

REPORT SUMMARY

REFERENCE NO - 15/503223/FULL		
APPLICATION PROPOSAL		
Part retrospective - Change of use and rebuilding of former cattle shed to provide tourist accommodation.		
ADDRESS Bletchenden Manor Farm, Bletchenden Road, Headcorn, Kent, TN27 9JB		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION		
The proposed development, subject to imposition of the recommended conditions, is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying the refusal of planning permission.		
REASON FOR REFERRAL TO COMMITTEE		
The recommendation is contrary to the views of Headcorn Parish Council.		
WARD Headcorn	PARISH/TOWN Headcorn	COUNCIL APPLICANT Mr J Hart And Mrs F Wright AGENT Savills
DECISION DUE DATE 24/06/15	PUBLICITY EXPIRY DATE 24/06/15	OFFICER SITE VISIT DATE 14/05/2015

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site was formerly occupied by two buildings which have now been demolished. The application site is sited over 60 metres to the east of Bletchenden Manor Farm and The Granary which are both Grade II Listed Buildings.
- 1.02 The site has access off a private lane which is a northern continuation of Bletchenden Lane that also serves a number of houses. Public footpath KH602 runs along the north site boundary with fields beyond to the north.
- 1.03 The application site falls within an area at risk of flooding (Flood Zone 3). There is a bund around approximately 2-3m in height in the west part of the site which forms part of privately maintained flood defences.
- 1.04 In a wider context the application site lies within open countryside and within a Special Landscape Area.

2.0 PROPOSAL

- 2.01 Planning permission was granted under ref: MA/09/0943 for the change of use of buildings on the application site to provide tourist accommodation.
- 2.02 In the course of carrying out the conversion works and due to the condition of the building it became necessary for the building to be demolished. Foundations have since been constructed and low brick courses laid in relation to a replacement building but work has now ceased pending the outcome of this planning application.
- 2.03 Permission is therefore sought as part of the current planning application to rebuild and use the buildings for tourist accommodation exactly as that which was approved under planning permission ref: MA/09/0943.
- 2.04 The application has been accompanied by updated Flood Risk (FRA) and ecological assessments.

3.0 RELEVANT PLANNING HISTORY:

- 3.01 10/2070: Conversion of redundant stable and cattle shed to 2no. separate dwellings – REFUSED-05/05/2011 on the grounds that retention of the cattle shed building for residential purposes contrary to policy ENV45 of the Maidstone Borough-Wide Local Plan 2000 in that this building is not of sufficient architectural or historic interest to merit a redevelopment to residential use.
- 3.02 MA/09/0943: Change of use and conversion of cattle sheds and stables for tourist accommodation – APPROVED- 11/01/2010

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF 2012)
National Planning Practice Guidance (NPPG 2014)
Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34, T13,
Maidstone Borough Council Draft Local Plan: SS1, DM1, DM2, DM3, DM35

- 4.01 The application site lies outside any defined settlement and in open countryside forming part of an Special Landscape Area as defined in the Maidstone Borough-Wide Local Plan 2000. As such it is subject to policies ENV28 and ENV34 of the adopted local plan.
- 4.02 Following consideration of comments made as a result of recent consultation, the Council submitted the draft Local Plan (Regulation 19) for examination on the 20 May 2016. The emerging plan is a material consideration and can, however, be given some weight when considering planning applications by virtue of its progress through the stages in the adoption process.
- 4.03 Regarding the Headcorn Neighbourhood Plan (NP), it is out for Regulation 16 consultation for 6 weeks which started on the 15 January 2016. As such some weight should be afforded to the plan. In connection with the current proposal policy HNP3 relates to water management and flood risk and amongst other things seeks to discourage development taking place within flood zones 2 and 3.
- 4.04 Policy HNP19 relates to tourism while policy HNP23 refers to small businesses.

- 4.05 Reference has also been made to policy HNP33 relating to building new dwellings in the countryside.

5.0 LOCAL REPRESENTATIONS

- 5.01 A site notice was displayed at the site on the 14th May 2015.

