 5.1.2 The application site contains a former barn which was granted planning permission in 2003 to convert to residential use and a new detached garage. The site is bounded to the west and northeast by shared vehicular accesses which are also public footpaths, KM320 and KM323 respectively. The vehicle accesses serve the dwellings of Little Wadd Farm and The Oast which lie to the northeast of the application site, and the detached garage in the rear garden of the application dwelling (The Barn). To the east of the application site is an agricultural field and to the south is Little Wadd Farmhouse, a two-storey farmhouse.
- 5.1.3 The converted barn is of a traditional form with timber feather-edged weatherboarding above a brick plinth and a Kent peg tiled roof. It has a front garden with a natural pond and a rear garden with an associated outbuilding. The outbuilding is a one and a half bay garage which accommodates a single car and a central heating boiler and is new a building. It was erected under the

same planning permission to convert the barn under MA/02/2091. This outbuilding is approximately 7.5m to the east of the dwelling with external materials matching the materials of the converted barn and replaces an internal garage within the barn structure on a previous scheme. The new garage was permitted following the revised scheme for the barn conversion reviewed by the Conservation Officer. He considered that the removal of the internal garage will preserve more of the oak frame of the barn and require less external and internal changes. In addition to this the garage would not be visible from a public highway as it would be screened by existing buildings in the former farmstead and therefore would not be visually incongruous in the countryside location.

5.2 Proposal

- 5.2.1 The current application is a re-submission of a previous application which was withdrawn in 2009 and is the same scheme as previously submitted.
- 5.2.2 The proposal is for the erection of a single storey garage extension on the western side of the detached garage located 7m from the rear building line of the converted barn. The development would provide accommodation for a study/guest bedroom and a WC/shower with a glazed lobby which connects the garage extension to the converted barn.
- 5.2.3 The footprint of the garage extension would be 7m by 4m and the glazed link connecting it to the converted barn would be 1.8m by 3m on plan.
- 5.2.4 The ridge height of the proposed garage extension would be 4m high, 600mm higher than the ridge height of the existing detached garage, and would almost match the eaves height of the converted barn. The ridge length of the garage extension would be 8m long and would run at right angles to the length of the converted barn. The proposed glazed link that connects the garage extension to the barn would have a ridge length of 1.6m and would be 600mm lower than the ridge height of the proposed garage extension.

5.3 Policy background

- 5.3.1 The application relates to the extension of a rural building that has been converted to residential use and is located in the countryside. Policies ENV28 and H33 of the Maidstone Borough-Wide Local Plan 2000 are relevant and consideration should be given to the Maidstone Local Development Framework Residential Extensions Supplementary Planning Document 2009 as a material consideration..
- 5.3.2 Policy ENV28 restricts development in the countryside to certain types of development that are essential for a rural location and to support the rural

economy. It makes exceptions to the conversion of traditional agricultural buildings of value to residential use under Policy ENV45 and Policy H33 of the Maidstone Borough-Wide Local Plan 2000 which relates to house extensions in the countryside. The aforementioned policies emphasise that development should not harm the character and appearance of the countryside or the amenities of surrounding occupiers.

5.3.3 In addition, Policy H33 requires residential extensions in the countryside to not overwhelm or destroy the original form of the existing house and when taken individually and cumulatively should not be visually incongruous in the countryside. Extensions should also be well designed and sympathetically related to the existing house.

5.3.4 The Maidstone Local Development Framework Residential Extensions Supplementary Planning Document which was adopted in 2009 explains, in section 5.14, that extensions to traditional farm buildings that have been converted to residential use should not normally be permitted where it would have an unacceptable impact on the original form and character of the building. It stresses that when consent is granted to convert traditional agricultural buildings to residential use, the Council seeks to preserve the original simple form and character of the traditional farm building.

5.4 Planning Assessment

5.4.1 The main issues of concern are whether the design and bulk of the extension would preserve the original form and character of the traditional barn that has been converted to residential use. These are assessed in relation to the proposed development as follows:

5.4.2 Impact on converted building

5.4.3 The garage extension has been designed to be in keeping with the vernacular style of the barn in terms of materials. The development would significantly alter the simple rectilinear floor plan of the barn building to an L-shaped floor plan that would not reflect the simple traditional form of the converted barn. This would fundamentally change the character of the barn and harm the simple form sought to be preserved through the original conversion. The Conservation Officer supports this view and has recommended the application be refused.

5.4.4 Given that the garage was approved as a new building when planning permission was granted to convert the barn into a dwelling in 2003 (for the reasons explained in section 5.1.3), the resultant bulk of the cumulative extensions to the original barn attached to the original barn should include the retained garage building as an extension since the proposal now attaches it to the main barn.

5.4.5 The cumulative extensions to the barn would comprise the retained garage, its proposed extension and the glazed link which would create a 11.6m long extension wing attached perpendicularly to the eastern end of the barn. The length of the wing is just over half the length of the original barn which is 19.5m in length.

5.4.6 Although the extension wing would be single storey with a ridge height no higher than the eaves height of the barn, it is substantially larger than the existing detached one and a half bay garage resulting in a development which would have a far greater visual impact than the existing modest sized detached garage. The fact that it is attached to the converted barn is unacceptable in principle as it would destroy the simple rectilinear form of the original barn. A smaller extension attached to the original barn would also be unacceptable.

5.4.7 The visual harm is further reinforced in that it would be attached to the converted barn which is contrary to advice given in Maidstone Local Development Framework, Residential Extensions Supplementary Planning Document 2009.

5.4.8 Impact on the countryside

5.4.9 When the bulk and height of the development together with the retained garage are seen against the converted barn and the adjacent buildings within the former farmstead and the nearby public footpaths which are also vehicular accesses to the property, the development would appear visually incongruous in the countryside.

5.4.10 Other considerations

5.4.11 The proposed development being single storey would not harm the residential amenities of neighbouring dwellings in terms of loss of daylight, sunlight privacy and outlook. It would not also have an impact on the existing parking provision of the dwelling given that the accommodation provided in the proposed extension would be for a study/guest bedroom which would be used ancillary to the main house.

5. Conclusion

6.1 The converted barn is a traditional agricultural building of a simple form and character worthy of protection. To extend the garage to attach to the converted barn would not be acceptable in principle because it would not preserve the traditional simple form of the converted barn and cause harm to its character.

6.2 The proposed extensions to the converted barn by virtue of its bulk, mass and design when taken individually and cumulatively to include the retained garage

would fail to preserve the original character and form of the traditional barn resulting in a development that would harm the distinctive character of the stead and be visually incongruous in the surrounding countryside, contrary to policies of the development plan and guidance given in Maidstone Local Development Framework Residential Extensions Supplementary Planning Document 2009.

7 RECOMMENDATION

REFUSE PLANNING PERMISSION for the following reasons:

1. The proposed extension to the converted barn by virtue of its bulk and design when taken individually and cumulatively would fail to preserve the original character and simple form of the traditional barn resulting in a development that would harm the distinctive character of the farmstead and be visually incongruous in the surrounding countryside, contrary to policies SP1 and CC1 of the South East Plan 2009 and policies ENV28 and H33 of the Maidstone Borough-Wide Local Plan 2000 and advice in the Maidstone Local Development Framework Residential Extensions Supplementary Planning Document 2009.

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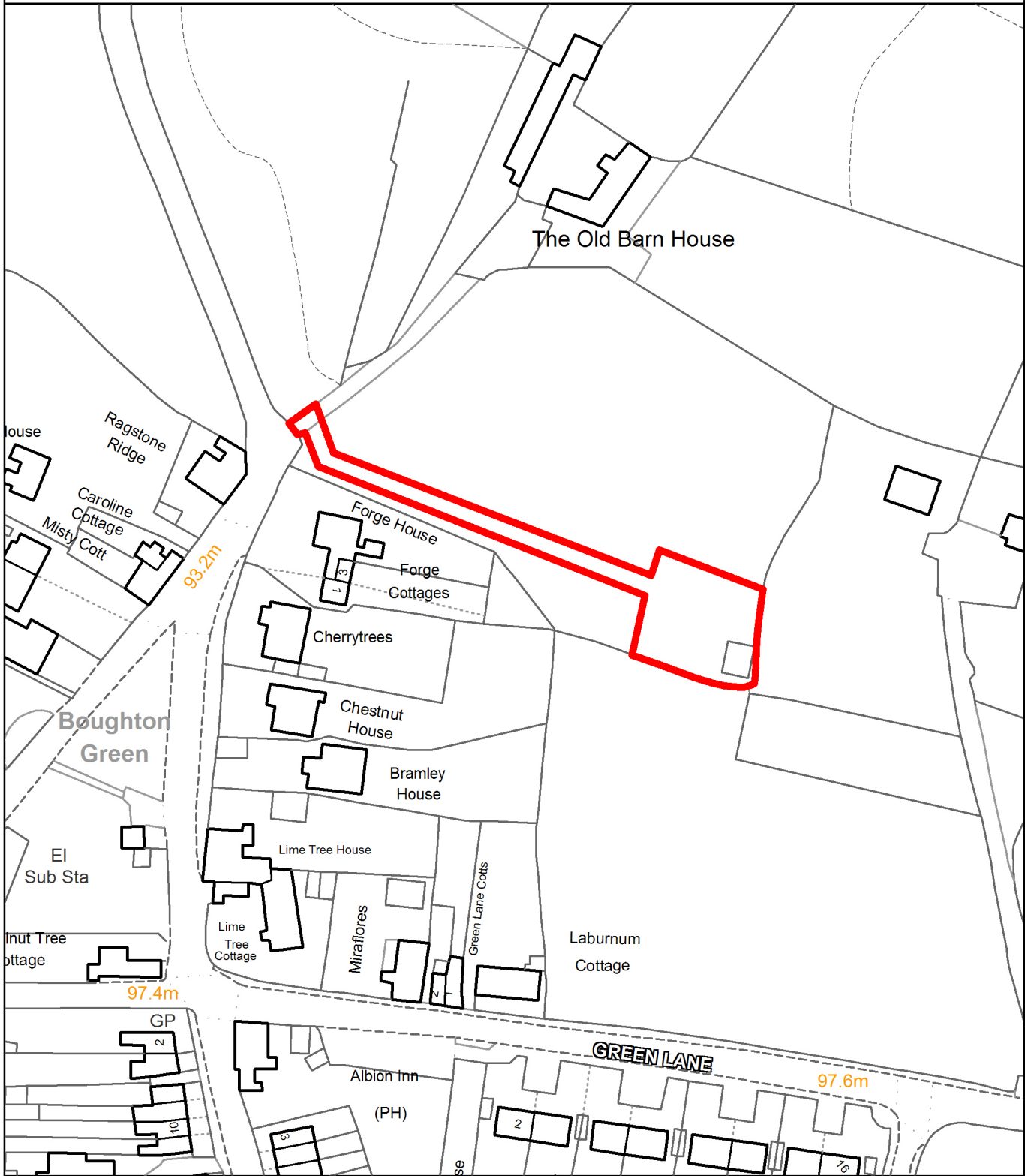
23.02.2010

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0091

GRID REF: TQ7651

LAND ADJ. FORGE HOUSE,
BERESFORDS HILL, BOUGHTON MONCHELSEA.



