

APPLICATION: MA/12/1749 Date: 25 September 2012 Received: 26 September 2012

APPLICANT: Taylor Wimpey (South East) Ltd

LOCATION: LAND OFF, MARIGOLD WAY, MAIDSTONE, KENT

PARISH: Maidstone

PROPOSAL: Erection of 40 no. dwellings (including 40% affordable housing) together with public open space and new vehicle and pedestrian access from Marigold Way in accordance with plans numbered 1489/06; 1489/01A; 1489/02A and 1489/CARPORTS/01A as received on 22 November 2012, and plans numbered 1489/02; 1489/03; 1489/04; general landscape strategy plan; house type plans; planning and historic building statement; statement of community involvement; application site plan; planning supporting statement; transport statement; tree survey; environmental performance statement; ecology survey; site investigation and risk assessment report and flood risk assessment as submitted on 26 September 2012.

AGENDA DATE: 21st February 2013

CASE OFFICER: Chris Hawkins

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

- It is a departure from the Development Plan.
- Councillor Moss has requested it be reported for the reason set out in the report.

**1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: H1, H11, ENV6, ENV22, ENV27, ENV34, T1, T13, T21, T23CF8 (iii) Affordable Housing Development Plan Document (2008); Open Space DPD (2008)
- South East Plan 2009: CC1, CC6, CC8, H1, H5, T4, T7, NRM4, NRM11, AORS6, AORS7, BE1
- Village Design Statement: N/A
- Government Policy: National Planning Policy Framework (2012), Ministerial Planning for Growth Letter.

## **2. HISTORY**

MA/12/2250 Land Off Marigold Way, Maidstone, Kent. Application for listed building consent to demolish part of ragstone wall and installation of a security gate. Approved.

There is other planning history upon the neighbouring land, however, none of this is directly related to the planning application before Members.

## **3. CONSULTATIONS**

3.1 **Maidstone Borough Council Landscape Officer** was consulted on this application and made the following comments:

3.1.1 'There are protected trees on and adjacent to this site. The Tree Preservation Order, TPO No. 1 of 1994, protects individual trees and groups of trees to the east and north/north east of the housing land.

3.1.2 The tree survey submitted by the applicant is comprehensive and shows the retention of the majority of the protected trees except for two B category trees, a Beech marked as T10 on the planning layout and a Sycamore marked as T11. There is no tree constraints plan but I assume the access road has been sited to minimise impact to adjacent protected trees but there is no evidence to indicate why it was considered more acceptable to lose these two trees as opposed to protected trees T27, T28 & T29 which are three Sycamores, one of which has been classified for removal.

3.1.3 However, apart from this question, I generally have no objection on arboricultural grounds subject to conditions requiring full compliance with the arboricultural impact assessment and arboricultural method statement. A detailed landscape scheme will also be required.'

3.2 **Maidstone Borough Council Environmental Health Officer** was consulted and raised no objections to this proposal subject to the imposition of a suitable safeguarding condition relating to contamination.

3.3 **Kent County Council (Mouchel)** were consulted on this application and requested that the following contributions be made:

3.3.1 A financial contribution of £287,090.27 towards primary school education. This would contribute to a new two form entry primary school within the locality that would be required due to the additional strain placed upon the existing school network by virtue of this development.

3.3.2 A financial contribution of £8289.68 towards the provision of new bookstock within the existing library in Maidstone.

3.3.3 A financial contribution of £1710.78 towards youth facilities within the locality of the application site.

3.3.4 A financial contribution of £621.94 towards community learning within the locality of the application site.

3.3.5 These requests are fully considered within the main body of the report.

**3.4 Kent Highway Services** were consulted on this application and made the following comments:

- Visibility Splays as proposed are considered acceptable;
- The crash record indicates that there is not a crash problem along Marigold Way, or along Hermitage Lane in the vicinity of this site;
- The nearby bus stops should be enhanced with bus boarders;
- The proposed pedestrian link should be wide enough to allow for cycle movements;
- The installation of a pedestrian refuge to the north of the traffic lights should be investigated.

3.4.1 Concern was initially raised with regards to the layout, and whether it would be to adoptable standards. Amended plans were subsequently submitted, and have been agreed with Kent Highway Services.

3.4.2 However, concerns remain that tandem parking is proposed, and that the garages, as shown should not be counted as parking spaces. This matter is fully considered in the body of the report.

**3.5 Kent County Council Ecology** were consulted on this application and made the following comments:

3.5.1 'Thank you for the opportunity to comment on this application. We have the following response to make:

3.5.2 Under the Natural Environment and Rural Communities Act (2006), "*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*". In order to comply with this 'Biodiversity Duty', planning decisions must ensure that they adequately consider the potential ecological impacts of a proposed development.