- 5.02 6 neighbouring properties notified- 7 objections have been received which are summarised below:

- Application incorrect – cannot be a conversion as building no longer exists to convert while footprint of new building larger than demolished cattle shed.
- Proposal represents a new building in the countryside rather than a conversion. As such cannot be considered under policies relating to conversion of existing buildings within the countryside.
- Contend that building was deliberately demolished in order to obtain a new purpose built dwelling within the countryside.
- Site falls within curtilage of LB therefore Listed Building Consent will be required.
- Enforcement action should be taken to secure reinstatement of Listed Building that has been demolished.
- Harm rural character of area, character of an historic farmstead and Low Weald SLA.
- Development in area at risk of flooding making it unsuitable for any form of residential use.
- Proposal will increase flood risk to which nearby houses are exposed to by overwhelming local flood defences and if planning permission is granted local residents will claim damages against the Council.
- Use of access road which is also a public footpath will increase traffic flow resulting in harm to the free flow of traffic and highway safety.
- Site access not owned by applicant but by residents in Bletchenden Road.
- Does not accept that planning permission ref: MA/09/0943 was started within 3 years. As such the planning permission has expired and fresh planning permission should have been obtained.
- As wildlife surveys were carried out some time ago they are no longer valid and new surveys should be undertaken.
- Contend that the area is already extremely well served by tourist accommodation and this development is therefore unnecessary.
- Does not meet tests for sustainable development as it will serve no economic or social role, destroy an existing historic environment and harm wildlife while contrary to provisions of NPPF in seeking to avoid isolated new dwelling in the countryside.
- Contrary to the provisions of the Headcorn Neighbourhood Plan.

- 5.03 3 supporting representations received which are summarised below:

- Occupant of Bletchenden Manor Barn states that as the nearest neighbour to proposal there is no objection to the proposal as long as design and materials are appropriate to this rural setting. Concerns are expressed that normal planning procedures have not been followed, that the footprint of the proposed building is larger and that proposal could result in local flood defence being overwhelmed.
- Welcome work that improves appearance of the site subject to historic character of the area not being compromised.
- Have farmed area for over 100 years and support proposals that can be seen to benefit the rural economy.

- Site has been left too long in an unsightly state and subject to the proposal including measures for local wildlife in addition to hedge planting that has been carried out considers that proposal will benefit the local area.

5.04 In addition to the above the following summarised representations have been received from Bletchenden residents:

- Initial conversion allowed on the basis that the building was Listed and therefore needed to be retained. As it has now been demolished represents the construction of a new dwelling in the countryside contrary to the NPPF.
- Site lies in area at risk of flooding and further development will increase flood risk in the area.
- Will harm heritage character of the area.
- Unless new wildlife surveys undertaken cannot be sure that the proposal will not harm wildlife.
- Highway harm to users to users of public footpath and local residents.
- Applicant has no right to gain access to site on route shown.
- Contrary to provisions of policy HNP33 of neighbourhood plan.
- Will result in the need for additional sewage treatment plants discharging into local watercourses increasing flood risk.
- Not justified in tourist terms, will provide no community benefit while resulting in harm to the character of the countryside.
- Failure to ensure the proposal pays sufficient regard to wildlife needs could place any decision at the risk of judicial review.

5.05 In addition residents in Bletchenden have commissioned their own Flood Risk Study and its key conclusions are summarised below:

- As Bletchenden is located entirely within Flood Zone 3 it is necessary to apply a sequential test for any new standalone development and the requirement is to show there are no other reasonable available sites within the area at a lower risk of flooding.
- If the sequential test is met there is also the requirement to pass an Exception Test.
- As part of this test a site specific flood risk assessment must be submitted which demonstrates the development will be safe for its lifetime taking into account the future users without increasing flood risk elsewhere and where possible reducing flood risk overall.
- Bletchenden lies within a functional floodplain (zone 3B) and more vulnerable development such as new housing should not be permitted within zone 3B.
- Due to predicted flood depths and recent actual flood events it is not considered appropriate flood mitigation including provision of safe escape routes could be implemented for new development in any part of Bletchenden.
- Any new structure could causes a significant loss of flood storage capacity with limited option for any compensatory provision due to the flat low lying topography of the area.
- In summary Bletchenden is not a suitable location in flood risk terms for new development.

6.0 CONSULTATIONS

6.01 **Headcorn Parish Council:** Objects to the proposal and wishes to see it refused on the following grounds:

- Development contrary to policy HNP33 of the neighbourhood plan that seeks to prevent new houses being built in the countryside.
 - That the size, layout and design of the building makes it appear more as a private house rather than being intended for tourist accommodation.
 - Site falls within a flood zone.
- 6.02 Also expressed concerns regarding the FRA, rights of way, the ecology survey and impact on heritage character of the area.
- 6.03 **Weald of Kent Protection Society:** Objects on the following grounds:
- As the original building collapsed there is no longer any building to convert and proposal therefore represents construction of a new building in the countryside.
 - Though the cattle shed apparently had no heritage value the site is located in a conservation area while the farmstead is a listed building.
 - Though the farmstead is in poor state it was previously identified as one of the most important examples of an intact farmstead typifying Wealden heritage and culture and as a result the buildings should be repaired.
 - Site lies within a flood zone.
 - Access to the site does not lie within the ownership or control of the applicant.
- 6.04 **MBC Heritage:** Following the collapse of the original building this is no longer a conversion but a new build. The collapsed building was of no historic or architectural value so there is no argument in favour of its re-building on these grounds. However the proposed reinstated building will have no significant impact on the setting of nearby listed buildings.
- 6.05 **Natural England:** No comments
- 6.06 **KCC PROW:** No objections
- 6.07 **KCC Archaeology:** The application site is considered to be the possible site of a medieval moated manor complex which became a fairly extensive post medieval farm. The medieval residence may have been surrounded by a moat of which the current ponds could be remnants. Some of the current buildings are Listed Buildings but there are other outbuilding which may be post medieval or earlier and are key parts of the historic complex. Of particular note for this application is that the 1st Ed OS map seems to indicate a possible outbuilding just to the north of the cattle shed.
- Remains associated with the medieval and post medieval use of the site may be revealed during groundworks, including the foundations of the small building identifiable on the 1st Ed OS map just north of the cattle shed. As such recommend a condition to secure a watching brief.
- 6.08 **KCC Biodiversity Officer:** The applicant has confirmed that all ground works have been completed i.e there is no requirement for foundations etc. to be dug while the vegetation on the site has been regularly mown. As such it is not considered the works will result in loss of suitable terrestrial habitat for Great Crested Newts (GCN) or reptiles and as such do not consider there is a requirement to carry out an updated ecological survey or a trapping exercise prior to works recommencing.

However as fencing has been damaged there is potential for individual newts/reptiles to be present and there is a need for precautionary mitigation to be implemented prior to works recommencing. In addition there is construction material present within the site which may be used by the occasional resting newt/reptile. Suggest these

areas moved by hand on to pallets and if any GCN/Reptile are found the applicant must contact their ecologist for advice. In addition the existing exclusion fence should be repaired as soon as possible.

6.09 **KCC Highway Services:** No objection

6.10 **Environment Agency:** Notwithstanding submission of the amended flood risk assessment (FRA) maintain objection to the proposal for the following reasons:

- Primary reason given for objecting to the earlier application MA/09/0943 was the lack of safe access for occupiers under flood conditions. This was based on the understanding that occupiers would be able to remain in the property as the conversion would itself be protected against internal flooding, despite it being within an area at high risk to flooding (Flood Zone 3).
- The current application appears to show a building with sleeping accommodation on the ground floor. No information has been provided to confirm the new dwelling will be safe from internal flooding and therefore, occupants could be placed at risk.
- The applicant states the site is protected by a private flood defence scheme constructed in partnership with the Environment Agency. This is not the case and the Environment Agency is unable to verify the integrity of the defence, or the standard of protection it is designed to offer.
- The flood event of December 2013 was of not particularly significant magnitude at this location when compared to the 100yr return period extent and so because the site has not flooded in recent years, does not mean this can be attributed to the local flood defence scheme.
- Unable to confirm the property is protected against flooding, either from the River Beult or local watercourses.
- No information has been provided to confirm the proposed development has greater flood protection than the scheme proposed in 2009 to which objection was raised.
- Unable to confirm the proposed dwelling will be safe against internal flooding, irrespective of whether it is to be used for permanent or holiday accommodation.
- Occupiers will not have safe access under flood conditions.

6.11 Having assessed further information submitted in connection with the Flood Risk Assessment the following issues remain:

- The report does not include a topographic survey of the existing flood defence bund giving only an approximate level of the bund. As such the Environment Agency are unable to verify whether the bund has a continual height above that of the design flood level and on this basis the objection based on flood risk is maintained.
- The remaining queries regarding access ramps and non return valves have been dealt with satisfactorily.
- Maintain previous statement that safe egress from the property in a flood cannot be improved upon. Even with the presence of the flood bund residents would still have to move through over 250m of flood water at a depth of at least 0.5m to a point on Bletchenden Road.
- Note photographs submitted by an objector showing flooding in 2013. Unfortunately cannot ascertain precisely where this flooding is unless clarified by the objector.

- A bund crest height of 20.35mOD would be sufficient provided the applicant can demonstrate this was the continuous height around the entire bund. To date confirmation the bund crest is a minimum of 20.35mOD along the entire bund has not been provided. Therefore remain unable to confirm the site will be protected against flooding from a number of return periods up to and including the 1% Annual Exceedance Event plus a 20% increase in climate change.
- Understand a significant part of the flood embankment is on 3rd party land and so applicant cannot guarantee the embankment will be maintained along its entire length to an appropriate standard for the lifetime of the development.
- Access from Waterman Quarter is restricted during flood conditions, which the Council should consider in terms of safe access and egress.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 The development proposals are shown on drawing numbers: 0-08/92/001 A being the existing cattle shed layout and appearance plans, block plan at a scale of 1:1000 and proposed elevation plan received on the 29th April 2015, proposed layout plan received the 10th April 2015 and 1:1250 block plan received the 10th April 2015.
- 7.02 The application is supported by a Planning Statement, Design and Access Statement, Bat Survey dated October 2009 by thompson ecology, flood risk assessment by Monson dated the 5th November 2015, Ecological Scoping Survey and Great Crested Newt and General Amphibian Survey by Kent Wildlife Trust dated April and September 2009, extended phase 1 ecology report and method statement for vegetation removal and management for reptiles by Hone Ecology dated the 29th September 2015