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Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/10/0091 Date: 18 January 2010 Received: 11 March 2010

APPLICANT: Mr D Farley

LOCATION: LAND ADJ FORGE HOUSE, BERESFORDS HILL, BOUGHTON
MONCHELSEA, KENT, ME17 4LX

PARISH: Boughton Monchelsea

PROPOSAL: Outline planning permission for the erection of one dwelling with all matters reserved for future consideration as shown on A4 site location plan received on 17th February 2010 and A4 indicative layout plan received on 11th March 2010.

AGENDA DATE: 29th April 2010

CASE OFFICER: Richard Timms

The recommendation for this application is being reported to Committee for decision because:

- The applicant is a member of staff

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, ENV32
The South East Plan 2009: CC1, CC6, H1, C4, BE6
Government Policy: PPS1, PPS3, PPS5, PPS7
Boughton Monchelsea (The Green) Conservation Area Appraisal 2008

2. HISTORY

MA/98/0397 Outline application for one detached dwelling and garage with only means of access for consideration, all other matters reserved – REFUSED

MA/95/0035 Outline application for the erection of a detached dwelling and garage with all matters except for the means of access reserved for future consideration - DISMISSED AT APPEAL

MA/93/0386 Outline application for detached four-bedroom dwelling – REFUSED

3. CONSULTATIONS

3.1 **Boughton Monchelsea Parish Council:** Would like to see the application REFUSED as the proposed dwelling is outside the village envelope as defined in the Maidstone Borough-Wide Local Plan 2000.

3.2 **Conservation Officer:** No objections with regard to the setting of the Conservation Area.

"Given the density of development within the conservation area, it would difficult to argue that a dwelling in the proposed location would, in principle, adversely impact the character of the setting of Boughton Monchelsea, 'The Green' Conservation Area."

3.3 **Environmental Health Manager:** No objections.

3.4 **Rural Planning Ltd:** No objections to loss of small area of agricultural land.

"The proposed development would be sited within the south-east corner of a grass field that extends to some 0.6 ha (or 1.48 acres) by my calculation. The stated area of the development would be some 0.07 ha but I would estimate that the effect of the dwelling and access road thereto could include an overall loss (in terms of potential agricultural use) of a further 0.04 ha or so, being the strip of land south of the proposed access."

The land is indicated as being Grade 2 on the 1:250000 DEFRA classification map, however that is not accurate on a field by field level and the actual grade could only be determined by a detailed survey....

..... I note that part of the site at least is already developed as such in that it contains a small agricultural building and there may well be other "disturbed" land around or leading to the building that in practice would reduce the land quality grade here.

The development would run across a small neck of land, to the south of which there is another small field. However the two fields appear distinct with mature trees between the two. As such I do not consider there is a reasonable assumption that the two parcels are, or should be, regarded as a single block of agricultural land that requires to be contained within a ring fence for its beneficial agricultural use. Consequently I do not consider the creation of the new access way and the dwelling (whatever its impact in visual terms etc) is likely to impinge on the continued or potential agricultural use of the remainder of the field concerned to the north, or the other field to the south.

Taking all the above into account, in my view the agricultural loss issue here is not likely to be significant, or of enough concern to warrant the sort of land grade survey that would be required to inform a judgement as to the exact land quality, as a potential reason for refusing planning consent."

3.5 **KCC Archaeological Officer:** No objections subject to a watching brief condition.

"The application site lies within an Area of Archaeological Potential relating to an Iron Age oppidum, located c.200m to the north-west, and the find spots of Roman artefacts in the vicinity.

Archaeological remains could be encountered during the proposed groundworks and I recommend that the following condition be applied to any forthcoming consent:

No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification 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."

4. REPRESENTATIONS

4.1 **Neighbours:** Three representations raising the following points:

- An identical application was made a few years ago which was rejected and nothing has changed except a vast increase in traffic due to the new schools in Boughton Lane.
- Will destroy what little countryside and beauty is left in the village.
- Added demand on water, electricity, gas and drainage infrastructure.
- Huge visual effect.
- The plot should remain agricultural.

4.2 **CPRE:** Opposed to the application for an additional dwelling in the open rural countryside, outside the settlement area of Boughton Monchelsea. Consider it to be contrary to Maidstone Borough-Wide Local Plan 2000 saved policies ENV28 and ENV32 and consider it would have an adverse effect on the character and appearance of the countryside within the even more restricted Southern Anti-Coalescence Belt.

5. CONSIDERATIONS

5.1 Site & Setting

5.1.1 This is an outline application for a detached dwelling with all matters reserved for future consideration at land adjacent 'Forge House', Beresfords Hill, Boughton Monchelsea. The application site is immediately north of the defined settlement boundary of the village in the Local Plan and therefore for planning purposes it falls within the countryside. The settlement boundary runs along the southwest edge of the field owned by the applicant for around 70m and is formed by a

stone wall. The northern tip of the village envelope is also designated as 'The Green' Conservation Area so the site is close to this area and has been advertised as affecting its setting. The site and surrounding land is also designated as the Southern Anti-Coalescence Belt, an area where policy seeks to protect the rural settlements surrounding Maidstone from coalescing with the urban area and with each other. The site also falls upon land with archaeological potential and has a grade 2 agricultural land classification.

5.1.2 The application site is within the southeast corner of a grass field formerly part of a larger agricultural holding and includes a 3-4m wide access from an existing gated access in the west corner of the field. This access comes off a private single track lane which also serves the dwelling, 'The Old Barn House' to the north. This lane adjoins Beresfords Hill, which is within 5m of the access to the site.

5.1.3 Whilst the applicant's land is not understood to be in active agricultural use its lawful planning status is agricultural land with a grade 2 classification. There is a lean-to building in the southeast corner, which is well hidden and not prominent within the wider area. The site has a slight and gradual drop from south to north by approximately 1-2m. To the east of the site is undeveloped land which appears to be associated with 'West Lyewood House'. To the south is an undeveloped field with a number of orchard trees in equestrian use. To the southwest are the dwellings and rear gardens of 'Forge Cottage' and 'Forge House'. To the west is the private lane and to the north is the dwelling 'The Old Barn House' and its garden. The boundaries of the field are formed by close boarded fencing and conifers along the north side, hedging and trees on the east side. Hedging and trees and a stone wall on the south side and a low ragstone wall and stock proof fencing on the west side.

5.2 Proposed Development

5.1.1 This is an outline application for a detached dwelling with all matters reserved for future consideration. As such, the Council is being asked to consider the principle of a new dwelling in the southeast corner of the site. The details of the appearance and size of the dwelling, the layout of the development and the access would be considered at the reserved matters stage. However, the Design and Access Statement states that it would be a two storey, four bedroom dwelling. An indicative layout plan has also been provided which shows a curtilage of some 23m x 27m and a dwelling with a rectangular footprint of some 9m x 13m close to the southeast corner of the field with its garden and parking/turning area to the front west.

5.3 Principle of Development & Planning History

- 5.3.1 The application site lies outside the village envelope and is within the open countryside for the purposes of the Development Plan. PPS7 'Sustainable Development in Rural Areas' at paragraph 8 in relation to housing states that, *"the focus for most additional housing in rural areas should be on existing towns and identified service centres"* and that Planning Authorities should *"strictly control new house building (including single dwellings) in the countryside, away from established settlements or from areas allocated for housing in development plans."* PPS3 'Housing' outlines at paragraph 36 that, *"the priority for development should be previously developed land in particular vacant and derelict sites and buildings"*.
- 5.3.2 Policy ENV28 of the Local Plan restricts development in the countryside to specific types of which a new dwelling is not one, nor is it an exception indicated by any other policies in the Local Plan. Policy H27 makes reference to Boughton Monchelsea but outlines that new residential development will be restricted to minor development, within the boundaries of the village. Essentially both National and Local planning policies seek to resist the development of greenfield land.
- 5.3.3 The South East Plan 2009 follows Government advice outlining that the principal objective of the Plan is to achieve and maintain sustainable development and protect the countryside under policies CC1, CC6 and C4.
- 5.3.4 The Council refused three applications for a dwelling at the site slightly further west of the current site during the 1990's and one application (MA/95/0035) was dismissed at appeal (Appeal Decision attached at Appendix). These applications were refused on principle as the site lies outside the settlement boundary and for visual harm reasons. I note that the Inspector in 1995, observed that, *"the settlement boundary as shown on the Proposals Map follows a stone wall which runs to the south of the site. This wall is a long established boundary to the garden of Forge House and forms a clear demarcation between land which is part of the village and land which forms part of the rural setting to the village. The conclusion to be drawn from the Local Plan Proposals Map is thus re-enforced by physical features that I observed on my site visit and my view is that the appeal site should indeed be regarded as lying outside the built confines of Boughton Monchelsea."* Having visited the site, this is still the case and there has been no built development that would reflect a different settlement boundary either on the ground or on the Local Plan map since 1995.
- 5.3.5 So as was the case in the 1990's, the site still lies outside the settlement boundary. Boughton Monchelsea is not an identified rural service centre and is only a relatively small village. As such, the proposals are still in direct conflict with established planning policies for the location of new dwellings. To allow a dwelling outside the settlement boundary would be contrary to policy ENV28 of the Local Plan and advice contained within PPS3 and PPS7.

5.4 Visual Impact

5.4.1 In addition to the principle of the development being unacceptable, it would inevitably cause visual harm to the area. The site is partly bounded by residential properties and their gardens to the southwest and north but it has an open character and provides a rural and undeveloped setting to the village. Any new dwelling and its access would introduce significant new development and erode this open character, which would be visible from Beresfords Hill to the west and from Green Lane to the south of the site, particularly in the winter when trees and hedges are not in leaf. The Appeal Decision and the Inspector's conclusion in 1995, which is a material planning consideration also applies to this proposal in that if this development were to take place the open character of the site would be lost and the current firm boundary of the settlement would be eroded. Whilst there is an existing agricultural building at the site, such buildings are a regular feature in the countryside and this particular building is small in size and hardly noticeable within the landscape.