- 3.5.3 The National Planning Policy Framework states that *"the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible."*
- 3.5.4 Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System states that *'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision.'*
- 3.5.5 Natural England has published Standing Advice on protected species and Ancient Woodland. When determining an application for development that is covered by the Standing Advice, Local Planning Authorities must take into account the Standing Advice. The Standing Advice is a material consideration in the determination of applications in the same way as a letter received from Natural England following consultation.
- 3.5.6 The *Updated Extended Phase 1 Habitat Survey with Bat Emergence Survey* report has been submitted in support of this application. The assessment report lacks some clarity but concludes that most of the habitats present on the site are of *"relatively low ecological value"* (relative to what is not explained), although the trees and woodland have *"intrinsic ecological value"* and the potential for protected species use of the site was identified (bats and reptiles).
- 3.5.7 The report provides a summary of the bat emergence survey that was undertaken in relation to Tree 10. While no bats were recorded emerging from the tree, common pipistrelle activity was recorded. The flight paths are indicated on Figure 2 of the report, however there is no information to show the frequency of activity to enable an assessment of the importance of the site as foraging habitat. Extensive development works have taken place across the wider hospital site over the last 10-20 years which may have resulted in greater concentration of activity across the site.
- 3.5.8 There is habitat suitable for reptiles present on the site and the report states that a presence/absence survey was undertaken. The report of the reptile survey has not been submitted and we advise that this is sought so that the survey method, results and conclusions can be appraised.
- 3.5.9 Various recommendations are made relating to ecological mitigation, including:

- 3.5.10 No vegetation removal during the nesting bird season, unless preceded by an inspection undertaken by a suitably experienced ecologist. If nesting birds are identified, the vegetation must not be impacted or removed until the young have fledged;
- 3.5.11 Tree T10 must be soft-felled under the instruction of a suitably experienced and licensed ecologist;
- 3.5.12 The lighting scheme must be sympathetic to foraging and commuting bats (see end of this note for a summary of recommendations from the Bat Conservation Trust).
- 3.5.13 These measures must be implemented. One of the principles of the National Planning Policy Framework is that "opportunities to incorporate biodiversity in and around developments should be encouraged". Ecological enhancement recommendations are provided within section 5 of the report. We advise that the landscaping scheme must incorporate these measures.'
- 3.6 Kent Country Council Archaeology** were consulted and raised no objection to the proposal subject to the imposition of a condition requiring a programme of archaeological work to be undertaken.
- 3.7 Southern Water** were consulted on this application and raised no objections to this proposal, subject to the imposition of conditions relating to the details of on site drainage.
- 3.8 EDF Energy** were consulted on this application and raised no objections to the proposal.
- 3.9 The Primary Care Trust** were consulted on the application and raised no objection to the proposal subject to the provision of contributions totalling £25,920 which would be spent on surgeries within the locality of the application site. This money has been requested in order to address the additional strain placed upon existing facilities within the area due to the increase in housing numbers.
- 3.10 The Environment Agency** were consulted and following discussions with the applicant, raised no objections to the proposal, subject to the imposition of conditions relating to surface water drainage, and contamination.

#### **4. REPRESENTATIONS**

- 4.1 **Councillor Moss** called the application to Committee for the following reasons:

4.1.1 'As the Draft Strategic Transport Strategy has been rejected and referred back to KCC the boundary wall of this development forms part of proposals by the local community to move it further on site to widen Hermitage Lane and improve the junction with Heath Road by creating a right filter lane.

4.1.2 It is asked that a decision be deferred until a further draft strategy has been produced.'

4.1.3 **Neighbouring occupiers** were notified of the application and 5 letters of objection have been received. The main concerns within these letters are summarised below:

- Increase in traffic movements which would be to the detriment of congestion and highway safety;
- The existing infrastructure is not of sufficient quality to accommodate additional housing;
- The housing development might exacerbate subsidence within the area;
- It is an ambulance route;
- The impact of anti-social behaviour on existing residents;
- There is a family of foxes on the site;
- Concern that the parking bays will be used by commercial vehicles;
- More trees should be planted within the area;
- The proposal would appear visually intrusive within the area;
- There would be an increase in overlooking to existing properties;
- There are already not enough doctors and schools within the area;
- The proposal would not be in accordance with the Core Strategy;
- The puncture of the grade II listed wall is unacceptable (this is subject to a separate listed building consent);
- Development of this nature should be on brownfield land.

## **5. CONSIDERATIONS**

### **5.1 Site Description**

5.1.1 The application site is located within the urban confines of Maidstone, at the junction of Hermitage Lane and St Andrews Road. It sits within the grounds of the listed former hospital, which has now been converted into flats as part of a comprehensive redevelopment. The site subject to this planning application is allocated within the Maidstone Borough Wide Local Plan (2000) for use as a primary school, which was sought to accommodate the additional family houses constructed following the by the housing allocation within the hospital grounds. These houses have now all been constructed within the grounds.