8.0 APPRAISAL

- 8.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000. As the site lies within open countryside forming part of a Special Landscape Area (SLA) the proposal is specifically subject to policies ENV28 and ENV34 of the adopted local plan. Policy states ENV 28 states that:

“In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:

- (1) that which is reasonably necessary for the purposes of agriculture and forestry; or*
- (2) the winning of minerals; or*
- (3) open air recreation and ancillary buildings providing operational uses only; or*
- (4) the provision of public or institutional uses for which a rural location is justified; or*
- (5) such other exceptions as indicated by policies elsewhere in this plan.”*

- 8.02 Subsection 5 above refers to exceptions to policy ENV28 indicated by other policies in the adopted plan. In this case policy ENV44 relating to the reuse of existing rural buildings for other uses including tourism is also relevant.

- 8.03 Policy ENV34 relating to SLA's essentially requires that the protection and conservation of land quality will take precedence over other planning considerations.
- 8.04 The key issues in relation to this proposal are considered to be (a) principle (b) impact on rural character of the area and the Special Landscape Area (SLA) (c) impact on adjoining properties (d) heritage considerations (e) flooding (f) wildlife and habitat and (g) highways.

Principle

- 8.05 Paragraph 28 of the NPPF is relevant in considering the provision of tourist accommodation on the application site. The NPPF seeks to secure a prosperous rural economy and amongst other things, states that local planning authorities should:
- Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;
 - Support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres;
- 8.06 Planning permission was granted under ref: MA/09/0943 to convert the buildings previously located on the application site into tourist accommodation. This decision established the principle of tourist accommodation on this land. The main issues to be considered as part of the current planning application are whether there has been any material change in the planning policy background or other circumstances since planning permission was originally granted under ref: MA/09/0943 that would justify a different outcome.
- 8.07 Planning permission under ref: MA/09/0943 was granted under the provisions of policy ENV44 of the adopted local plan; this policy relates to the reuse or adaptation of existing rural buildings for, amongst other things, tourism uses. One of the ten criteria set out in policy ENV44 is that the building should be in situ and of permanent, substantial and sound construction which is capable of conversion without major or complete reconstruction.
- 8.08 The applicant advises that in the course of implementing the permission ref: MA/09/0943, the cattle shed partially collapsed and as a result had to be completely demolished. Rebuilding commenced with foundations and low walls being constructed, but on being advised that planning permission was required to replace the building this work ceased.
- 8.09 Dealing first with replacing the previous building. The building has only been recently demolished with the Council having records both of its size and location. In this context it would be extremely difficult for the Council to substantiate any meaningful objection to a replacement building of the same or similar location, appearance, bulk and massing to that which was previously located on the site. The replacement building currently proposed has been designed to be of a similar appearance, bulk and massing and in a similar location to the previous building on the application site

- 8.10 Regarding whether the proposal can be seen to comply with policy ENV44 of the adopted local plan the normal policy requirement is, amongst other things, that the building should be in situ and of permanent, substantial and sound construction capable of conversion without major or complete reconstruction. Clearly this does not apply to the current proposal but given the special circumstances justifying a replacement building it is considered appropriate to apply the other criteria set out in policy ENV44 in assessing the proposal. These criteria are discussed in the following sections of this report. Subject to the assessment of this other criteria in ENV44 and given the clear support for new business in rural areas including tourism in the NPPF, the principle of a well-designed new buildings used for tourist purposes on the application is considered acceptable.

Impact on rural character of the area and Special Landscape Area

- 8.11 Policy ENV44 states that the reuse or adaptation of rural buildings for tourism use will be permitted where the building is of a form, bulk and general design that is in keeping with its rural surroundings. The policy states that any alterations proposed as part of the conversion should be in keeping with the rural character of the building in terms of detailed design and materials.
- 8.12 In size, design and siting terms the proposed building reflects that permitted under application ref: MA/09/0943 and which would have been the building currently occupying the site but for the circumstances set out above. As such it is considered the impact of the proposed building raises no new issues in relation to its impact on the rural character of the area and the Special Landscape Area.
- 8.13 Policy ENV44 states that no new fences, walls or other structures associated with the use of the building or the definition of its curtilage or any sub-division should be erected if they would harm the visual amenity of the countryside. A planning condition is recommended (condition 4) that seeks the submission of details of any fencing or walls for approval. It is considered that this condition will ensure that no structures are erected that would harm visual amenity in line with policy ENV44.