5.5 Setting of the Conservation Area

5.5.1 In terms of the Conservation Area, the site and its surrounding field provides an open setting to the north of the Conservation Area. Whilst, the development would inevitably cause some erosion of this openness and harm the countryside, I do not consider it would significantly harm the setting of the Conservation Area. The new dwelling would be over 30m from the edge of the Conservation Area and around 80m from the nearest buildings so a decent space would still be provided between the site and the Conservation Area. I agree with the Council's Conservation Area Appraisal (March 2008) that, "*the dominant land use in the setting around most of the area to the North, North-West, North-East and East is farmland and woodland, and apart from entering the area along Green Lane from the east, little visual contact is maintained between the Conservation Area and its setting.*" I note the Conservation Officer also considers the setting would not be significantly harmed and this was not raised as a reason for refusal by the Council previously or the Inspector in 1995. In conclusion, I do not consider the proposals would be contrary to advice and policies within PPS5 'Planning for the Historic Environment' in respect of the Conservation Area.

5.6 Southern Anti-Coalescence Belt

The Southern Anti-Coalescence Belt was introduced under the Maidstone Borough-Wide Local Plan 2000 so was not relevant under the previously refused applications. Policy ENV32 outlines that within this area, development which significantly extends the defined urban area, the built up extent of any settlement or consolidates existing areas of development will not be permitted.

As the proposals are only for a single dwelling, I do not consider they would be contrary to this policy.

5.7 Other Matters

- 5.7.1 The nearest dwellings would be around 80m away so there would be no implications for residential amenity. The use of any access to the site would not result in any great level of noise or disturbance. In terms of parking provision and highway safety, sufficient parking could be provided at the site and an existing acceptable access onto Beresfords Hill would be utilised.
- 5.7.2 The application site's agricultural land classification is Grade 2, which falls within the best and most versatile agricultural land category and PPS7 outlines that this should be taken into account when determining applications. Advice from Rural Planning Ltd essentially outlines that the agricultural loss issue here is not significant, or of enough concern to warrant a reason for refusing planning consent. I agree with this conclusion as the area of land is small and the development would not impinge on the continued or potential agricultural use of the remainder of the field concerned to the north, or the adjoining other field to the south.
- 5.7.3 In terms of sustainability, the site is neither a fully sustainable site where future occupants could entirely manage without private vehicles but nor is it fundamentally unsustainable. With this in mind, I do not consider a refusal based on sustainability could be upheld.
- 5.7.4 Matters raised by neighbours and not addressed above relate to an added demand on water, electricity, gas and drainage infrastructure. I have no evidence to suggest that these basic services could not be provided and this is not grounds to raise an objection.

5.8 Conclusion

Central Government and Local planning policies seek to protect the countryside and locate new housing within the settlement boundaries of the major/principle urban areas and established rural settlements. The proposals represent a single dwelling outside of the defined settlement boundary on greenfield land that is in direct conflict with these established policies. In addition, the development would be visually harmful to the open rural character of the site and countryside hereabouts contrary to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

6. RECOMMENDATION

REFUSE PLANNING PERMISSION for the following reasons:

1. The proposed development lies outside a defined settlement, within open countryside and represents a form of development for which there is no justification and which would be contrary to the aims of Planning Policy Statement 7: Sustainable Development in Rural Areas and policy ENV28 of the Maidstone Borough-Wide Local Plan 2000. The proposals would introduce significant new development that would erode the openness and result in domestication of the site, which would cause unacceptable harm to the character and appearance of the countryside contrary to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

Appendix

1995 Appeal Decision (MA/95/0035)



The Planning Inspectorate

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

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

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Switchboard 0117-987-8000
Fax No 0117-987-8769
GTN 1374-

Associated Design Partnership
Milroy House
Sayers Lane
Tenterden
Kent TN30 6BW

Your Ref: JM/sg/2068

Our Ref: T/APP/U2235/A/95/254500/P5

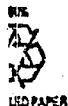
Date:

14 NOV 1995

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR & MRS D FARLEY
APPLICATION NO: MA/95/0035**

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against the decision of Maidstone Borough Council to refuse outline planning permission for development of one detached dwelling and garage on land adjacent to Forge House, Beresford Hill, Boughton Monchelsea, Kent. I have considered the written representations made by you and the Borough Council and representations from interested persons made directly to the Council and forwarded to me. I made an accompanied visit to the site on 7 November 1995.
2. The Kent Structure Plan of 1990 and the Maidstone Borough Local Plan of 1993 together comprise the relevant Development Plan for this appeal. Both plans include policies relating to the protection of countryside from new development. The Local Plan Proposals Map shows this site as lying outside the built confines of Boughton Green and the wider settlement of Boughton Monchelsea. Under Local Plan Policy R2 there is provision for infilling outside the boundaries of defined settlements where certain matters are satisfied.
3. On the basis of the written material before me and of my site visit, I consider that the main issues in this appeal are the relationship of the proposed new dwelling to the built confines of Boughton Green and the effect of a new dwelling on the character and appearance of the locality having regard, especially, to whether it should be regarded as infilling and within the provisions of Policy R2 of the Local Plan.
4. The appeal site is part of a large field, currently a grass paddock, which lies on the edge of Boughton Green. The settlement boundary as shown on the Proposals Map follows a stone wall which runs to the south of the appeal site. This wall is a long established boundary to the garden of Forge House and forms a clear demarcation between land which is part of the village and land which forms part of the rural setting to the village. The



conclusion to be drawn from the Local Plan Proposals Map is thus re-inforced by physical features that I observed on my site visit and my view is that the appeal site should indeed be regarded as lying outside the built confines of Boughton Green and Boughton Monchelsea.

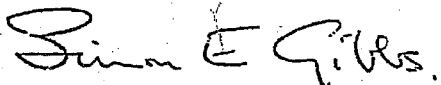
5. Turning to the effect of a new dwelling on the character and appearance of the locality, I recognise that the present use of the appeal site is not strictly agricultural and could see that most recently it has been mown rather than grazed. On my site visit I saw that land to the north of the site has become garden land for the recently converted Old Barn House. Both this garden and the paddock containing the appeal site, however, retain an open character and in my view provide a generally rural setting to the village rather than being in any sense extensions to the built settlement.

6. The proposal for one dwelling within a sizeable paddock is not a proposal for infilling as commonly defined and therefore cannot be regarded as potentially coming within the terms of Policy R2. If the proposed development were to take place, the open character of the appeal site would be lost and the current firm boundary of the settlement would be substantially eroded. I conclude that a new dwelling on this site would be contrary to Development Plan policies that seek to protect countryside from development and would have a detrimental effect on the rural setting of Boughton Monchelsea by extending the village into the surrounding rural area.

7. I have considered all the other matters raised, including the information you have submitted on the way that a former horticultural holding has passed into a range of new uses and different ownerships, but they do not affect my conclusions set out above.

8. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

Yours faithfully



SIMON E GIBBS MA MSocSc MRTPI
Inspector

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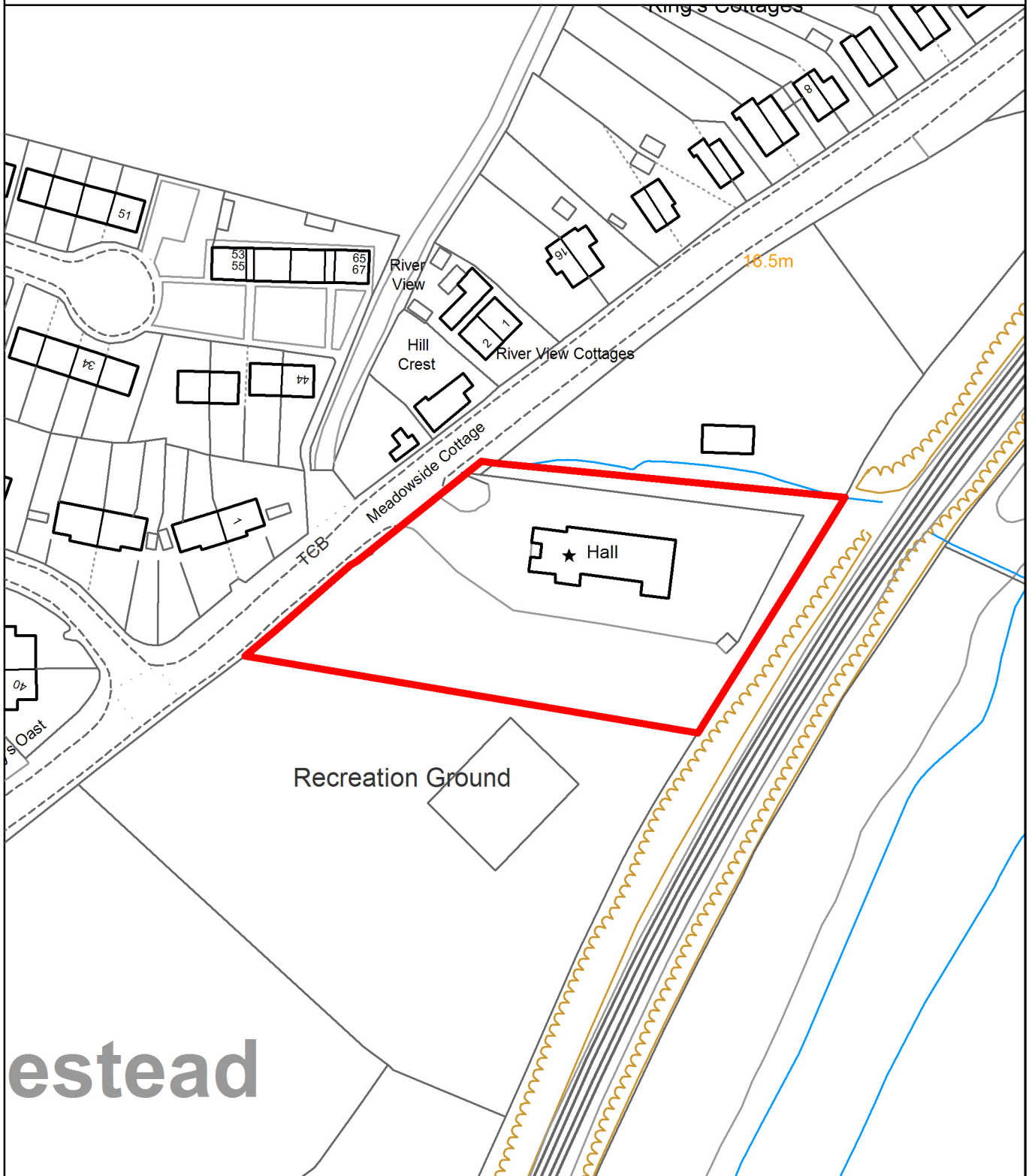
Agenda Item 16

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/0092

GRID REF: TQ6852

NETTLESTEAD VILLAGE HALL,
MAIDSTONE ROAD, WATERINGBURY.



