

REPORT SUMMARY

REFERENCE NO - 14/504381/FULL			
APPLICATION PROPOSAL Application for a replacement dwelling.			
ADDRESS New Cockhill Farm Yelsted Lane Sittingbourne Kent ME9 7UT			
RECOMMENDATION: GRANTING OF DELEGATED POWERS TO APPROVE APPLICATION SUBJECT TO THE SIGNING OF A UNILATERAL UNDERTAKING			
SUMMARY OF REASONS FOR RECOMMENDATION: <ul style="list-style-type: none"> • Mobile home and barn are considered to be a single, permanent residential unit with no enforceable conditions. • Legal advice has confirmed that personal occupancy condition cannot be enforced on a building that is no longer mobile, but is a permanent and lawful structure. • As the mobile and barn are a permanent and lawful structure, the replacement dwelling policy H32 is applicable and the proposal is considered to accord with this policy. • The proposal creates significant visual improvements to the site, which serve to improve the immediate surrounding area and preserve and enhance the AONB. • A Unilateral Undertaking offered by the applicant will ensure the removal of the redundant farm buildings. 			
REASON FOR REFERRAL TO COMMITTEE Requested by Parish Council.			
WARD North Downs	PARISH/TOWN COUNCIL Stockbury	APPLICANT Mrs N A Thirgood AGENT Mr Thomas Ogden	
DECISION DUE DATE 27/11/14	PUBLICITY EXPIRY DATE 27/11/14	OFFICER SITE VISIT DATE 24 th March 2015	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
MA/78/1890	Permission for mobile home.	Approved.	
Summarise Reasons: Approved with agricultural occupancy condition as Mr. and Mrs. Thirgood were employed in agriculture at the time.			
MA/95/0208.	Retention of mobile home.	Approved.	
Summarise Reasons: The 1995 permission is the latest of a string of consecutive applications to renew the permission for the mobile home. It was granted with a personal condition, but no agricultural occupancy condition. The personal condition states: <i>"The permission hereby granted shall endure for the benefit of Mr F and Mrs N Thirgood only and for no other persons and upon cessation of their occupation, the mobile home shall be removed from the site to the satisfaction of the Local Planning Authority;</i> <i>Reason: Permission has been granted only because of the special circumstances of the case and to ensure no unjustified residential occupation of the site occurs".</i>			
MA/10/1511	Lawful Development Certificate for an existing	Granted.	24/02/11

	use being the use of part of building as ancillary accommodation to mobile home permitted under MA/95/0208.		
Summarise Reasons: It had been demonstrated that the barn had been used as ancillary residential accommodation to the mobile home for a period in excess of ten years. The use of the building and the accompanying physical changes to the building were therefore considered to be lawful and the Certificate issued.			
MA/11/1220	Lawful Development Certificate for use of barn as an independent residential unit.	Refused.	17/11/11
Summarise Reasons: Although the application MA/10/1511 confirmed the legality of the barn as residential accommodation, it was determined that the mobile home and barn were, in fact, together one dwelling. It had not been demonstrated that the converted barn had been used as a single residential unit without any association to the mobile home, therefore the application for a Lawful Development Certificate was refused.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site is located off Yelsted Lane in the parish of Stockbury. It is located within the open countryside designated as being within the Kent Downs Area of Outstanding Natural Beauty, the North Downs Special Landscape Area and Strategic Gap.

1.02 The site at New Cockhill Farm comprises a mobile home, attached converted barn and numerous farm buildings. The barn that is attached to the mobile home contains a reception area, kitchen, utility area, bedroom, bathroom and store. This building was granted a Certificate of Lawfulness for its use as ancillary residential accommodation to the mobile home. It is adjoined to the mobile home by a timber barn type building containing the reception area, which then connects to the barn that is partly constructed from concrete blocks (visible from the rear of the site). The site is clearly an established residential site with garden land to the south and west.

1.03 The original farm buildings are located in a courtyard layout to the east of the mobile home. These are of a traditional style and construction, some containing attractive brick and flint walls. There is also a large general purpose shed and implement store with covered pen (identified as building E on the existing site layout plan), which is located to the rear (north) of the Courtyard buildings. This is partly used for hay and implement storage and is an unattractive building covered in rusting metal sheeting. There are also various other farm buildings located to the north of the mobile home in varying stages of disrepair.