Impact on adjoining properties

- 8.14 Policy ENV44 states that tourism uses will be permitted subject to the proposed use not harming the local environment or the amenities of local residents through the creation of noise, dust, smoke, fumes, grit, vibration or any form of water, soil or air pollution. The principle of a tourism use has previously been established and it remains the case that the intended use will meet these criteria and is unlikely to have any impact on adjoining properties in this manner.
- 8.15 In accordance with policy ENV44, the proposed use does not involve any commercial, industrial, sport or recreational activity or storage of raw materials or finished goods outside the building and the amenity of future occupants would not be harmed by the proximity of farm uses or buildings.
- 8.16 As the separation distance to adjoining properties is maintained there continues to be no objection to the proposal based on any material harm to the outlook or amenity of nearby properties.

Heritage Considerations

- 8.17 Concern has been raised that the building represented a curtilage Listed Building and as such Listed Building Consent should have been obtained before demolition took

place. However the MBC heritage advisor has confirmed that as the building did not fall within the acknowledged curtilages of the nearby Listed Buildings, it was not listed, nor had any merit as a heritage asset in its own right.

- 8.18 Turning to the impact of the new building on the character and setting of nearby listed buildings. As there is no material change in size, design and siting terms compared to that approved under application ref: MA/09/0943, the impact remains unchanged. In the circumstances no objection is raised and this view is supported by the MBC Heritage Advisor.

Flooding

- 8.19 When planning permission MA/09/0943 was approved the impact of flooding was assessed in detail including the sites location in an area at risk of flooding (zone 3). At the time the Environment Agency stated it was obliged to object due to uncertainty regarding the availability of safe dry access and/or egress during a flooding event.
- 8.20 The wider Little Bletchenden area is subject to a privately funded flood prevention scheme. This scheme involves diversion ditches and bunds with one way valves and a series of pumps surrounding the application site and nearby properties.
- 8.21 In considering the earlier planning application it appreciated by the Environment Agency that the site benefitted from privately maintained defences but it was not clear to them how efficient they would be during a flooding event. The proposal was classed as 'minor development' within the former PPS25 (now superseded by the NPPF) and as a result not subject to sequential or exception tests.
- 8.22 Planning permission was granted for the earlier application despite the Environment Agency's concerns for the following reasons; the Environment Agency objections were restricted to safe access/egress from the site, no evidence was available to show that safe access/egress would not be possible and the site had not flooded since the new flood defences were put in place. No planning conditions relating to flood attenuation were attached to the earlier granted planning permission.
- 8.23 Given the sites location in an area at risk of flooding, a flood risk assessment has been submitted in support of the current planning application setting out the following flood risk management measures:
- A clay bund has been constructed around the properties at Bletchenden following the flooding in October 2000. The height of the flood defences under the control of the applicant are set at around 20.443 AOD whereas 1% Annual Exceedance Probability is 20.287 AOD.
 - There is a network of internal ditches within the bund to deal with surface water and where these outfall, they have been fitted with anti-flood valves to prevent water backing up in to the protected area.
 - As a further safeguard, two surface water pumping stations have been constructed on the internal ditches so that surface and groundwater levels can be controlled by pumping excess water over the boundary.
 - Regarding the proposed dwelling manual door barriers are to be fitted to all external doors to provide a water tight seal along with covers for air bricks to prevent ingress of water into wall cavities.
 - A pump will be installed under the block and beam of the new building floor to pump away any raising ground water.
 - Non -return valves to be installed to ground floor toilets to prevent back flow into the property.

- Mortar for brickwork will contain a waterproofing agent and the brickwork thereafter to be sprayed with a waterproof sealant, the internal plaster is to contain a waterproofing agent, all of which will limit the entry of water through walls.
- All door and window frames and openings for cables etc. to be sealed with a silicone gel to prevent water entry of water at these points.
- The ground floor level will be approximately 400mm above outside ground level with no bedrooms created on the ground floor.
- No electrical sockets or switches to be lower than 800mm to reduce the risk of electrical failure.
- Property owner to sign up to the EA's flood line to receive information and flood warnings by email and text.
- installation of flood warning system to ensure safe egress from the property during a flood event.
- The system can have CCTV attached to it, so that the onset of a flood can be monitored by computer, tablet or and phone with an alarm sounding in the house, alerting occupants whether they are asleep or not and that alarm can be sent to portable devices around the world thus safe safeguarding the house when empty.