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Alison Broom
Director of Prosperity and Regeneration

APPLICATION: MA/10/0092 Date: 20 January 2010 Received: 22 January 2010

APPLICANT: Mrs S SCott

LOCATION: NETTLESTEAD VILLAGE HALL, MAIDSTONE ROAD, WATERINGBURY, MAIDSTONE, KENT, ME18 5ET

PARISH: Nettlestead

PROPOSAL: Erection of single storey pre-school to rear of Village Hall (Resubmission of MA/09/1903) as shown on drawing number(s) 0922_P_01, 02, 11, 12, 13, 14, supported by a Design and Access Statement and Planning Statement received on 22 January 2010 and letter with enclosed Wateringbury Village Hall bookings schedule and letter from Nettlestead village Hall received on 3 February 2010, letter received on 17 February 2010, e-mails received on 23, 24, 25 and 26 February 2010 and letter received on 3 March 2010, drawing nos. 0922P_P_11, letter and material samples being wall render (Alsecco Miratect/S/2810), English Larch horizontal tongue and groove wall cladding, Marley Eternit Heather roof tile received on 22 March 2010.

AGENDA DATE: 29th April 2010

CASE OFFICER: Janice Tan

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by Nettlestead Parish Council
- Councillor Annabelle Blackmore and Cllr Rod Nelson-Gracie have requested that the application be reported for the reason set out in the report. (Cllr Verral verbally requested that the application be reported to committee as he wished to support the application and was advised to confirm in writing but no such written confirmation has been received.)

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV23, ENV28, ENV30,
The South East Plan 2009: CC1, CC4, CC6, W2, C4, S3, SP1, SP5, AOSR7
Government Policy: PPS1, PG2, PPS4, PPS7

1. HISTORY

MA/09/1903	Erection of single storey building for use as pre-school	REFUSED and appeal currently lodged.
MA/92/1671	Erection of single storey side and rear extension and provision of additional car parking area to the rear	GRANTED
MA/85/0342	Side extension	GRANTED
MA/77/0864	A storage building for Youth Club equipment	GRANTED

2. CONSULTATIONS

3.1 **Nettlestead Parish Council** were consulted. They wished to see the application approved and they agree with the applicant's evidence concerning alternative premises and reiterated their comments made on the previous refused application as follows:

- It has public support from within Nettlestead village, and from the parents whose children currently attend Kiddliwinks pre-school.
- It has the full support of the Village Hall Committee which has agreed to lease a piece of their land to enable the proposal to go ahead.
- There is a demonstrated need for a pre-school in Nettlestead.
- The proposed building does not impinge on any other property.
- The visual impact is small, and the one tree which requires to be removed will be replaced by three others.
- The proposal will improve the amenity for the children, and for users of the village hall.
- If the application is not approved, the pre-school will have to move to another site away from Nettlestead, resulting in a loss of this vital village amenity for pre-school children and the local residents who are employed there.

3.2 **Maidstone Borough Council Environmental Health** were consulted and they raised no objections.

3.3 **Maidstone Borough Council Landscape Officer** was consulted and raised no objections subject to a condition imposed requiring an Arboricultural Implication assessment to be submitted to ensure no damage to the retained trees occurs during the construction phase.

3.4 **Kent County Council Highway Services** were consulted and raised no objections subject to informatives as stated at the end of the committee report.

3.5 **Kent County Council Education** was consulted but no response was received. However, the Local Planning Authority approached the Early Years and Childcare

Operations Unit to obtain surveys carried out by Kent County Council of pre-school facilities in Nettlestead which is contained in Appendix A of this report.

3. REPRESENTATIONS

4.1 A letter from Ann Widdecombe MP has been received in support of the application, stating the following:

"I have been advised that whilst the application is on land designated as green belt, the Parish Council has no objections and it is on that basis that I offered my support.

4.2 *There is a huge demand for the Pre-School and there is clearly a great deal of support for a new purpose-built facility. Over the past 40 years the Pre-School has been supported by residents of the community and at present it provides care for 29 families."*

4.3 23 Representations of support were received including, the letter from Ann Widdecombe, one from Cllr Annabelle Blackmore and one from Cllr Nelson-Gracie making the following comments:

- The proposed development would enhance an existing thriving pre-school which has been operating in Nettlestead Village Hall for many years. The village hall now needs refurbishment and up-dating in order to meet the standards expected of such an establishment.
- Not only would the new premises be customised for the use as a pre-school, it would free up the existing village hall for more social events in the village.
- "Nettlestead Hall Committee would benefit from the ground rental of the proposed new building which would enable them to update the facilities in the village hall."
- "The proposed building, being adjacent to the playfield and adventure playground, is the perfect location for this proposal as is the convenience of adequate parking or for parents to walk there."
- The new building would provide breakfast club and after school facilities for many children who attend Wateringbury School allowing some parents to return to work.
- The proposed development is a fine example of a community seeking to care for children while their parents are working.
- "The benefit to the community from this application is quite substantial and should not be overlooked, even though this extension does not fall within the boundary permitted."
- The area where the building will be situated is next to the railway line so it is unlikely to cause damage to the flora and fauna.

- The existing pre-school runs out of the village hall which is falling apart and can no longer fully support the demands of the Early Years Foundation Stage, in the way that staff and parents would like.
- "Should the pre-school close it will be a great loss to the village."
- Children need to have a safe and dedicated space designed especially for them where they can be nurtured, encouraged and supported through their early years.
- Staff time could be more efficiently utilised developing the children's learning plans and organising activities to enhance their learning than physically unpacking and packing the pre-school away.
- Children's work could be displayed which builds up their self esteem and they could be offered a chance to work on long term projects, particularly craft or growing projects.
- The new building would hardly be visible from the road, is utilising land that has no purpose at present and it would not overlook any properties. It would have a minimal impact on the existing environment.
- "It would be an asset having a building there as during the week there would be some one in the building between the hours of 8am-6pm, this will help to discourage vandalism and anti-social behaviour."
- If the facilities are not available through the pre-school then parents will be forced to take their children away from the school and may even move away from the area resulting in decline in all areas of community life including job losses at the pre-school. Once a place starts to drop in population, it is very hard to maintain any appeal to newcomers as facilities dwindle even further.
- The development is about the survival of a community and the rights of its children.
- The pre-school has given support to children moving on to primary school education.
- Given that the proposed development would share the existing village hall car park, the walking bus provided by the pre-school to the local primary school would help to reduce the amount of cars using the local school's parking area.

4. CONSIDERATIONS

5.1 Site and surroundings

5.1.1 The application site lies on the east side of Maidstone Road opposite the defined boundary of the settlement of Nettlestead. It is located within the open countryside. Both the village and the application site are designated as Metropolitan Green Belt, as defined in the Maidstone Borough-Wide Local Plan 2000. The Green Belt boundary is the Medway Valley Railway line to the east of the site.

- 5.1.2 Wateringbury village lies some 500m to the northeast of the application site where the Church of England Primary School and Wateringbury Railway Station are located. Wateringbury Village Hall is approximately 1090m northeast, along Maidstone Road, at its junction with the A26 Tonbridge Road.
- 5.1.3 The application site encompasses the site of the existing Nettlestead Village Hall, including its vehicular access from Maidstone Road and 35 car parking spaces. It also includes the northern part (some 450m²) of the recreation ground that lies to the south of the existing village hall. There is a grass embankment from the car parking area at the south side of the hall leading up to a public open space approximately 1m higher than the car parking level. The public open space is maintained as a lawn area as a recreation ground with a fenced children's play area. The recreation ground level gently falls in a southwest direction meeting the parking level to the east and rear of the village hall. The ground level gently rises in a southwest direction across the length of the recreation ground. Part of the site is also scrubland
- 5.1.4 To the north of the application site is a field shielded from view by the mature hedgerow trees that form the north boundary of the site. To the east lies a wooded embankment that descends to the Medway Valley railway line.

5.2 The proposal

- 5.2.1 The application proposes to construct a detached single storey pre-school building some 10m from the southeast corner of the existing village hall. It would be sited in part on an existing scrubland and lawn areas adjacent to the wooded railway embankment and partly on the open recreational area. No additional car parking spaces would be created as the development would share the existing parking spaces provided by the village hall.
- 5.2.2 The proposed building is a simple single-storey structure with a central pitched roof and ancillary flat roof structures on either side. It would have a ridge height of 5.7m and its flat roofs would be 2.75m high. The external walls of the building would have a mixture of horizontal tongue and groove English Larch boarding and rendered panels painted green. The pitched roof would be an artificial slate roof. The building would have a total floor area of 126m². A designated external area for the children would be adjacent to the south side of the proposed building and enclosed by a 1.5m high metal fence.
- 5.2.3 The proposed development is specifically designed for the relocation of Kiddliwinks Pre-school which currently operates from Nettlestead Village Hall. The current sessions are 9am to 1pm Mondays and Wednesdays and from 9am to 4pm on Tuesdays, Thursdays and Fridays.
- 5.2.4 The new pre-school development would operate Mondays to Fridays from 8am to 6pm. It would not only provide pre-school facilities during the morning and afternoon sessions but also breakfast and after school clubs to include older children up to the age of 11 years who attend local primary schools. It is also

the intention to run holiday clubs and in the longer term the applicant is looking to open the building at weekends to act as a contact centre for parents who have visitation rights.

5.3 Background history

5.3.1 A planning application for the same development as currently proposed was refused under MA/09/1903 for the following reason:

"The proposed development constitutes inappropriate and unjustified development in the countryside within the Metropolitan Green Belt and would if permitted cause harm to the open character and appearance of the area and therefore would be contrary to policies SP5 of The South East Plan 2009 and policy ENV30 of the Maidstone Borough-Wide Local Plan 2000."

5.3.2 The applicant has currently lodged an appeal with the Planning Inspectorate against the Local Planning Authority's decision to refuse planning application MA/09/1903.

5.4 Principle of the development

5.4.1 The proposed development is a new pre-school building located in the countryside and within the Metropolitan Green Belt.

5.4.2 National Guidance on green belts is set out in Planning Policy Guidance 2: Green Belts (PPG2). Green Belts are national designations

5.4.3 PPG2 attaches great importance to the permanence and protection of Green Belts because they are a long-standing planning policy implementation tool that has the following 5 purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns from merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns;
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

5.4.4 Of key importance is the fact that the guidance sets parameters of what is considered appropriate development within Green Belts. These are as follows:

1. agriculture and forestry;
1. essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of Green Belt e.g small changing rooms for outdoor recreation etc.