- 5.1.2 At present the site is in part overgrown, although the southern section is on somewhat of a plateau that has shorter grass. The area beneath the trees within the northern section of the site is more overgrown.
- 5.1.3 There is a change in levels between the former hospital grounds and the plateau within the southern section of the site. This change in level is approximately 1.5metres.
- 5.1.4 Along the southern and western boundary of the application site is a ragstone wall, that forms the curtilage of the listed hospital – this wall is therefore listed. The wall also returns along the eastern boundary of the application site. The wall is approximately 2metres in height.
- 5.1.5 St. Andrews House is a Grade II listed building, of ragstone construction, which has now been converted (to a particularly high standard) to apartments. This property overlooks the open space to the front of the site, as well as the access road from its western elevation.
- 5.1.6 To the south of the site is St Andrews Road, which is characterised by two storey properties which are set back from the road by approximately 6metres. St Andrews Road is currently a no-through road, and as such on street parking occurs along its length.
- 5.1.7 To the west of the application site is a recreation ground, containing sports pitches and children’s play equipment. This is open on both the Hermitage Lane and Heath Road frontages.
- 5.1.8 To the east of the site are a small cluster of buildings, set behind a high ragstone wall. Further eastwards is a medical centre.
- 5.1.9 The application site is located within a sustainable location, within walking distance of the shopping parade upon the access road for the hospital (to the north), and to bus stops located upon the A20 (London Road) which provide a frequent service into the centre of Maidstone.

## **5.2 Proposal**

- 5.2.1 This is a full planning application for the erection of 40 houses and associated open space, with access to be served from Marigold Way. The application has been subject to a significant level of pre-application discussion, prior to its submission.
- 5.2.2 The access to the site would be obtained from the north where there are currently two large metal gates – an informal access track has already been

formed to the southern part of the site. This access would consist of a blocked paved road with a width of 4.1metres, that would also include parking bays along its eastern side. A number of trees are proposed to be planted along the side of this access road to soften its view from the existing hospital building. This access road would be approximately 30 metres from St Andrew’s House, with the existing path maintained.

5.2.3 The proposed houses are concentrated within the southern section of the application site, with an area of open space provided within the north eastern element – closest to St Andrews House. This area is to be provided with tree planting, and benches, but with no formal play equipment, as it was considered that there is good provision within the recreation ground opposite, and also as it would impact upon the setting of the listed building.

5.2.4 In terms of the housing provision, it is proposed that all properties be two storey in height, although there would be some variation in the eaves and ridge heights of the buildings. The density of the development would be approximately 30 dwellings per hectare. The housing provision would be split in the following way:

<b>Private</b>	
2 Bedroom 'FOG'	1
3 Bedroom House	15
4 Bedroom House	8
<b>Affordable</b>	
1 Bedroom Flat	1
2 Bedroom Flat	4
2 Bedroom House	2
3 Bedroom House	6
4 Bedroom House	2
Total	40

5.2.5 The development would effectively be arranged in three clusters. The first, which would be located on the western side of the site, adjacent to the access. This would consists of five large properties, that would each be provided with a garage and off street parking provision. These would be arranged in a fairly informal manner, and provided with brick walls and railings upon the boundaries. Soft landscaping is proposed to the front of each property.

- 5.2.6 The next area of development is built around a circular access, which is served with perimeter development (albeit with a FOG – flat over garage - provided internally) which consists of both terraced and detached housing. A central car parking area is also proposed, although the majority of dwellings are provided with parking within their curtilage. Visitor parking is also proposed along the access road. Again, the properties within this element of the site would be two storey in height, and would each be provided with a private amenity space.
- 5.2.7 The element of the proposal that is most related to the listed building would be the area to the east of the application site. This here, it is proposed that a new ragstone wall be constructed, that would match the existing (a condition would be imposed that would require a sample panel to be constructed on site prior to any works being undertaken), and would run along the rear of the five residential properties proposed. These properties would be set out within a more formal arrangement, creating a courtyard within the centre. The properties would be more traditional in form, with proportions that reflected the adjacent listed building. Towards the southern section, the buildings 'fan out' with the front of the properties facing St Andrews Road.
- 5.2.8 A section of landscaping is proposed within the inside of the listed wall that runs along St Andrews Road and Hermitage Lane. It is proposed that trees are planted, with some low level planting beneath.
- 5.2.9 The properties would all be constructed to level 4 of the code for sustainable homes, and the applicant has confirmed that they are willing to meet the contributions requested. The proposal would also see the provision of 40% of the units for affordable housing.

### **5.3 Principle of Development**

- 5.3.1 The application site is located upon land that has been allocated within the Development Plan for the provision of a new primary school, as part of the overall development of the Hospital site. The housing development has now been completed, with no school provided on the land, or within the vicinity.
- 5.3.2 Since the adoption of the local plan, and the approval of the residential development, Kent County Council have amended their strategy in terms of the provision of primary education. This site would have been of a size suitable for a one form entry school, but no more. With the provision of the housing as approved within the recent past, and the housing proposed within the emerging Core Strategy the county have identified that a two form entry school is required, and as such, this site is no longer suitable for the primary provision as originally envisaged. Kent County Council have confirmed that they no longer wish to see this site developed for primary education, but will be seeking that

such a provision be made elsewhere within the vicinity, potentially through the allocation of sites within the Core Strategy. I therefore see no realistic alternative (other than KCC) for the school provision to be delivered at this site.