1.04 The application site itself is quite level, located in the dip of a Valley landscape. The surrounding fields adjacent to the farm slope gently upwards in all directions. There is a significant tree belt to the east of the site and a combination of hedgerows, fencing, orchard and pasture land to the remaining boundaries. Long distance views of the site are limited, apart from to the north.

2.0 PROPOSAL

2.01 The application is for the erection of a replacement dwelling at New Cockhill Farm, with a proposed floor area of approximately 148.33 square metres. This is intended to replace the residential accommodation currently provided on the site in the form of the

mobile home and the barn, which have a combined floor area of approximately 127.77 square metres. Permission MA/10/1511 confirmed that the barn had been used as ancillary residential accommodation to the mobile home for a period in excess of 10 years. This current application seeks to confirm that the mobile home and barn together form a single residential unit that have immunity from enforcement due to the fact that they have been continuously occupied as a single residential unit in excess of four years and that the personal condition imposed by MA/95/0208 is no longer enforceable. If the mobile home and barn comprise a single residential unit with no personal restrictions, then the normal policies relating to replacement dwellings in the countryside would apply.

2.02 The proposal also involves the removal of the six other areas of buildings from the site. The Proposed Site Layout Plan (drawing no. 2199/p/02 B) indicates the buildings that are proposed to be removed, which are the buildings lettered J, K, H, G, F and E. This totals a removal of 326 square metres and 896 cubic metres of built development from the site. The applicant has prepared a Unilateral Undertaking to ensure the removal of these buildings from the site before the commencement of any development.

2.03 The replacement dwelling will be located approximately 6 metres to the west of the existing mobile. It will have two bedrooms, kitchen, utility, dining room, sitting room, bathroom and wet room at ground floor area. This is designed for ease of access and to provide functional facilities for Mrs. Thirgood, who is restricted in her mobility. The first floor will have a further bedroom, study and bathroom. This has been designed for guests and in the long term for a carer should the applicant so require.

2.04 The proposed building will be finished in plain clay tiled roof, with the gable end walls being finished in plain clay tiles to match. The lower wall elevations will be finished in brickwork. The windows and doors will be finished in natural stain timber to match a timber frame porch. Windows have been provided at the front of the house to act as a security feature, overlooking the access. Whilst windows to the rear of the site will allow livestock to be looked over in the fields. The new dwelling will be provided with a wood burning stove to capitalise on the use of renewable energy to heat the house. It will also be provided with gas, electricity, telephone and waste facilities as already occurs with the existing dwelling.

2.05 The site will utilise the existing vehicular and pedestrian entrance on the site, and a bonded gravel drive will be provided for ease of access by vehicles. This will lead to the parking and turning area adjacent to the house. Additional hedgerow planting is proposed by the existing entrance gates and three fruit trees are proposed in the location of the existing concrete pig pens.

2.06 New post and wire stock-proof fencing is proposed to the north and west of the site, which will match existing. The length of this extends to approximately 85 metres. The opportunity will be taken to supplement the existing hedgerow with further native planting immediately adjacent to the highway, to the south of the site. The old orchards adjoining the site to the west can also be supplemented.

2.07 The applicant has submitted a signed Statutory Declaration with the application, in which she states that she has occupied the mobile home and barn combined as a single residential unit in excess of four years. She also confirms that the property is comprised of two parts, which have permanently been joined together and that the mobile home has been permanently fixed to the ground during this time and is not, therefore, mobile. This Declaration was sworn in front of a Commissioner of Oaths on 25th September 2014.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.17 Ha	0.17 Ha	0
Approximate Ridge Height (m)	6.2m	5.8m	
Approximate Eaves Height (m)	2.9m	2.3m	
Approximate Depth (m)		11.3m	
Approximate Width (m)		9.9m	
No. of Storeys	1	2	1
Net Floor Area	127.7sq.m	148.3sq.m	20.6sq.m
Parking Spaces	1	2	1
No. of Residential Units	1	1	0
No. of Affordable Units			

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan: Maidstone Borough-Wide Local Plan 2000, Policies ENV31, ENV33, ENV34 and H32.
Supplementary Planning Documents:

5.0 LOCAL REPRESENTATIONS

5.01 A neighbour at the nearest adjacent residential property, Yelsted Court Barn, wrote in support of the application. It was commented that *"I have looked at, and carefully considered, the proposed plans for the buildings at New Cockhill Farm and I fully support this application. The improvements can only enhance this area"*.