2. limited extensions or replacement of existing dwellings;
3. limited infilling in existing villages;
4. limited infilling or redevelopment of major existing developed sites identified in adopted local plans.

5.4.5 The proposed pre-school building does not fall under any of the above categories in the above list and therefore the proposed development conflicts with PPG2 and as such it is considered as an "inappropriate development" in the Green Belt. The agent agrees with the Local Planning Authority on this matter.

5.4.6 PPG2 defines "inappropriate development" as being harmful to green belt policy and therefore should only be approved in "very special circumstances". The agent has therefore submitted the application for consideration under the "very special circumstances" test.

5.4.7 At regional level, Policy SP5 of The South East Plan 2009 states that Green Belts in the region will be retained and supported and that in order to meet regional development needs in the most sustainable locations, small scale selective reviews to Green Belt boundaries may be necessary. However, these reviews should be pursued through the local development framework process.

5.4.8 At local level Policy ENV30 of the Maidstone Borough-Wide Local Plan 2000 re-emphasises the purpose of the Metropolitan Green Belt to primarily control the spread of inappropriate development in order to safeguard the countryside from encroachment.

5.4.9 The proposed development is not an exception in terms of appropriate development and clearly conflicts with PPG2 and green belt policies of the Development Plan. The principle of the development located in the countryside designated as the Metropolitan Green Belt area is unacceptable.

5.5 Planning assessment

5.5.1 The main issue to assess is whether there are "very special circumstances" in the case that would materially outweigh the harm caused to the Metropolitan Green Belt area to allow the development as a departure from the Development Plan. There is no definition of "very special circumstance" in PPG2. However, the implication is such that exceptions should only be made on rare occasions. In my view, to overcome the "very special circumstances" test

5.5.2 To overcome the "very special circumstances", the case should demonstrate that there is an essential strategic need at national or regional level and not just at the local level. A "very special circumstance" should not be accepted if it is able to be replicated in similar situations, leading to a number of permissions which would degrade a stretch of green belt.

5.5.3 Kiddliwinks Pre-school currently operates from Nettlestead Village Hall. Its requirement to extend the hiring sessions of the village hall to 5 full days a week is restricted by a deed on the village hall which prevents any one user to having a majority use of the hall. However, the deed is a private matter and it is considered that there could be scope for negotiations to alter the deed to accommodate the requirements of the pre-school. This therefore does not amount to "very special circumstance"

5.6 Social need and inclusion

5.6.1 The planning statement submitted by the agent states that Nettlestead Parish comes in the top 30 % of need for pre-school provision for disadvantaged children within Kent County Council's control. It further states that the facilities provided in the new pre-school building would help low income families to return to work.

5.6.2 I consider that this 30% figure of need for pre-school provision, is too broad a window to consider. The weight given to this percentage need for pre-school in the area would not amount in my view to a "very special circumstance" to overturn a national designated constraint of the Green Belt area.

5.6.3 The Planning Statement submitted with the planning application explains that in recent years the number of children attending and the number of sessions managed by Kiddliwinks Pre-school have markedly increased in response to a very high local demand and there is a growing need to increase its operational sessions.

5.6.4 The Local Planning Authority recognises that there is a desire for Kiddliwinks Pre-school to provide more pre-school sessions than it currently handles. The inability of the current Kiddliwinks Pre-school to extend its operational hours to accommodate more children is not of sufficient weight to be considered as a "very special circumstance" to override green belt policies.

5.6.5 Reference has also been made that the pre-school currently employs 9 part-time staff which would be increased to 11 part-time staff in the new pre-school building. Given that only 2 additional part-time staff would be employed in the new pre-school, there would be insignificant benefits to the economic well-being of the local area let alone at the strategic level, sufficient to enable the development to be considered as a "very special circumstances" on this issue.

5.7 Sequential tests of alternative sites within the village envelope

5.7.1 The agent submitted a sequential test of 7 alternative sites located within the village envelope which were found to be unsuitable for the requirements of the

pre-school accommodation. However, PPG2 does not require a sequential test of alternative sites to be carried out for the proposed development. It therefore does not imply that the lack of an alternative site renders development in the Green Belt acceptable.

5.7.2 Although the Local Planning Authority recognises the inappropriateness of the sites at the vacant land at Wateringbury Railway car park, Land in Glebe Meadow/ Allington Gardens, the Scout Hall in Glebe Meadow, Wateringbury Village Hall and the disused building at the rear of the Railway Public House for the relocation of Kiddlewinks Preschool, it is considered that the reasons given to run after school clubs from Wateringbury Primary School and to continue the existing pre-school sessions within Nettlestead Village Hall based on its poor state of repair accompanied by the inappropriateness to extend the village hall are insufficient grounds to outweigh the harm caused by the development in the Metropolitan Green Belt located in the countryside.

5.7.3 *Wateringbury Primary School*

The headteacher at Wateringbury Primary School has indicated that it would not be possible to run after school clubs from the primary school as there would be no available staff to supervise the club. However, this is a management issue which could be overcome with negotiations and therefore does not amount to "very special circumstance"

5.7.4 *The state of Nettlestead Village Hall*

There are concerns in the state of repair of Nettlestead Village Hall which is currently used by Kiddliwinks Pre-school. The applicant has indicated that Kiddliwinks Pre-school has obtained an Early Years Grant for £245,000 for the proposed development due to health and safety concerns of the current premises in the village hall. This funding is to be used specifically for children in the Early Years. Reference has also been made to recent OFSTED inspections which require improved standards of the current premises.

5.7.5 Although it is recognised that there are other statutory requirements that the pre-school needs to meet, the Childcare Act 2006 and OFSTED legislation are not planning considerations.

5.7.6 The possible grant of £245,000 is not considered a "very special circumstance" that would override the harm caused by the development in the Metropolitan Green Belt area.

5.7.7 The applicant is concerned that OFSTED would close the existing pre-school based on its current position in the village hall. The OFSTED requirements mainly relate to the "house keeping" requirements and the improvement of the condition of the current village hall condition which is in need of repair. This does not amount to "very special circumstances" that would outweigh the harm

caused by the development in the Metropolitan Green Belt area, given that it is in the best interest of Nettlestead Village Committee to repair and improve the facilities of their building for other users. It would therefore not be unreasonable for Kiddliwinks Pre-school to work in partnership with the Village Hall Committee in conjunction with other partners to share the funding available to improve the premises of the village hall for the continued operation of the Kiddliwinks Pre-school.

5.7.8 *Extending the village hall*

The option to extend the village hall has been investigated but has been considered by the agent as inappropriate in that any extensions to the village hall building would impede the one way vehicle access system that currently circulates around the village hall providing access to parking spaces on 3 sides of the village hall and would result in the loss of car parking spaces. However, presently Kiddliwinks Pre-school cordons off the southern vehicle access and parking area to the village hall for the external play area for the children attending the pre-school which demonstrates that vehicles parking at the village hall during the operation periods of the pre-school have adapted to the non circulatory route system that have been imposed by the operation of the pre-school. I am therefore not convinced that it is essential to have a vehicle circulatory route round the village hall in a proposal to extend the village hall.

5.7.9 The Village Hall Committee is looking to extend the facilities of the village hall in the future and therefore is in support of the new stand-alone development dedicated for the sole use of Kiddliwinks Pre-school. As previously mentioned the village hall is restricted by a deed which prevents any one user to having a majority use of any part of the village hall. However, once again there is scope for negotiations to alter the deed.

5.7.10 The lack of agreement on extending the village hall does not amount to "very special circumstances" to allow a separate new building.

5.8 Landscaping

5.8.1 The proposed development would result in the loss of part of a public open space used as a recreation ground. Policy ENV23 of the Maidstone Borough-Wide Local Plan 2000 addresses the loss of public open space by development. It states that such development should have a proven overriding need and be an alternative provision of an equivalent community benefit to replace the loss of the open space. Whilst it is recognised that only part of the public open space would be lost, there is no proven overriding need for the construction of the new pre-school building. The development would also not be an alternative provision of an equivalent community benefit to replace the loss of part of the public open space, given that there is an existing village hall within the development site that is currently used by Kiddliwinks Pre-school. The principle of the

development would therefore be contrary to Policy ENV23 of the Maidstone Borough-Wide Local Plan 2000.

- 5.8.2 Whilst it is noted that the proposed building is sited partly on an area of spoil and scrub land adjacent to the southeastern corner of the existing car parking area of the village hall, PPG2 attaches great importance to preventing urban sprawl by keeping the land permanently open in Metropolitan Green Belts. Green Belts are of paramount importance and Central Government advice given in PPG2 states that the quality of the landscape within the Metropolitan Green is not relevant to its continued protection.
- 5.8.3 The proposed development would result in the loss of 2 trees with the replanting of 2 replacement birch trees and the retention of the belt of woodland at the east site boundary adjacent to the railway line. The Landscape Officer has no objections to the proposal but considers that an Arboricultural Implication Assessment is needed to ensure that no damage to the retained trees at the east site boundary would occur..

5.9 Parking

- 5.9.1 No additional car parking spaces would be created by the development as it would share the existing parking spaces provided by the village hall. Kent Highways Services considers this acceptable.

5. Conclusion

- 6.1 The Council recognises that there is very strong public support for this application.
- 6.2 However, Members are reminded that Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the policies of the Development Plan unless material considerations indicate otherwise.
- 6.3 The material considerations presented by the applicant in terms of social need, the inability of the village hall to accommodate additional sessions to extend the existing operational hours of the Kiddliwinks Pre-school and the poor state of repairs of the village hall would not amount to "very special circumstances" to outweigh the harm caused by the development to the openness of the Metropolitan Green Belt and the surrounding countryside.
- 6.4 The proposal is therefore an inappropriate and unjustified development in the countryside within the Metropolitan Green Belt and would if permitted cause harm to the open character and appearance of the area, contrary to policy SP5 of The South East Plan 2009, policies ENV28, ENV23 and ENV30 of the Maidstone Borough-Wide Local Plan 2000, the provisions given in Planning Policy

Guidance 2: Green Belts and Planning Policy Statement 7: Sustainable Development in Rural Areas.

6.5 The application is therefore recommended for refusal.

6. RECOMMENDATION

REFUSE PLANNING PERMISSION for the following reasons:

1. The proposal is an inappropriate and unjustified development in the countryside within the Metropolitan Green Belt and would if permitted cause harm to the open character and appearance of the area, contrary to the policy SP5 of The South East Plan 2009, policies ENV28 and ENV30 of the Maidstone Borough-Wide Local Plan 2000 and the provisions given in Planning Policy Guidance 2: Green Belts and Planning Policy Statement 7: Sustainable Development in Rural Areas.