- 5.3.3 In addition to the unsuitability of the site for school provision, it is acknowledged that the Council no longer have a 5 year land supply as required by central government. This is considered to be a material consideration in the determination of this planning application. However, in this instance, I consider that the fact that the site is longer considered suitable for school provision is given greater weight, and it is this that allows from the departure from the Development Plan, rather than the matter of the 5 year land supply. Nonetheless weight has to be given to the *deliverability* of this site, and the fact that it is within a location that would otherwise be suitable for housing.
- 5.3.4 This is a very sustainable location for housing provision to be made. It is within close walking distance to a parade of shops, bus stops, the hospital, and within a longer walk to Barming Station. I therefore consider the principle of developing this site for such a use to accord with the general principles of the NPPF.

## **5.4 Visual Impact**

- 5.4.1 I consider that the application site is located within a particularly sensitive location, being both within the grounds of a listed building, and also on the prominent junction of Hermitage Lane and St Andrews Road.
- 5.4.2 The application site is currently screened from Hermitage Lane and St Andrews Road by the high ragstone wall that surrounds it. Nonetheless, the proposed development would be visible from outside of the site, as the roofs of the buildings, and elements of the facades would project above this wall. Whilst this would undoubtedly change the character and appearance of the locality, I do not feel that this would be to its detriment.
- 5.4.3 The Conservation Officer concurs with this view, and is not of the opinion that the development would detract from the setting of this wall.
- 5.4.4 The site itself is relatively self contained – being surrounded on three sides by high walls, with an area of tree planting and shrubs to its north. As such, it would have very much a limited visual impact upon the wider area. Short to medium distance views would be impacted, however, views from longer distances would be more restricted and would be impacted upon less.
- 5.4.5 Internally, the design of the buildings is of a relatively high standard. Through pre-application discussions with the applicants it has been agreed that it would be appropriate to seek a more traditional approach within the site, and to

respond to the character and appearance of the nearby listed building. To my mind, this has been done successfully, with the individual dwellings being well proportioned, and constructed of materials that one would expect within this location. The applicant has indicated that the buildings would be constructed of brick, with some properties provided with timber effect cladding. The tiles within the development would be natural and resin bonded slate – the natural slate being used on the properties closest to the listed building.

- 5.4.6 I consider the design of the courtyard to be of a high standard. The buildings would be constructed of brick, natural slate with stone cills and soldier arches. Each property would have a chimney, and timber sash effect windows (which would be recessed). I would also recommend that any waste water/rain water goods be constructed on cast iron or aluminium to ensure a high quality finish. These properties would front on to an area of car parking, which would contain an element of tree planting, and would be constructed of block paving.
- 5.4.7 It has also been agreed that ragstone will be used within the construction of some of the internal boundary walls within the development. In particular at the point of access into the site as ragstone wall with piers is proposed, providing a formal entry point, responding to the formality of the existing building and grounds.
- 5.4.8 Front boundary treatments include the provision of metal railings (should the application be approved I would recommend the imposition of a condition that would require the submission of suitable details) along the front boundaries. This would provide an element of openness, whilst also creating defensible space to the dwellings. Soft landscaping behind this boundary would be allowed to grow through over time, providing a softer 'edge' to the development.
- 5.4.9 The provision of an area of open space on the western side of the access as one enters the site is also considered to respond positively to the existing built form on the site, and also to the existing open space. This would not be provided with any play equipment as I consider that this would be somewhat at odds with the more formal character of the remainder of the site. Benches, and litter bins are to be provided however.
- 5.4.10 I consider that the layout shown demonstrates a good level of landscaping provision within the development to ensure that it would not appear as cramped and overdeveloped. It would also respond to the garden setting in which it would sit. I also consider the buildings to be well designed, and to be of a form that one would expect within such a locality. I therefore consider that the proposal accords with the objectives of the NPPF in the respect of good design.

## **5.5 Residential Amenity**

- 5.5.1 The proposed development would be set a sufficient distance away from existing residential properties to ensure that there would not be any significant impact upon residential amenity, in terms of overlooking, overshadowing or the creation of a sense of enclosure. The nearest residential property to St Andrews House would be some 60metres from the property, and at this distance I am satisfied that there would not be any overlooking, overshadowing or the creation of a sense of enclosure.
- 5.5.2 It is acknowledged however, that the proposal would see the creation of an access alongside the side of St Andrews House. This however, would be some 30metres from these properties, and would only serve the proposed houses – which number 40 in total. I am not therefore of the opinion that this would give rise to a significant level of noise and disturbance to the existing residents. It should also be noted that this site is allocated for a primary school, and that this would have been accessed in a similar manner.
- 5.5.3 Properties within St Andrews Road would be located behind the existing high wall, and would as a result not be overlooked, or overshadowed. In any event, there is a public highway between the site and these properties.
- 5.5.4 I do not therefore considered there to be any grounds to object to this application on residential amenity.