6.0 CONSULTATIONS

6.01 Stockbury Parish Council commented that they wish to see the application refused or reported to the planning committee. They raise objections on the following grounds:

- Planning permission was given on 5th April 1995 for the resident to retain a mobile home on the site for use by an agricultural worker.
- The conditions placed on the application approval by the Borough Council gave permission for the retention of the mobile home for the benefit of Mr and Mrs Thirgood only, and for no other persons, and upon cessation of their occupation, the mobile home was to be removed from the site to the satisfaction of the local Planning Authority.
- The reason given for this condition was because of the special circumstances of the case and to ensure that no unjustified residential occupation of the site occurred.
- The Parish Council feels that this condition should be adhered to. To contravene the conditions already placed by the Borough Council and to allow a replacement dwelling on the site would set a dangerous precedent in rural areas where agricultural land must be protected.

6.02 Kent Highways commented that there are no highway implications associated with the proposals. They suggested an informative be imposed relating to obtaining the necessary highway consents.

6.03 The Environment Agency commented that they have no objection to this proposal. However, they have requested that various conditions and informatives be included on any permission relating to site contamination, groundwater protection issues, surface water drainage, disposal of sewage, permits for sewage effluent discharges, storage of any facilities for storage of oils, fuel and chemical storage and waste disposal.

6.04 The Environment Agency confirmed that the site is shown within flood zone 3, however this is an area identified as a dry valley with no watercourse. The applicant confirmed as part of the submission documents that no flooding has ever been experienced on the site during the 35 years that she has lived there.

6.05 Environmental Health raised no objection to the proposal, but requested conditions be imposed relating to possible site contamination and remediation if necessary. It has also suggested informative be imposed relating to the discharge of sewage effluent, contaminated land and Code of Practice for development involving demolition and/or construction.

6.06 I have obtained legal advice on this application. I have included the advice within my appraisal of the development.

7.0 BACKGROUND PAPERS AND PLANS

7.01 The application comprises the following documents:

- Application Form;
- Assessment of Flood Risk;
- Supporting, Design and Access Statement;
- Photographic Schedule;
- Statutory Declaration of Mrs. Thirgood in the matter of continuous occupation of a mobile home and adjacent building as a permanent single residential dwelling;
- A4 Drawing showing extent of single residential dwelling;
- Site Location Plan;
- Drawing No. 2199/P/01: Existing Site Details;
- Drawing No. 2199/P/02 B: Proposed Site Layout;
- Drawing No. 2199/P/03: Existing Plan and Elevations of Existing Buildings;
- Drawing No. 2199/P/04: Existing Plan and Elevations of Existing Buildings;
- Drawing No. 2199/P/05: Proposed Plans and Elevations of Existing Buildings;
- Drawing No. 2199/P/06: Floor Plans and Elevations of Proposed Dwelling.

8.0 APPRAISAL

Principle of Development

8.01 The issue of whether a replacement dwelling is acceptable in principle relates to whether the current mobile home and barn are a single residential unit with no enforceable conditions, such as the personal restriction relating to occupation only by Mr. and Mrs. Thirgood.

8.02 The previous applications for Certificates of Lawfulness on the site firstly confirmed that the barn did provide ancillary residential accommodation to the mobile home. The second Certificate of Lawfulness established that the barn was not an independent dwellinghouse in its own right, but that the mobile and barn together formed a single residential unit. Stockbury Parish Council raised an objection stating that the conditions imposed on MA/95/0208, restricting the mobile home to a temporary dwelling with a personal

condition relating only to the Thirgoods, should be adhered to. However, the existing residential unit located on the site is not the same one that was granted consent under MA/95/0208 and so the personal condition can no longer be enforced. There is no condition relating to agricultural workers.

8.03 Mrs. Thirgood's Statutory Declaration submitted with the current application essentially seeks to demonstrate that the mobile home and barn now constitute a permanent, single residential unit that are unrestricted by a personal condition.. It is contended that the mobile home is no longer mobile, but constitutes a structure that is fixed to the ground. A site visit and photos submitted with the application confirm that the mobile is permanently affixed to the ground and appears to have been like this for some considerable period of time. The mobile is adjoined to the adjacent barn building which has been recognised as being used as ancillary residential facilities to the former mobile home. When taken together the former mobile home and the adjacent building constitute a single residential unit, which has been used as such for in excess of 4 years prior to the date of this application.