Item 16, Page 52

MA/10/0092:

**Address: Nettlestead Village
Hall, Maidstone Road,
Wateringbury**

Clarification from Cllr. Nelson-Gracie

An e-mail has been received from Cllr Nelson-Gracie highlighting that he had only called in the application to be heard at planning committee and he has not expressed any opinions on the application.

Cllr Nelson-Gracie should not therefore have been included amongst the 23 representations received in support of the application as stated in section 4.3 of the committee report.

He has sought separate clarification from Legal Services as to whether he has pre-determined the application.

Appeal against refusal of previous application MA/09/1903

Members will note from the site history set out on page 53 that the previously refused application was subject to an appeal. The appeal was dismissed on 26 April 2010.

A copy of the appeal decision is appended for Members' information.

Officer Comment

All the information that the Planning Inspector had before him has also been addressed in the current application.

The Planning Inspector considered that the visual harm caused by the new pre-school building to the character and appearance of the countryside and the openness of the Green Belt would not be adequately mitigated by the well-designed building and its proximity to the existing village hall or additional landscaping (Paragraph 7)

He re-iterates that PPG2 in setting a general presumption against the erection of new buildings in the Green Belt 'sets a very high hurdle' (Para. 10) and states that 'Any case for departing from that presumption must therefore be exceptionally strong to accord with national policy.'

The Inspector considered two main strands relating to the need for the proposal. Firstly, the degree of justification for expanding the services currently provided in the nursery and secondly whether a replacement venue is required to ensure the continuity of the existing pre-school operation.

On the first issue it was recognised by the Inspector that expanding the pre-school is in the spirit of the general thrust of current policy and recent

government initiatives to improve childcare provision to support communities and reduce social deprivation hence the high level of support locally for the application.

However, in his conclusions on this issue, that the community need has not been properly identified or clearly demonstrated (Paras. 12-15). The demand for childcare facilities in Nettlestead is not acknowledged as greater than elsewhere in the catchment area identified by KCC. The Inspector concluded in Para. 16 of the decision that the facts demonstrate an aspiration rather than a genuine local community need and that *'in circumstances where need has not been demonstrated the compliance of expansion plans with one strand of policy is not in itself sufficient to secure compliance with stringent Green Belt requirements.'*

On the second issue he considered that the lack of opportunity to expand the pre-school has not been shown to be harmful to the local community. He also considered that the shortcomings of the building and the appropriate Regulations governing the running of the school (Paras. 19 and 20) were not so severe or mandatory to demonstrate to him that the continued use of the village hall to provide the current level of service is not a realistic option or indeed a probability. He states that the 'pre-school has operated successfully from the venue for decades and it is not clear to me why this should suddenly be the case,' (Para. 21). On the evidence before the Inspector he was 'not convinced that the most pressing problems with the building's fabric and facilities could not be readily rectified or that there was any other deficiency so significant as to preclude on-going childcare.'

He concludes this issue by stating that 'the fact that the proposed building would undoubtedly provide a better more suitable facility than the village hall is not an overriding consideration.'

I share the Inspector's view that the applicant's aspirations to improve pre-school services and facilities in the local community are laudable. However, planning restrictions for new buildings in the Green Belt are particularly strict.

Whilst the arguments put forward by the applicants do indicate a measure of need they are not strong enough to set aside or outweigh the harm caused by inappropriate development to the character of the countryside and the openness of the Green Belt. They do not therefore amount to the 'very special circumstances' needed to justify the development as a departure from the policies of the Development Plan and national guidance.

My recommendation remains unchanged



Appeal Decision

Site visit made on 20 April 2010

by **Alan Woolnough BA(Hons) DMS MRTPI**

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
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Decision date:
26 April 2010

Appeal Ref: APP/U2235/A/10/2121010

Land adjacent to Nettlestead Village Hall, Maidstone Road, Nettlestead, Maidstone, Kent ME18 5HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Sarah Scott, Kiddliwinks Pre School against the decision of Maidstone Borough Council.
- The application ref no MA/09/1903, dated 19 October 2009, was refused by notice dated 11 December 2009.
- The development proposed is described on the application form as: 'Proposed new single storey pre-school, on land at the rear of Nettlestead Village Hall'.

Formal Decision

1. I dismiss the appeal.

Procedural Matter

2. The address of the site is given as 'Nettlestead Hall, Nettlestead, Maidstone Road, Nettlestead' on the planning application form, 'Nettlestead Village Hall, Maidstone Road, Wateringbury' on the Council's decision notice and 'Maidstone Road, Nettlestead' on the appeal form. I find the address used in the above heading to be more accurate than any of these alternatives.

Main Issues

3. The appeal site lies within the Metropolitan Green Belt. There is no dispute between the parties that the proposal would amount to inappropriate development in the Green Belt as defined in Planning Policy Guidance Note 2: *Green Belts* (PPG2) and I concur. Although they are referenced in the Council's refusal reason, the proposal is not strictly contrary to Policy SP5 of the South East Plan 2009 (SEP) or saved Policy ENV30 of the adopted Maidstone Borough-Wide Local Plan 2000 (LP), both of which are primarily concerned with defining the extent of the Green Belt rather than regulating what takes place within it. However, SEP Policy SP1 seeks to respect and maintain the general pattern of settlements and undeveloped areas through the protection of identified Green Belts, whilst paragraph 3.2 of PPG2 makes it clear that inappropriate development is, by definition, harmful.
4. In the light of the above, the main issues in determining the appeal are:
 - the effect of the development on the character and appearance of the countryside, including its effect on the openness of the Green Belt; and

- whether the harm arising from inappropriate development in the Green Belt and any other harm is clearly outweighed by other considerations so as to create the very special circumstances necessary to justify the development.

Reasoning

Character, appearance and openness

5. The appeal site lies outside any urban or village development boundary defined in the Development Plan and, accordingly, is located in the countryside. The land that the building would occupy forms part of an extensive grassed area adjoining a recreation ground and reads as part of the open countryside surrounding Nettlestead rather than as part of the village itself.
6. Saved LP Policy ENV28 advises that, in the countryside, development will be confined to specific categories. Notwithstanding the Appellant's view to the contrary, the appeal proposal does not comply with any of these. Irrespective of whether there is a recognised need in the area for a new pre-school facility, such a facility does not demand a rural location. Building it in the countryside is not therefore justified by Policy ENV28 or compliant with other LP policies, albeit that it might, in some circumstances, be deemed acceptable as a departure from the Development Plan due to other considerations.
7. In any event, the proposed building would be clearly visible from Maidstone Road, both in elevated views from the south-west and through the entrance to the village hall, as well as across the adjacent recreation ground. From all these directions, despite differences in levels and a treed backdrop, it would read as a significant encroachment of built development into open land and, inevitably, would have an urbanising effect on the countryside. It would also erode the openness of the Green Belt to a marked extent by reason of its scale, bulk and size.
8. Neither the building's well-considered design, its close grouping with the existing hall nor additional landscaping would provide adequate visual mitigation. I therefore conclude that the proposal would be harmful to the character and appearance of the countryside and the openness of the Green Belt.

Other considerations

9. I turn now to consider whether there are other considerations in this case which clearly outweigh the harm arising from inappropriate development and the adverse effect on the character and appearance of the countryside and openness of the Green Belt identified above. The Appellant and others have drawn my attention to a number of additional matters and I shall address these in the following paragraphs.
10. The general presumption against the erection of new buildings in the Green Belt, set out in paragraph 3.4 of PPG2, sets a very high hurdle. Any case for departing from that presumption must therefore be exceptionally strong to accord with national policy. Of the arguments put forward by and on behalf of the Appellant, the most pertinent in this regard are those concerning the level of need for the proposal. There are two main strands to such reasoning: the degree of justification for expanding the services the Appellant currently

provides, and whether a replacement venue is required to ensure the continuity of the existing pre-school operation.

Expansion

11. The pre-school presently caters for children aged from 0 to 4, operating from 0900 to 1300 hours on Mondays and Wednesdays and from 0900 to 1600 hours on other weekdays. The Appellant wishes to expand her service by operating from 0800 to 1800 hours every weekday, thereby extending care for pre-school children and offering breakfast clubs, school holiday clubs and after school care for older children. The existing pre-school venue, Nettlestead Village Hall, is unable to offer the Appellant the additional hours she seeks due to other demands on its facilities, as confirmed by the Chairperson of the Village Hall Committee.
12. It is therefore necessary to consider the extent to which the envisaged expansion is justified by a properly identified community need. In this regard, the Appellant advises that, in 2009, the pre-school group was close to capacity with a waiting list. She also cites a recent survey of parents that revealed a likely 80% takeup for a breakfast club and after school club and an 86% takeup for a holiday club. However, no details of the waiting list, survey data or survey methodology have been provided for my perusal. The Appellant's statements in this regard are thus little more than assertions, and this tempers the weight that I can attach to them.
13. On the other hand, a bespoke Childcare Supplementary Assessment for the relevant Children's Centre catchment area prepared by Kent County Council (KCC) reveals a much lower level of demand for breakfast, after school and holiday clubs than claimed by the Appellant and only a limited need for additional full or sessional day care, all over a larger area. I note the Appellant's criticism to the effect that the statistical base underpinning this analysis is not reflective of demand in and immediately around Nettlestead, which lies at the north western edge of the catchment area defined by KCC. Nonetheless, no alternative figures, official or otherwise, on which I can place reliance have been produced.
14. I have no reason to question the Appellant's claim that Nettlestead falls within the County's top 30% of areas of need for pre school provision for disadvantaged children. Moreover, a KCC official's response to the Appellant's concerns emphasises that the County Council is keen to see the pre-school survive and prosper and is opposed to its closure for reasons of community need. However, notably, it does not acknowledge a greater demand in Nettlestead for childcare facilities than elsewhere in the defined catchment area, albeit that local research of the kind referred to but not substantiated by the Appellant is encouraged.
15. The Appellant's ambitions for expansion are laudable and very much in the spirit of the general thrust of current policy concerning the improvement of childcare provision, including SEP Policy S3 and recent government initiatives. Such plans also accord in more general terms with provisions for supporting communities and reducing social deprivation, such as those embodied in SEP Policies S1, S6, SP4 and BE5. The proposed expansion would bring a degree of social and economic benefit and it is not surprising that the local primary

school, Parish Council, Village Hall Committee and several parents and other local residents (as evidenced by the letters of representation and petition before me) are all in favour of the proposal.

16. However, none of this equates to a genuine local community need rather than an aspiration. In circumstances where need has not been demonstrated, the compliance of expansion plans with one strand of policy is not in itself sufficient to secure compliance with stringent Green Belt requirements.