## **5.6 Highways**

- 5.6.1 Kent Highway Services have assessed the application and raise no objections to the proposal. It is considered that the access into the site would be provided with suitable visibility splays on either side of Marigold Way, and which a suitable distance from the junction with Hermitage Lane.
- 5.6.2 Internally the layout of the proposal is considered to be acceptable, with the swept paths now demonstrating that the roads can be constructed to an adoptable standard.
- 5.6.3 In terms of parking provision within the application site, whilst concern has been raised with regards to the use of tandem parking spaces, and the provision of garages, I consider that the parking provision is acceptable, and would not lead to highway safety concerns. In any event, this would be very much a self contained site with parking unlikely to take place upon Hermitage Lane due to the volume of traffic that use it, and the traffic regulation orders in place. I am aware that parking has been raised as a matter of concern within the existing residential development, however, I do not consider that this proposal would exacerbate this.

- 5.6.4 In terms of access into and out of the application site, the proposed junction is considered to be acceptable, and of sufficient distance from the junction of Marigold Way and Hermitage Lane. There is no objection raised on this basis.
- 5.6.5 I do consider this to be a sustainable location, and as such the provision of a new pedestrian access through to St Andrews Road is welcomed. This would link the development in to the main Tonbridge Road, and the bus stops along this stretch, as well as the existing shops and facilities.
- 5.6.7 The applicant has been asked to investigate the opportunity of providing a pedestrian refuge to the north of the existing traffic lights, to enable safer crossing to the playing fields opposite. I consider that this would be of significant benefit and would seek to condition its provision accordingly should permission be granted.
- 5.6.8 To conclude, I consider that there are no grounds to object to this proposal on highway safety matters, and that the parking provision within the development is acceptable.

## **5.7 Landscaping**

- 5.7.1 The applicant has submitted a landscaping masterplan for the site, however, specific details of the internal landscaping has not been submitted. Nonetheless, I am satisfied that the information submitted is of a sufficient level of detail to assess the proposal.
- 5.7.2 The landscaping provision within the development would see the retention of the existing trees along the boundary of the application site, as well as the wooded area to the western side of the site. These existing trees provide a soft buffer between the development and the surrounding area, and contribute significantly to the character and appearance of the locality. I therefore consider their retention to be of some importance to ensure this character is protected.
- 5.7.3 Internally, it is proposed that 25 additional trees be planted. These would be predominantly within the public highways; alongside the access, and within the courtyard area. Because a large number of existing trees are to be retained, I consider the level of additional planting proposed to be of a suitable level, and to allow for a softening of the development when viewed from within.
- 5.7.4 It is proposed that the majority of properties within the development be provided with small gardens to the front – with a number provided with railings

to provide a defensible space. I consider this to be good design, and to also respond positively to the grounds in which the proposal would sit. This would also ensure that the properties within the development would be spaced in an appropriate manner, and would not appear as cramped within the development.

5.7.5 Outside of the application site, the land would be maintained in a similar vein to at present, which closest to the site – behind the existing bank of trees, is relatively informal space. I consider that the provision of an area of open space adjacent to this would ensure that the ecology within this area be maintained, and also would result in the open space merging into the existing landscaping, in an appropriate fashion.

5.7.6 So to conclude, I consider that the applicant has demonstrated that a good level of soft landscaping could be provided within the application site, which together with the retention of the existing trees, would ensure that the development would assimilate with its surroundings in an appropriate manner.

## **5.8 Impact upon Listed Building**

5.8.1 The proposal has been designed in such a way as to ensure that there is sufficient separation between the new development at the listed building itself. The nearest residential property would be approximately 60metres from the building, and would be separated by a bank of established trees.

5.8.2 The applicant was advised at the pre-application stage that it would be more appropriate for the development to effectively turn its back on the existing property, in order that the development does not compete with the building itself. It was also noted that to the east of the application site, a large ragstone wall separated existing development from the building, and it was therefore sought that this proposal did the same. As such, the applicant has proposed a new ragstone wall to be provided, as well as the properties facing away from St Andrews House. This, together with the high quality, traditional design of these properties, would ensure that the development would compliment the existing building, and as such, would not detract from it, nor its setting.

5.8.3 This clear separation between the proposal and St Andrews House would ensure that the development is seen as very much a subservient element of the evolution of the site.

5.8.4 The location of the access road would be in closer proximity to the existing listed building. However, this would be a narrow entrance point, that would be set some 30metres from the existing building. It would also be provided with additional tree planting, which would create a relatively formal 'avenue' that would responds to the context of the site.

5.8.5 As can be seen from the consultations section, the Council's Conservation Officer does not object to the proposal, but would require a number of matters to be conditioned appropriately. To my mind the material used, the joinery details, and the details of the ragstone wall are matters which are paramount to the success of this development, and would be conditioned accordingly.