8.04 The extent and type of residential development on the site clearly differs from that originally approved under MA/95/0208 for the mobile home. It is considered that the mobile and adjoined barn do now constitute a lawful residential dwelling in their own right that is permanent and not the result of a temporary permission. The physical alterations are clearly visible and there is no evidence to dispute the claims made by Mrs Thirgood in her Declaration. Indeed, the Council's own documentation from dealing with the previous applications on the site goes some way to supporting the case that the mobile and barn have been occupied as a single residential unit for some time and are now lawful and permanent development.

8.05 Legal advice on this issue has been sought from the Council's Solicitor. This has confirmed that the as the caravan has not been capable of being moved for at least four years, this would remove it from the definition of being a caravan and it could now be legally defined as a building. In relation to the condition attached to MA/95/0208, Mrs. Thirgood is still in occupation (even though the 'mobile home' is not now a 'mobile home') and therefore there has been no breach of condition. The condition placed on MA/95/0208 derived from special circumstances in order to prevent "unjustified residential occupation" of the mobile home. If the buildings now form a single, permanent, residential unit, then the mobile home effectively no longer exists and the condition is unenforceable – the mobile home cannot be removed from the site (i.e. is not "capable of being moved").

8.06 In conclusion on this issue, the existing mobile and barn are now considered to be a single, permanent residential unit and the personal condition is no longer enforceable. Under these circumstances, the principle of a replacement dwelling on the site is considered to be accord with Policy H32 parts (1) and (2), which require planning permission will only be granted for a replacement dwelling if the present dwelling has a lawful residential use and if the present dwelling is not the result of a temporary permission.

Visual Impact

8.07 Part (3) of Policy H32 requires that a new replacement dwelling is no more visually intrusive than the original dwelling. The existing combined mobile home and barn are visually intrusive in the surrounding area by virtue of their unattractive appearance and their location directly in line with the site access. Part of the converted barn has a total height of 6.3 metres, where an enclosed staircase accesses onto a roof terrace. The concrete blockwork wall and metal windows on the rear of the barn building also stand out and appear incongruous in their surroundings.

8.08 The proposed replacement dwelling would only provide a 20.6 sq.m increase in floorspace over the existing residential unit. It would have a ridge height of 5.8 metres, which would be 0.4 metres lower than the highest point of the barn. The eaves height of the replacement dwelling is also very low at just 2.3 metres, which would be 0.6 metres lower than the overall height of the mobile home. The design of the dwelling is consistent with traditional buildings in the area, incorporating traditional and local materials including yellow and red brick, flint, clay roof tiles and exposed timber work. This design also reflects some of the older courtyard farm buildings located adjacent to the dwelling. The proposed dwelling site would sit comfortably in the site, would be less visually intrusive than the existing buildings and is far more consistent with the type of dwelling found in the local area than the existing mobile home and barn. Its location to the west of the existing mobile will also ensure that it is not as directly visible from the highway as the existing mobile building and barn.

8.09 A condition will be imposed requiring the demolition of the mobile home and barn upon the completion of the new dwelling. A Unilateral Undertaking has also been drafted by the applicant to ensure the removal of other groups of redundant farm buildings on the site. Overall, this will result in a 326 square metre reduction in floorspace on the site. This will greatly reduce the visual impact of the new dwelling, will actually considerably improve the visual appearance of the site and will open up views across the valley that have previously been obscured and marred. This will have a beneficial impact upon the Special Landscape Area and Area of Outstanding Natural Beauty as required by policies ENV33 and ENV34 of the Local Plan. These policies place a priority on the natural beauty of the landscape over other considerations and so the removal of so much built development that has an adverse impact on the landscape is an important consideration.

8.10 Overall, it is considered that the new dwelling is far less intrusive than the original mobile home and barn and the additional farm buildings that are to be removed. The removal of these buildings are to be controlled via conditions and a Unilateral Undertaking. This is in accordance with parts (3) and (4) of policy H32 and also policies ENV33 and ENV34 relating to Areas of Outstanding Natural Beauty and Special Landscape Areas respectively.

Residential Amenity

8.11 The proposal will have no adverse impact on the residential amenity of adjacent properties as they are located over 80 metres away and are well screened. This is therefore in accordance with part (7) of policy H32.

Highways

8.12 The proposal is utilising the existing site access and there is unlikely to be any increase in traffic movements as a result of the development. Two parking spaces are proposed, which is sufficient for a three bedroom dwelling and is consistent with that currently provided on the site. Kent Highways have raised no objections to the scheme, but have recommended an Informative be imposed. The proposal is considered to accord with part (5) of policy H32, which requires that the dwelling has a safe access.