- 8.24 Notwithstanding the above, though the Environment Agency accepts a bund crest height of 20.35mOD would be sufficient in flood protection terms, in the absence of the applicant being able demonstrate this height is exceeded over the length of the entire bund it maintains the view that the application site remains at risk of flooding. As such, despite the presence of the bund the Environment Agency concludes that residents would still have to move through over 250m of flood water at a depth of at least 0.5m to a high point on Bletchenden Road. The Environment Agency therefore maintains its view that safe egress from the property in flood conditions cannot be improved upon.
- 8.25 The Environment Agency has not defined what it means by safe access and appears to be maintaining its objection based solely on the contention that the site is at risk of flooding without providing guidance on what the level of that risk is. This leaves this issue to be considered as a residual risk of flooding to be determined by the Local Planning Authority.
- 8.26 In determining any planning application exposed to risk from an acknowledged source in planning terms, (in this case flooding), it must first be determined whether the proposed mitigation is sufficient to address the risk. The history of the site and specifically in this case the similar buildings that until relatively recently occupied the site must also be taken into account.
- 8.27 The mitigation measures set out above include the following (a) a raised ground floor level (b) no sleeping accommodation at ground floor level (c) construction measures to limit damage to the building should flooding occur along with (d) early warning and alarm measures. It is considered that these measures, even without the presence of the flood protection bund, mean that future residents would be unlikely to be placed at risk of an unforeseen flooding inundation.
- 8.28 In the worst case scenario, where the property is surrounded by floodwater (and the applicant is adamant that at no time has the site been previously flooded) residents needing to leave the building or emergency services needing to gain access to the site would according to the Environment Agency have to move through 250 metres of flood water of at least 0.5 metres deep before getting to, or from higher ground on Bletchenden Road. Clearly negotiating such a depth of water is not desirable,

however given the water would be still/slow moving it is considered unlikely it would prove an insuperable obstacle to entering or leaving the site.

- 8.29 Concern has been raised that granting planning permission for the proposal will place other properties in the locality at risk of flooding. It should be noted that the current proposal will provide additional flood mitigation measures that were not possible as part of the earlier approval. These measures include a void at the base of the new building that will increase the flood storage capacity on the site and in the absence of any increase in ground level elsewhere, it is not considered the proposal will add materially to the risk of flooding of adjoining properties. Planning conditions are recommended to ensure that there ground levels on the site are not altered and that the building void is provided (conditions 13 and 16).
- 8.30 As such, if the planning permission granted under ref: MA/09/0943 had been implemented occupation of the building could have taken place without any of the proposed flood attenuation measures described above being in place. Given the commitment to a replacement building on this site, and with the flood mitigation measures proposed and the presence of the bund, it is considered that the current proposal represents a material improvement in addressing flood risk compared to that previously approved. Despite the Environment Agency concerns it is therefore considered that the current proposal will result in net benefits to the previously approved scheme in terms of addressing the flood risks that future occupants of the building and nearby residents will be exposed.
- 8.31 Turning to the flood risk assessment submitted by local Bletchenden residents, it is not disputed the site lies within a flood zone and that what is being proposed represents 'sensitive' development. As such if any 'new build' was being proposed, without the special circumstances that are present here, it is likely that the submitted objections based on development in an area at risk of flooding would be supported. However for the reasons set out above this is a not a simple case of 'new build' but replacing an existing building for which planning permission has already been granted for use as tourist accommodation.
- 8.32 In these circumstances it is considered there are no substantive grounds on which to refuse planning permission for a replacement building similar to that which was previously on the application. In addition the proposal provides the opportunity to secure an improved development in terms of addressing the flood risk issues raised both by the Environment Agency and local residents.

Wildlife and habitat considerations

- 8.33 The application approved under ref: MA/09/0943 was accompanied by an ecological and reptile survey. This great crested newt and reptile survey was undertaken of the site and surrounds. No great crested newts were identified within ponds adjacent to the site due to the presence of fish within the ponds. A grass snake was identified close to the site boundary. The installation of a reptile proof fence was recommended with site clearance to be carried out in a manner to avoid harming reptiles. A reptile fence was installed in 2010 and is repaired on a yearly basis.
- 8.34 Regarding the wider field where the cattle shed site is located, this supports rank grassland having the potential to support common protected reptiles. A precautionary approach was recommended to clear a small works area. The works area is currently unlikely to support reptiles owing to its regular use by machinery. A condition is recommended (condition 10) to ensure that the following wildlife mitigation measures

that are set out in an updated ecological appraisal proposed measures are implemented:

- Stage 1: Strimming vegetation with a brush cutter during warm dry weather to a height 10cm above ground. This can be undertaken at any time of year with nesting birds to be left until young have fledged, breeding bird season March – August inc.
- Stage 2: After a minimum of 48 hours during warm dry weather the vegetation should be strimmed to ground level up to the works area boundary. Farm debris on site to be hand searched for reptiles then moved onto pallets off the ground. Once the works area has been defined and hand searched for reptiles it should be marked with a reptile proof fence.
- In the event a reptile is found after clearance works, works shall cease in that area and an ecologist will be contacted.
- Any reptiles caught will be relocated to the rank grassland area at the edge of the site away from the works area.
- Reptile fencing to be erected around the works area to isolate the site activities. This will also prevent reptiles re-establishing on site from other areas.
- The route of the fence line will be hand searched and a small trench dug by hand and back filled to a depth of approximately 200mm to accommodate the necessary under lap of the sheet membrane. Soil from the trench will then be placed on both sides of the trench to ensure there is enough soil to backfill the trench adequately once the plastic sheeting is in place.
- The exclusion fencing will comprise a plastic sheet membrane secured to wooden posts using sealer washers and 35mm large head clout nails. The plastic membrane is smooth such as ultra violet stabilised 1000 gauge polypropylene or similar. The sheet width will be sufficient to permit the formation of a 150mm lip required as anti-burrow lip to fencing. An anti-climb lip will be installed by folding polythene at top of post.
- The fencing membrane will be as taut as possible without noticeable creases or folds, which could permit reptiles to climb the fence.
- The fence posts to be positioned on the side of the fencing from which the animals are to be excluded (to eliminate the risk of reptiles/amphibians being able to climb back into the exclusion area).
- The membrane will be secured to the posts using plastic pads or washers to avoid the sheet tearing under tension and wind pressure etc. Wooden battens, which may allow the animals to scale the fence, were not used to fix the membrane to the posts. Gaps will be avoided in the layout of the fencing where animals could pass and thereby avoid capture.
- The fence will support an 'under lap' of 150mm to prevent animals from passing underneath. Posts will be installed at a maximum spacing of 1.5m with the fence sheeting secured in at least three equally spaced positions per post. The wooden posts will be at least 800mm in length.
- Once the sheeting and posts are in position the soil will be backfilled replaced with the turf downwards in the trench (in order to suppress re-growth of vegetation). The backfill will be firmly compacted to eliminate any gaps or lumps on both sides of the fence.

8.35 Regarding bats, the site was surveyed in connection with the 2009 permission which revealed the presence of bats. and a number of mitigation measures set out which will be reincorporated into this proposal being (a) planting of nectar rich plants in nearby ponds to attract insects providing food for bats (b) retention of existing trees and hedgerows to provide roosting or commuting bats (c) provision of bat boxes in mature trees (d) landscaping to include a wildflower mix to attract greater diversities

of insects and (d) controls on lighting. A planning condition (condition 9) is recommended to ensure that these measures are implemented.

- 8.36 It is considered the above measures represent a comprehensive package of wildlife mitigation measures. Furthermore given KCC Ecology's acknowledgement that as all ground works have been completed while vegetation on the site has been regularly mown that the works will not result in loss of suitable terrestrial habitat for great crested newts or reptiles no further surveys or trapping is considered necessary.
- 8.37 In the circumstances it is considered the proposal continues to pay sufficient regard to wildlife and habitat issues in accordance with the provisions of the NPPF.

Highway considerations

- 8.38 Policy ENV44 states that where permission will be granted for tourist accommodation if traffic generated by the new use can be safely accommodated by the site access and local road system, if it will have no adverse effect on the amenities of local residents, if it will not result in the erosion of roadside verges, and if it is not detrimental to the character of the countryside.
- 8.39 Policy ENV 44 states that there should be sufficient room in the curtilage of the building to park the vehicles of those who will work or visit there and also to serve its use, all without detriment to the visual amenity of the countryside.
- 8.40 Taking into account the earlier planning permission granted for tourism accommodation on the application site the current proposal will be the same in its highway impacts as that currently under consideration. It is considered that the proposed accommodation will result in minimal traffic generation and that sufficient on site parking and turning space is available. With the small scale of the proposal it is considered that there is no harm identified to the free flow of traffic and highway safety on the local road network.

Town and Village vitality

- 8.41 Policy ENV44 states that a proposed tourist use should not lead to the dispersal of tourist activity on such a scale as to prejudice town and village vitality. It is not considered that the provision of a single building of tourist accommodation will lead to undue dispersal of tourist accommodation and the proposal does not increase the level of accommodation from that previously approved.