## **5.9 Contributions**

5.9.1 The applicant has submitted a draft S106 agreement following discussions with the Authority. Any request for contributions needs to be scrutinised, in accordance with Regulation 122 of Community Infrastructure Regulations 2010. These stipulate that an obligation can only be a reason for granting planning permission if it meets the following requirements: -

It is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

5.9.2 The applicants have submitted a draft Section 106 agreement that sets out that a minimum of 40% affordable housing would be provided within the development. This is in accordance with the Council's adopted Development Plan Document (DPD) and accords with the requirement through the National Planning Policy Framework for authorities to provide affordable housing. I consider that the provision of affordable housing is necessary to make the development acceptable, and is related and reasonable in scale. I therefore consider that this element of the proposal is acceptable in accordance with the regulations.

5.9.3 The County have requested that a total of £287,090.27 be provided towards primary school education. This would contribute to a new two form entry primary school within the locality that would be required due to the additional strain placed upon the existing school network by virtue of this development. Whilst it has been agreed that the site can be released from the requirement to provide a school, this is not on the basis that there isn't a need for primary education, rather that the site is not appropriate any longer. There is an identified need for primary school provision within the locality, and there is a realistic opportunity for a new school to be provided through the site allocation process of the emerging Core Strategy. This contribution would go towards meeting the additional strain placed upon the school facilities within the locality, and is

considered to be a reasonable sum, related to the scale of the development. I am therefore satisfied that this contribution meets the tests as set out above.

- 5.9.4 A financial contribution of £8289.68 towards the provision of new bookstock within the existing library in Maidstone has also been requested. Again, a significant level of justification has been submitted by the County for this provision, which would be brought about by the additional demand placed upon the facilities by the new development. I consider that the contribution would be necessary to make the development acceptable, and that it would be of a scale related to the development. I therefore consider that this would be in accordance with the regulations.
- 5.9.5 A financial contribution of £1710.78 towards youth facilities within the locality of the application site has been requested. Suitable justification has been submitted with regards to the proposal, and is considered to meet the test as set out above.
- 5.9.6 A financial contribution of £621.94 towards community learning within the locality of the application site. Suitable justification has been submitted with regards to the proposal, and is considered to meet the test as set out above.
- 5.9.7 Maidstone Borough Council Parks and Open Space were consulted and requested that a contribution of £63,000 be provided to enhance the existing facilities within the area, to address the additional strain placed upon them by this development. There is an existing playing field and children play area opposite the site that would benefit from the contributions, as it is most likely that residents of this development would use that facility. The contributions sought are in accordance with the Council's Open Space DPD. I consider that this request is reasonable, and is directly related to the development. I also consider it to be necessary to make the development acceptable.
- 5.9.8 The Primary Care Trust have requested that a contribution of £25,920 be provided to enhance health care provision within the locality. This contribution has been fully justified and would be spent on surgeries within a two mile radius of the application site. The surgeries have been identified as those that would be most likely to be affected by this proposal. I consider that this proposal would be necessary to make this development acceptable, and would be of a scale that is reasonably related to the development.
- 5.9.9 The applicant has agreed to make all of the contributions set out above, and has submitted a draft S106 agreement that includes all payments.

## **5.10 Ecology**

5.10.1 In terms of ecology, a full report has been submitted and assessed by Kent County Council Ecology. This identifies that the site is of relatively low ecological value, although the trees and the woodland have intrinsic ecological value, and the potential for protected species within the site also has potential for habitat of bats and reptiles.

5.10.2 The applicant has submitted a strategy which includes a number of mitigation measures including:

- No vegetation removal during the bird nesting season (unless preceded by an inspection by a suitably qualified person);
- Tree T10 should be soft-felled under the instruction of a suitably qualified ecologist;
- The lighting scheme should be sympathetic to foraging bats.

5.10.3 Within the report, it is also requested that a number of measures be included within the landscaping scheme. It is agreed that these features, should be provided as part of any overarching landscaping proposal. which include:

- The retention of existing tree lines;
- The use of a range of natural flowering and berry bearing species of trees;
- Areas of grassland to be managed as rough grassland – both adjacent to existing woodland, and road verges;
- The provision of bird and bat boxes within the development;
- Deadwood habitat piles.

5.10.4 I consider that should these matters be addressed through the landscaping scheme, (with a condition recommended that includes these elements), there would be sufficient mitigation, and possible enhancement proposed that would ensure that the qualitative enhancements would at least balance out the quantitative loss of land. On this basis, I see no reason to object to the proposal on ecological grounds.

## **5.11 Other Matters**

5.11.1 The proposal would be constructed to level 4 of the Code for Sustainable Homes. I consider that this represents a high level of design quality, and sustainability, and as such, accords with the objectives of the NPPF.

5.11.2 The matter of drainage has been fully considered both by the Environment Agency and Southern Water who raise no objection to the proposal subject to the imposition of suitable conditions relating to drainage details. I therefore raise no objection to this proposal on this basis.