Landscaping

8.13 The site already benefits from existing hedgerows and orchards. The applicant has identified that Bredhurst Dry Valley area is often used for grazing land with timber post and wire fencing surrounding the field boundaries. It is recognised that the valleys have open views across them, which are enclosed by the valley sides. The landscape analysis for the Bredhurst Dry Valley identifies that 'the gappy network of hedgerows weakens the ecological

network, making the overall ecological integrity moderate'. The proposal will improve the landscape features of the site by laying more of the site to grass, to provide new post and wire stock fencing around the field boundaries and, where possible, supplement the existing hedgerows with native planting to improve ecology. Additional hedgerow has also been proposed around the existing gated access into the site to screen the access drive from the highway and to preserve and enhance the character of the area.

8.14 The applicant has made reference in the supporting statement that in the Kent Area of Outstanding Natural Beauty Farmsteads Design Guidance document, New Cockhill Farm lies within the Mid Kent Downs Character Area, which is synonymous with loose courtyard farmsteads, which are also recognised as being "isolated farmsteads with shelter belts, and many sited close to orchards". There is an existing orchard adjacent to the proposed dwelling, which is to be retained in its entirety and additional groups of fruit trees are proposed along the site access to ensure that the character of the area is preserved and enhanced.

Other Matters

8.15 Policy ENV31 seeks to protect the Strategic Gap from additional development that could prejudice the character and independence of Maidstone as a settlement. This proposal raises no conflict with this policy as it does not extend beyond the existing residential confines of the site, it reduces the amount of built development on the site and has less visual impact than the existing buildings, thus creating a more open and rural appearance and maintaining the Strategic Gap as a buffer zone between settlements.

8.16 An appeal was allowed in 2010 relating to the erection of a replacement dwelling under reference number MA/09/0848 (Inspectorate ref. APP/U2235/A/09/2118170) at Appsmoor Farm, South Street Road in Stockbury. This is attached to appendix one. This related to a similar development for the erection of a replacement dwelling, which was to replace a yacht and lorry body that had a Certificate confirming lawful use as a single residential unit. The issue revolved over whether the proposal would be more visually intrusive than the original dwelling and therefore harmful to the landscape quality of the AONB, with the existing structures having an impermanent quality. It was stated by the Inspector that although the new house would be more visible than the existing development, the existing structures on the site gave the property a partially disused and derelict appearance which had a negative impact on the Area of Outstanding Natural Beauty. He concluded that the removal of these elements as part of the development would improve the overall appearance and provide a compensatory loss of built form to balance the new construction. This set the precedent that the removal of buildings as part of a development can improve the appearance and compensate for redevelopment in Areas of Outstanding Natural Beauty, where the main issue is to preserve the character and appearance of such areas.

8.17 It is considered that the same issues are applicable to this application in that the improvement to the overall appearance in the site compensates for the new development. There is also a far larger reduction in built form proposed with this application than in the appeal example with the mobile home, barn and six other farm buildings proposed to be removed. This reduction in built form, improvement to the appearance of the site and improvement to landscaping all combine to ensure that the development would preserve the character and appearance of the AONB as required by Policy ENV33.

8.18 Similar to the appeal example, there is also no indication that the use would cease if planning permission for a replacement dwelling were withheld as the mobile home and barn are a permanent and lawful structure that is not subject to any of the planning restrictions imposed on the original consents for the mobile. Weight therefore needs to be given to the

undesirability of continuing the occupation of sub-standard accommodation, which would be contrary to the Government's objective to provide high quality housing for all.

9.0 CONCLUSION

9.01 It is considered that the mobile home and barn together now comprise a single residential unit that is not temporary in nature, but is now a permanent and lawful structure with no restrictive conditions. Overall, the proposal replaces sub-standard accommodation and creates significant visual improvements on the site, which serve to improve the immediate surrounding and preserve and enhance the AONB. An appeal in nearby Stockbury where the Inspector accepted the principle of replacing a lawful mobile with a permanent dwelling has also set a precedent about the weight to be attached to development that improves the AONB. The similarities to this proposal are significant. It is considered that delegated powers should be granted to officers to approve the proposal, subject to the signing of the Unilateral Undertaking for the demolition of the farm buildings and the imposition of the conditions listed below.

10.0 RECOMMENDATION

Subject to the prior completion of a legal agreement (unilateral undertaking) to secure the removal of redundant farm buildings, the Head of Planning and Development be given delegated powers to GRANT planning permission, subject to the imposition of the following conditions:

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

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

2. The mobile building and barn referred to on the submitted A4 plan showing extent of the single residential dwelling shall be demolished and all material removed from the site within three months of the occupation of the dwelling hereby permitted.