Replacement venue

17. Although the lack of opportunity to expand the pre-school has not been shown to be harmful to the local community, there is no doubt that the complete loss of the facility would be, as confirmed by KCC's response to the Appellant. It has served Nettlestead and Wateringbury for over 40 years and I do not question the high level of professionalism and quality of service provided. The Appellant draws attention to the deficiencies of Nettlestead Village Hall as a venue for child care and claims that if the pre-school cannot find permanent dedicated facilities to meet the Early Years Foundation Stage (Welfare Requirements) Regulations 2007 (hereinafter referred to as 'the Regulations') the it would be required to close.
18. I acknowledge the need for the pre-school to remain based in close proximity to the community it has historically served, which necessarily limits the available opportunities for relocation. This being so, I make no criticism of the site selection process undertaken by the Appellant or her reasons for rejecting the alternative locations she has considered, except in relation to Nettlestead Village Hall itself. I am concerned here not with the inability of the Hall to accommodate expansion, which I accept, but with its capacity to host the pre-school in its existing form in the future.
19. I noted for myself some of the deficiencies of the existing accommodation during my visit and do not suggest that the situation is acceptable as it stands. However, it has not been demonstrated to my satisfaction that matters such as malfunctioning toilet and washing facilities and fire exits and the need for roof repairs are likely to persist in the long term. Grant aid obtained for the proposed new building cannot be used to upgrade the village hall and the Appellant asserts that no other funds are available to rectify these problems. Nonetheless, there is no statement to that effect from the Village Hall Committee. A swift resolution of these shortcomings is clearly in the interests of the latter and therefore likely to be a priority.
20. The Appellant's list of discrepancies between section 9 of the Regulations and the level of provision currently available at the village hall indicates that the latter falls short of the standards currently prescribed by government for pre-school venues. However, notwithstanding the Appellant's assertion, there is nothing in any of the legislation or guidance drawn to my attention or in any official communication from the body responsible for enforcing the Regulations to the effect that failure to resolve any or all of these discrepancies will inevitably lead to closure of the hall as a pre-school venue in the foreseeable future. Indeed, most of the stipulations in section 9 utilise the term 'should' rather than 'must' and, in the absence of any indication to the contrary, they

read as a desire list rather than a schedule of statutory requirements that must be met in every case.

21. The degree of flexibility exercised in enforcing such measures has not been made clear to me and, this being so, it has not been demonstrated that continued use of the village hall to provide the Appellant's current level of service is not a realistic option or, indeed, a probability. The pre-school has operated successfully from the venue for decades and it is not clear to me why this should suddenly cease to be the case. On the evidence before me, I am not convinced that the most pressing problems with the building's fabric and facilities cannot be readily rectified or that any other deficiency is so significant as to preclude ongoing child care. In such circumstances, the fact that the proposed building would undoubtedly provide a better, more suitable facility than the village hall is not an overriding consideration.

Additional matters

22. Funding for the proposal has been approved by KCC. However, I have no information before me as to the criteria that would have been applied in deciding to provide grant aid or the extent to which community need was assessed for this purpose. I cannot therefore assume that the availability of funding constitutes an official recognition of need that could help to justify a grant of planning permission.
23. I acknowledge that the pre-school is one of the last remaining constants in the local community and that there is a high incidence of low income families in the area who need to safely place their children during the working day. I also accept that it is desirable for children to remain in the vicinity of their homes, mixing with adults and children who are familiar to them. However, continued use of the village hall should enable these objectives to be met.
24. In circumstances where an overriding need for the development has not been proven, the loss of open space associated with the proposal cannot be held to comply with saved LP Policy ENV23. SEP Policy CC7, although cited by the Appellant, is concerned with the provision of infrastructure to facilitate new development rather than with the general upgrading of community services. I have seen nothing to suggest that any demand that there may be for an improved pre-school facility stems from recent or pending development in the locality.
25. I accept that additional landscaping associated with the proposal might help to restore habitats for wildlife. It is not disputed that the proposal has no adverse implications for traffic generation, highway safety or residential amenity or that existing vehicle parking facilities at the site would be adequate. Nor do I find any serious conflict in this case with objectives of sustainable development found in SEP Policies CC1, CC4 or national guidance in PPS1: *Delivering Sustainable Development* or PPS7, given the close proximity of the site to the village and the standards of construction envisaged.
26. However, these matters do not add significant weight in favour of the development: for the most part, they merely reduce the amount of 'other harm' against it. None is so important as to render inconsequential the shortage of supporting evidence regarding any genuine need to expand childcare services and the imminent loss of the existing venue.

Summary

27. To conclude, I empathise with the Appellant's aspirations and applaud her ambition in seeking to improve and expand her services. However, restrictions on building in the Green Belt are particularly strict. This being so, I find neither the considerations addressed above nor any others to substantiate a case strong enough to outweigh the harm arising from inappropriate development and the adverse effect on the character and appearance of the countryside and openness of the Green Belt so as to create the very special circumstances necessary to justify the proposed development. The scheme is therefore contrary to SEP Policy SP1, saved LP Policy ENV28 and national guidance in PPG2 and Planning Policy Statement (PPS) 7: *Sustainable Development in Rural Areas* and there is no valid reason for a departure therefrom.

Alan Woolnough

INSPECTOR

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Agenda Item 17

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 29.04.10**

ENFORCEMENT APPEAL DECISIONS:

1. Redwood Glade, Forge Lane,, Bredhurst

Appeal against

Without planning permission, use of the Land shown on the plan attached to the Notice as a building contractors yard; storage of waste materials; and the storage and parking of motor vehicles and facilitating works comprising the construction of hard surfacing.

Appeal was allowed on the 1st February 2010

2. 2 SHEPHERDS COTTAGES, WATER LANE, HUNTON, MAIDSTONE, ME150SG

Without planning permission, the material change of use of the land from agricultural to a mixed use of agricultural and residential, and operational development facilitating the unlawful use, namely the construction of a hard standing and the erection of fencing and gating.

Appeal was dismissed on the 24th February

3. Clayswood, Thurnham Lane Bearsted

Appeal against

Without Planning Permission, the change of use of the land to use for the stationing of a caravan and incidental operational development comprising the creation of an access track and the laying of hard standing.

Appeal was dismissed on the 25th February

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

29 APRIL 2010

REPORT OF THE DEVELOPMENT CONTROL MANAGER

Report prepared by Juliet Stringer

1. S106 Agreement 2009/2010 Year End Report

1.1 Issue for Decision

1.1.1 To consider the s106 end of year update

1.2 Recommendation of the Development Control Manager

1.2.1 That the Section 106 Agreement Year End Report 2009/2010 be noted.

1.3 Reasons for Recommendation

1.3.1 This report will provide Members with information on the Section 106 planning agreements with developers completed during the 2009/2010 financial year.

1.3.2 Section 106 agreements are necessary planning obligations imposed on developers which are intended to lessen the impact of the development on the existing community and infrastructure. Frequently, a developer will deliver an obligation during the building out of a development, for instance in the case of the providing of open space. Arrangements are made to ensure the delivery of obligations to the required standard by imposing appropriate "trigger points".

1.3.3 In many circumstances, developers or the relevant public service provider will express the obligation in terms of cash payments to be made by the developers at certain triggers points to enable the public authority to deliver the facility in question. These developer contributions are made for example to the Primary Healthcare Trust in respect of the provision of healthcare facilities. An agreement will often set a deadline for expending the contributions to have occurred by, this could be 5, 7 or even 10 years from the date of payment. If contributions have not been spent, the developer may request any remaining contributions to be repaid.

1.3.4 During the financial year ended 31st March 2010 a total of 15 s106 agreements/unilateral undertaking were signed, this was an increase of 8 on the previous year. These agreements will generate £1.4 million in financial contributions. They also generate a total 683 dwellings of which and 297 are affordable accommodation with secured funding of £10.6 million. (Not all developments where there is affordable housing have secured funding in place)

- 1.3.5 As the year end, there is a further £3.43 million in s106 financial contributions to be collected when the relevant triggers have been hit of which £1.3 million are on developments that have not yet commenced.
- 1.3.6 Indexing on contributions has dropped dramatically which has had a huge financial effect on received contributions. Any contributions being received from agreements dated from circa March 2004 when the BCIS All-in TPI indexing rate was at or around 210 are now generating zero in indexed amounts. The forecasted BCIS All-in TPI for March 2010 is once again 210. The All-in TPI peak was quarter 4 2007 when it stood at 251
- 1.3.7 Collection of s106 contribution during this financial is significantly down on 2008/2009 year by 52% to £754,200.69, this is a direct reflection of the current financial climate, housing development works are depressed along with the sales of properties.
- 1.3.8 The collection of s106 contributions are dictated by certain triggers, the majority of these triggers are based on the occupation of sold properties.
- 1.3.9 Due to the downturn in the Housing Market, a significant number of new affordable homes have been acquired from developers in addition to existing s106 contributions, thereby increasing the delivery of affordable housing. The Council have also taken a pro-active partnership approach in providing a targeted funding boost to the housing sector, by funding affordable homes directly from its own capital, as well as attracting high levels of investment towards affordable housing from the Homes and Communities Agency. There were a total of 399 affordable completions during 2009/10.
- 1.3.10 The Council demonstrated its ability to be flexible and work with partners to sustain housing delivery during a difficult economic recession, by agreeing Deeds of Variation to existing s106 Agreements, to enable various forms of affordable tenure to be provided in response to housing market conditions. As a result of s106 affordable housing obligations, and windfall units, a range of over 750 high quality affordable homes of mixed tenure are expected to be built across the borough during the Strategic Plan period 2009-2012.

1.4 Alternative Action and why not Recommended

- 1.4.1 Reporting S106 information to Committee is an important control on the expenditure and collection of S106 monies.

1.5 Impact on Corporate Objectives

1.5.1 The collection of S106 monies has an indirect impact on all corporate objectives.

1.6 Risk Management

1.6.1 This report is part of the risk management of S106 agreements by ensuring that the collection and expenditure of S106 finances is open and transparent.

1.7 Other Implications

1.7.1

1. Financial	X
2. Staffing	
3. Legal	X
4. Equality Impact Needs Assessment	
5. Environmental/Sustainable Development	
6. Community Safety	
7. Human Rights Act	
8. Procurement	
9. Asset Management	

1.7.2 Financial

Given the increasing pressures on revenue budgets, the availability of funding under section 106 agreements to support the provision of community infrastructure is becoming increasingly important. Such agreements allow necessary infrastructure to be provided at either a nil or reduced cost to the Council.

It is important that the council collect sums in a timely way and that the money collected is spent both effectively and efficiently and in accordance to the terms of the agreement.