5.11.3 The proposal was brought to Planning Committee due to the potential impact that this proposal would have on the changes to the highway network within the vicinity. These changes are not adopted policy and have only recently been subject to public consultation. In any event, the development is set wholly within private land, and would not physically impact upon any alterations to the road network should they take place in the future. I see no reason therefore to delay making a decision on this application on this basis.

## **6. CONCLUSION**

6.1.1 This site has been allocated for the provision of a primary school since the adoption of the Local Plan in 2000. Indeed, the provision of a primary school within this site also formed part of the Section 106 agreement of the original housing application on the land to the north of the hospital. However, the time period for the delivery of the school (in accordance with the S106 agreement) has now lapsed, and the County Council have confirmed that the site is no longer appropriate for a primary school, as there would only be space for a one form entry, and there is a need for a two form entry within the locality. There is therefore, no realistic opportunity for this site to come forward for this use. It is for this reason that I am satisfied that it is acceptable at this point in time to depart from the Policy within the Development Plan.

6.1.2 The key matter for consideration is therefore the impacts upon residential amenity, highways, ecology, visual amenity and the listed building.

6.1.3 To summarise, I consider the proposal to be well designed, being of a layout that responds to the historic nature of its surroundings, and being of a density that would not appear as cramped within the site. The development would be of a design that would also respond to the setting of the listed building – to my mind a key building within the locality due to its age and size. Furthermore, the development would have no significant impact upon the existing highway network irrespective of the potential changes that may be provided (or otherwise) through the emerging Core Strategy and Integrated Transport Strategy. The proposal would also not have a significant impact upon the ecology within the locality.

6.1.4 In terms of the impact upon residential amenity, it is acknowledged that there would be the loss of the view of an open space from some residencies within St Andrews House, however, the separation distance of at least 60metres would ensure that the development would not be overbearing, or would it result in any unacceptable noise and disturbance, overlooking, creation of a sense of enclosure or loss of light.

6.1.5 The applicant has agreed to provide a minimum of 40% affordable housing, and to pay the requested contributions for primary school provision, libraries, youth and community facilities, parks and open space and for healthcare provision. I therefore consider that whilst a departure from the Development Plan, the development is of a high standard of design, and in all other respects meets with the requirements of this Council. It is for this reason that I recommend that Members give this application favourable consideration, and give the Head of Planning delegated powers to approve, subject to the completion of a suitable S106 legal agreement, and the imposition of the conditions as set out below.

## **7. RECOMMENDATION**

The Head of Planning be given DELEGATED POWERS to approve subject to the receipt of a suitable Section 106 agreement that covers the following matters:

- The provision of a minimum of 40% affordable housing;
- A financial contribution of £287,090.27 towards primary school education.
- A financial contribution of £8,289.68 towards the provision of new bookstock within the existing library in Maidstone.
- A financial contribution of £1,710.78 towards youth facilities within the locality of the application site.
- A financial contribution of £621.94 towards community learning within the locality of the application site.
- A financial contribution of £63,000 towards the enhancement of parks and open space within the locality.
- A financial contribution of £25,920 towards the enhancement of existing health care provision within a 2mile radius of the application site.

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

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

2. The development shall not commence until, written details and samples of the materials, which shall include natural slate, stock brick and timber joinery for plots 1-20 (inclusive) and synthetic slates, stock bricks and timber effect weatherboarding for plots 21-40 (inclusive), to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development in accordance with the National Planning Policy Framework (2012).

3. The development shall not commence until, details of all fencing, walling (which shall include ragstone walling at the point of access, and railings) and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with the National Planning Policy Framework (2012).

4. The development shall not commence until, details of satisfactory facilities for the storage of refuse on the site have been submitted to and approved in writing by the Local Planning Authority and the approved facilities shall be provided before the first occupation of the buildings or land and maintained thereafter;

Reason: No such details have been submitted and in the interest of amenity in accordance with the National Planning Policy Framework (2012).

5. The development shall not commence until, details of the colour of the external finish of the buildings have been submitted to and approved in writing by the Local Planning Authority. The approved colour scheme shall be fully implemented before the first occupation of the buildings and thereafter maintained;

Reason: In the interests of visual amenity in accordance with the National Planning Policy Framework (2012).

6. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with the National Planning Policy Framework (2012).

7. The development shall not commence until, details of the means of vehicular access to the site, including the road width, kerb radii, visibility splays and details of finishing materials, have been submitted to and approved in writing by the Local Planning Authority;

Reason: No such details have been submitted in accordance with the National Planning Policy Framework (2012).

8. 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 in accordance with the National Planning Policy Framework (2012).

9. 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 which shall include:
- The retention of existing tree lines;
  - The use of a range of natural flowering and berry bearing species of trees;
  - Areas of grassland to be managed as rough grassland - both adjacent to existing woodland, and road verges;
  - The provision of bird and bat boxes within the development;
  - Deadwood habitat piles.

together with indications of all existing trees and hedgerows on the land, and details of any to be retained, and measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted in accordance with the National Planning Policy Framework (2012).

10. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the

development for its permitted use and the landscape management shall be carried out in accordance with the approved plan over the period specified;

Reason: To ensure satisfactory maintenance and management of the landscaped area in accordance with the National Planning Policy Framework (2012).

11. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development in accordance with the National Planning Policy Framework (2012).

12. The dwellings shall achieve at least Level 4 of the Code for Sustainable Homes. No dwelling shall 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 Kent Design 2000 and PPS1.

13. The development shall not commence until details of the proposed materials to be used in the surfacing of all access roads, parking and turning areas and pathways within the site, and the design of kerb-stones/crossing points which shall be of a wildlife friendly design, have been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To ensure a high quality external appearance to the development pursuant to the National Planning Policy Framework (2012).

14. The development shall not commence until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of

measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area in general pursuant to Policy ENV49 of the Maidstone-Wide Local Plan 2000.

15. No development shall take place until details in the form of large scale drawings (at a scale of 1:20 or 1:50) of the following matters have been submitted to and approved by the Local Planning Authority;

- i) Details of the roof overhangs and eaves.
- ii) Details of windows and doors and recesses/reveals (which shall be a minimum of 70mm).
- iii) Details of the junction of the timber boarding and the brickwork.
- iii) Details of the joinery of the windows within plots 1-18. These windows shall be constructed of timber.

The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To ensure a satisfactory external appearance to the development in the interests of the visual amenity and character of the surrounding area in accordance with the National Planning Policy Framework (2012).

16. The development shall not commence until details of foul and surface water drainage have been submitted to and approved by the local planning authority. The submitted details shall incorporate inter-alia wildlife friendly drainage gullies and design features. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interest of pollution and flood prevention pursuant to the National Planning Policy Framework (2012).

17. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reasons: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework (2012).

18. The open areas within the residential development site shall remain open and available for public access and no fences, gates or other means of enclosure shall be placed or erected to preclude access to these areas at any time without the prior approval of the Local Planning Authority.

Reason: In the interests of permeability throughout the site, and to maintain the character and appearance of the landscaped areas, in accordance with Policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

19. No external meter cupboards, vents, or flues shall be installed on any external elevation without the prior agreement in writing of the Local Planning Authority.

Reason: To secure a high standard of design in accordance with the National Planning Policy Framework (2012).

20. No development shall take place until a sample panel of the ragstone wall, and brickwork has been constructed on site, and agreed in writing by the Local Planning Authority. Such details as are approved shall be fully implemented on site.

Reason: To ensure a high quality design, in accordance with the National Planning Policy Framework (2012).

21. The development hereby permitted shall be carried out in accordance with the ecological study submitted on the 26 September 2012. No occupation of the development shall take place until the mitigation proposed within the ecological report has been fully implemented.

Reason: To ensure enhancements to the biodiversity of the area, and to ensure that the development as a whole is of a high standard of (landscape) design in accordance with the National Planning Policy Framework (2012).

22. No development shall take place until the applicant has secured and had implemented a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority;

Reason: To enable the recording of any items of historical or archaeological interest pursuant to the National Planning Policy Framework (2012).

23. No occupation of the development hereby permitted shall take place until a pedestrian refuge has been provided upon Hermitage Lane (to the north of the existing traffic lights). Details of the positioning and the design of this refuge shall be submitted to, and approved by the Local Planning Authority prior to

works being undertaken.

Reason: In the interests of the permeability of the site, in accordance with the National Planning Policy Framework (2012).

24. No occupation of the development hereby permitted shall take place until the pedestrian access to St Andrews Road has been provided in accordance with the details submitted.

Reason: In the interests of the permeability of the site, in accordance with the National Planning Policy Framework (2012).

### **Informatives set out below**

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside of the normal working hours is advisable.

The developer shall implement a scheme for the use of wheel cleaning, dust laying and road sweeping, to ensure that vehicles do not deposit mud and other materials on the public highway in the vicinity of the site or create a dust nuisance.

You are advised to ensure that the appointed contractor(s) is/are registered with the 'Considerate Constructors Scheme' and that the site is thereafter managed in accordance with the Scheme. Further information can be found at [www.considerateconstructorsscheme.org.uk](http://www.considerateconstructorsscheme.org.uk)

No vehicles may arrive, depart, be loaded or unloaded within the general site, and plant and machinery shall not be operated, that would generate noise beyond the boundary of the site, except between the hours of 0800 hours and 1800 Mondays to Fridays and 0800 and 1300 hours on Saturdays (and at no time on Sundays or Bank or Public Holidays).

Within any submitted landscape plan, full details of the retention of cordwood within the site shall be submitted.

The proposed development does not accord with the current Development Plan, insofar as Policy CF8(iii) allocates the site for a primary school; however, the applicant has demonstrated that the allocation of the land is no longer required for such a purpose and as such, I do not consider there to be any harm in allowing for its release for residential use, and to depart from the Development Plan accordingly.