Reason: To ensure a satisfactory appearance to the development.

3. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building and driveway hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development.

4. Notwithstanding the provisions of Classes A, B, D or E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension of the dwelling hereby approved shall take place, nor the erection of any building within the curtilage of the dwelling without the permission of the Local Planning Authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area.

5. The development for which this permission is granted shall be carried out in accordance with the approved plans numbered 2199/P/01, 2199/P/02 B, 2199/P/03, 2199/P/04, 2199/P/05, 2199/P/06, A4 plan showing extent of single residential dwelling and Site Location Plan.

Reason: To ensure a satisfactory appearance to the development.

6. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species. The scheme shall be designed using the principles established in the Councils adopted Landscape Character Assessment and Landscape Guidelines. The details shall include all trees and hedgerows to be retained on the site and additional proposed planting.

Reason: No such details have been submitted and to ensure a satisfactory setting and external appearance to the development.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

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

1) A preliminary risk assessment which has identified:

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

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

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

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

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN1 of the Local Plan.

9. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 8;, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8;, which is subject to the approval in writing of the Local Planning Authority. The remediation strategy shall be implemented as approved.
Following completion of the measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 8.

Reason: The site is located in a very high environmentally sensitive area with respect to groundwater quality due to its situation within a source protection zone1. National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

10. No infiltration of surface water drainage into the ground at the site is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: The discharge of clean roof water to ground is acceptable both within and outside SPZ1 provided that all roof water down-pipes are sealed against pollutants entering the system from surface run-off, effluent disposal or other forms of discharge. The method of discharge must not create new pathways for pollutants to groundwater or mobilise contaminants already in the ground. To protect groundwater and comply with the NPPF.

INFORMATIVES

Clearance and burning of rubbish must be carried without nuisance from smoke etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the EHM.

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 Sunday and Bank 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 and Bank Holidays.

Provision of construction vehicle loading/unloading and turning facilities and provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager.

As the development involves demolition and / or construction, I would recommend that the applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected.

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

The applicant is advised to contact the Environment Agency regarding the requirements of a consent to discharge sewage effluent into underground strata or onto land in accordance with the Environment Act 1995.

You are recommended to take full account of the advice given by the Department of the Environment, Transport and the Regions in PPG 23 Planning and Pollution Control. This advice (in Paragraph 14 of Annex 10) indicates that "the responsibility for safe development and secure occupancy of the site rests with the developer". You should note that this Council, acting as Local Planning Authority, has determined the application on the basis of the information available to it – this does not mean that the land is free from contamination.

Foul Drainage:

The site is located in a source protection zone 1 (SPZ1) and therefore we require all sewage effluent discharges (new or existing) to hold a permit.

You should apply online at <https://www.gov.uk/environmental-permit-how-to-apply> or contact us for an Environmental Permit application form and further details on 08708 506506.

The granting of planning permission does not guarantee the granting of a permit under the Environmental Permitting Regulations 2010. A permit will be granted where the risk to the environment is acceptable.

For certain specified small-scale activities where sufficient information is supplied with the application, we may be able to undertake an initial risk assessment ourselves, but generally operators must also assess the environmental impact of their proposal to demonstrate an acceptable environmental outcome at the site.

The distance between the ground level and the groundwater will offer some protection of the groundwater quality at the site. However, we are aware that the local groundwater suffers from impacts from nitrates and bacterial contamination which can be derived from effluent

discharges. Therefore, this site is very vulnerable from pollution and we wish to protect the groundwater quality.

A septic tank is unlikely to be acceptable at this location and it may be necessary to reduce the risks to the groundwater environment with additional treatment to the effluent before it's discharged.

We advise the applicant to refer to our Pollution Prevention Guidelines (PPG) 4: Treatment and Disposal of Sewage where no Foul Sewer is available which can be found at:

<https://www.gov.uk/government/publications/sewage-treatment-and-disposal-where-there-is-no-foul-sewer-ppg4>

Fuel, Oil and Chemical Storage:

Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment.

The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

For advice on pollution prevention, the applicant should refer to our guidance "PPG1 – General guide to prevention of pollution", which can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290124/LIT_1404_8bdf51.pdf

Waste on site:

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

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Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

Case Officer: Diane Chaplin

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