1.7.3 Legal

Section 106 agreements are legal agreements and the reporting on them is a control on those agreements.

1.8 Background Documents

1.8.1 None

APPENDIX A

The following tables show

- Section 106 agreements/ unilateral Undertakings finalised and signed during the 2009/2010 financial year
- Payments received during the 2009/2010 financial year
- Comparison on the 2008/2009 financial year
- The total sums held on the Agresso account at the end of the 2009/2010 year. (please note 2009/10 spend has not as yet been reconciled)

Section 106 Agreements/Unilateral Undertakings agreed and signed during the 2009/2010 financial year

Planning Ref	Address	Proposal	Type of Agreement	Open Space	Education	Vinters Valley Park Trust Cont.	Primary Care Trust	Highways	Travel Plan	Affordable housing	Notes
MA/09/0155	7-23 Upper Stone Street	Proposal 43 dwellings	Unilateral Undertaking dated 5/10/2009	Off site Open space £75,600 Indexed linked			PCT contribution £40,320 Indexed linked			Affordable housing =19 units	Although the application was dismissed at appeal, the agreement is still valid for any future application/development unless amendments are negotiated.
MA/08/2477	8-28 Brunswick St, Maidstone	14 dwellings	S106 agreement dated 13/8 2009	Open space contribution of £22,050 indexed linked	Educational contribution of £950 (already paid)					All 14 will be affordable	
MA/07/0458	TV Studios, Grove Green	142 dwellings	S106 agreement dated 7/7/2009	Play area contribution £50,000 indexed linked		£25,000		Bus Stop Zebra Crossing Emergency Access	Yes	Affordable housing =36 units	See notes (1)below
MA/07/1344	Parkwood Tavern	26 dwellings	S106 agreement dated 17/11/2009	Open space contribution £40,950.00			PCT contribution £21,902.00			All 26 will be affordable	
MA/08/1998	Bowling Green Parkwood	18 dwellings	S106 agreement dated 25/11/2009							All 18 will be affordable	

Planning Ref	Address	Proposal	Type of Agreement	Open Space	Education	Vinters Valley Park Trust Cont.	Primary Care Trust	Highways	Travel Plan	Affordable housing	Notes
MA08/0405	3-5 Brewer St Maidstone	14 dwellings	Unilateral Undertaking dated 17/07/2009	Open space contribution £22,050.00			PCT contribution £12,600.00			zero	
MA/08/2175	Loose Valley Nursing Home	0	S106 agreement dated 27/11/2009				PCT contribution £4,320.00			zero	
MA/07/1846 105	Hallam House/Pear Trees	17 dwellings	S106 agreement dated 17/04/2009	Open space contribution £10,000.00						zero	£351,908.00 was negotiated as an affordable housing contribution, however due to the economic downturn renegotiated & waived
MA/08/0862	Land at Springfield	114 dwellings	S106 agreement dated 26/11/2009	Open space contribution £179,550.00	Mixed educational contribution £215,565.00 please see notes		PCT contribution £78,210.00	£4000.00	yes	zero - see James Whatman Way	Education is made up of £20,520.00 adult education, £32,253.00 youth and community £25,878.00 libraries, £136,914.00 adult social services See notes 2 &3

Planning Ref	Address	Proposal	Type of Agreement	Open Space	Education	Vinters Valley Park Trust Cont.	Primary Care Trust	Highways	Travel Plan	Affordable housing	Notes
MA/09/0863	James Whatman Way	117 dwellings	S106 agreement dated 25/11/2009		Mixed educational contribution £102,062.25 please see notes		PCT contribution £74,160.00	£15,000	yes	117 all will be affordable	Education is made up of £10,800.00 adult education, £5,582.25 youth and community £13,620.00 libraries, £72,060.00 adult social services see note 2
Totals		683		£468,356.8	£596,357.8	£25,000	£345,848	£55,000		297	

Notes

(1) MA/07/0458 – TV Studios

100 There are unique obligations within the TV studios agreement that would not normally be found in any other s106 agreement relating to a development within the borough.

These include a “pot” of £720k relating to the Media village and the “qualifying expenditure”.

There may be Highways obligations payable depending on traffic flows and pre conditions applying.

Under certain circumstances, there may be a further amount payable to the Council in the form of an Overage payment from the applicant.

(2) MA/08/0862 & MA/08/0863

These agreements were agreed and signed in conjunction with each other. MA/08/0862, the development on land at Springfield will generate zero affordable dwellings where as MA/08/0863, James Whatman Way will generate all affordable housing.

(3) MA/08/0862

The cyclelink contributions of £15,000 are only payable should the cyclelink not be provided due to inability of providing a traffic order.

Financial Contributions received year ending 31 March 2010

Planning ref	Site	Amount due (£)		Amount received inc indexing (£)	Date received	Notes
MA/96/0630	St Andrew's Park one off payment for ragstone wall/pavilion	15,000.00	Parks & Open Space	15,000	16/07/2009	Negotiated outside of the agreement
MA/96/0630 107	Oakwood Hospital commuted sum Area 3a	16,000.00	Parks & Open Space	24,405.06	02/09/2009	
MA/96/0630	Oakwood Hospital commuted sum Play Area	25,562.00	Parks & Open Space	38,990.14	02/09/2009	
MA/96/0630	Oakwood Hospital in lieu of turfing	3,500.00	Parks & Open Space (Capital)	3,500	15/09/2009	Negotiated outside of the agreement
MA/96/0630	Oakwood Hospital commuted sum open space in lieu of developer maintenance	7,798.03	Parks & Open Space	7,798.03	15/09/2009	Negotiated outside of the agreement
MA/05/1845	Linton Hospital, Coxheath	67,500.00	Primary Care Trust	67,500.00	17/08/2009	

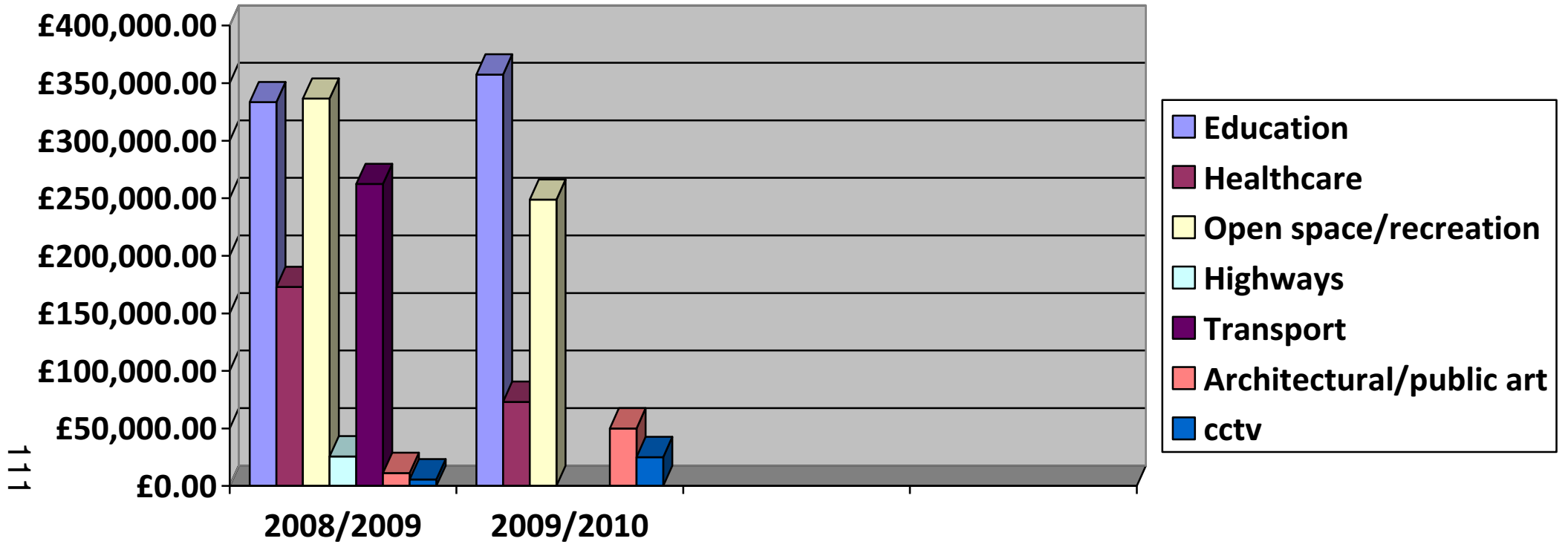
MA/99/1956	Kent Garden Centre. "Corben Close"	33,500.00	Open Space	64,591.12	09/04/2009	POS commuted sum for maintenance of open space
MA/05/2044 & MA/07/0746	former Bellwood Service Station	8,399.00 6,660.00 9,450.00	Libraries Adult education Open space	24,509.00	03/06/2009	
108	MA/06/0093 Ophthalmic Hospital	85,000.00	POS	160,000	23/12/2009	No indexing
		50,000.00	ART			
		25,000.00	CCTV			
MA/03/2265	Bridgeside Mews, Tovil	123,325.24	Education	123,325.24		No indexing
MA/03/0303	Glebe Lane/Farleigh Hill	5,500	Primary Care Trust	5,500		No indexing
MA/07/1278	Shepway School Oxford Road	8,640 6,620	Library Adult education	15,260		No indexing

MA/05/0279	Land east of Ecclestone Road	95,424.46	2 nd educational contribution	101,759.85		
MA/09/0863	James Whatman Way	10,800.00 72,060.00 5,582.25 13,620.00	Adult Education Adult social Services Youth & community contributions Library contributions	102,062.25	18/03/2010	No indexing
109						
Total				754,200.69		

Comparison on the 2008/2009 financial year

Overall contributions have decrease by 52.2% on the previous year with the breakdown as follows

	2008/2009	2009/2010	difference	%age difference
Education	£333,450.87	£357,466.34	£24,015.47	6.7
Healthcare	£172,923.84	£73,000.00	-£99,923.84	-136.9
Open space/recreation	£336,539.56	£248,734.35	-£87,805.21	-35.3
Hjghways 110	£25,700.00	zero	-£25,700.00	
Transport	£262,353.27	Zero	-£262,353.27	
Architectural/public art	£11,271.93	£25,000.00	£13,728.07	54.9
CCTV	£5,635.96	50,000.00	£44,364.04	88.7
Totals	£1,147,875.43	£754,200.69	-£393,674.74	52.2



Total sums held in the finance Agresso account to March 2010

Revenue Contributions (code 254)	£492,278.83
Capital Contributions (code 716)	£1,572,900.38
Third Party Contributions (code 325)	£454,181.84
Totals	£2,519,361.05