9.0 CONCLUSIONS

- 9.01 Following the above assessment the following conclusions are reached:

- Given the acknowledged presence in size, design and siting terms of the original building and that it has only been recently demolished an objection to a similar replacement building cannot be substantiated.
- No objection is identified to use of the building for tourist purposes taking into account the provisions of the NPPF. Whilst it is acknowledged that the original building has been demolished the proposal is otherwise in accordance with policy ENV44 of the adopted local plan.
- No harm is identified to the rural character of the area or the wider Special Landscape Area.
- Is acceptable in its heritage impacts.

- Will not result in any material harm to the outlook or amenity of adjoining properties.
- Though the site lies within an area at risk of flooding given the commitment to a replacement building it is considered the proposed mitigation measures are proportionate to the level of flood risk identified while existing flood risk in the locality is unlikely to be exacerbated by the proposal.
- Makes acceptable to safeguard wildlife in accordance with the NPPF
- Is acceptable in its highway impacts.

9.02 In the circumstances it is considered the balance of issues fall in favour of the proposal and that planning permission should be granted.

10.0 RECOMMENDATION: – GRANT PLANNING PERMISSION subject to the following conditions:

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

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

2. The development shall not commence until joinery details of the proposed windows and doors have been submitted to and approved in writing by the Local Planning Authority. The details shall specify materials and finishes and include large scale plans at a scale of either 1:20 or 1:50 showing long and cross profiles of the mullions, transoms and cills. Work shall only be carried out in accordance with the approved details and retained as such at all times thereafter.

Reason: In the interests of visual amenity. This information is required prior to commencement as some works have already been carried out on the site.

3. The development shall not commence until written details and samples of all external materials to be used for permeable surface materials, access ways, parking and turning areas have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using the approved materials.

Reason: In the interests of visual amenity. This information is required prior to commencement as some works have already been carried out on the site.

4. Prior to first occupation of the building hereby approved fencing, walling and other boundary treatments shall be in place which are in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority with the approved details retained for the lifetime of the development.

Reason: In the interests of visual amenity.

5. In the first available planting season following occupation of the building hereby approved a native species landscaping scheme shall be implemented that is in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The scheme shall show existing trees and hedgerows to be retained, and specify the areas of new planting, the type, size and density of any planting along with long term management details of the landscaping scheme. Any planting becoming dead, dying or diseased within 5 years of planting

shall be replaced with a similar species of a size to be agreed in writing beforehand with the Local Planning Authority.

Reason: In the interests of visual amenity.

6. The development shall not commence, and before any equipment, machinery or materials are brought onto the site, barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations' shall be in place to protect any trees/hedgerows that are to be retained. The barriers and/or ground protection 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: In the interests of visual amenity. This work is required prior to commencement in order to protect any trees or hedgerows retained on the site.

7. No external lighting whatsoever shall be installed without the written prior approval of the Local Planning Authority. Any lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the nighttime rural environment and in the interests of wildlife protection.

8. Bat mitigation measures shall be carried out in accordance the details set out in section 6 of the submitted Bat Survey dated October 2009.

Reason: In the interests of wildlife.

9. Prior to first occupation of the development hereby approved details of the provision of bat boxes shall be submitted for prior approval in writing by the Local Planning Authority. The approved bat boxes shall be installed within 1 month of first occupation of the building and retained as such at all times therefore.

Reason: In the interests of wildlife.

10. Prior to first occupation of the development hereby approved the proposed mitigation measures relating to great crested newts and reptiles set out in extended phase 1 ecology report and method statement for vegetation removal and management for reptiles by Hone Ecology dated the 29th September 2015 shall be implemented and maintained in accordance with the submitted details.

Reason: In the interests of wildlife.

11. The building hereby permitted shall only be used for holiday accommodation and shall not be occupied for this purpose for more than 28 days as a single letting. There shall be no consecutive lettings beyond 28 days to the same person(s), family or group and a written record of all lettings shall be kept and made available for inspection by the Local Planning Authority on 5 working days notice being given.

Reason: To prevent the creation of a permanent residential use in the countryside in the interests of amenity.

12. The development shall not commence until the following details to deal with the risks associated with contamination of the site have first 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
- 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: In the interests of amenity and public safety. The details are required prior to commencement as further construction works may restrict the scope of any necessary remediation works.

13. Prior to first occupation of the development hereby approved a suitable void shall be provided at the base of the new building, with the void in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The void shall be retained in accordance with the approved details for the lifetime of the development.

Reason: In the interests of flood protection .

14. Prior to first occupation of the development hereby approved flood risk management methods shall be implemented in accordance with the details set out in paragraphs 7.01-7.16 (inc) of the flood risk assessment carried out by Monson dated the 5th November 2015, with these measures maintained as such at all times thereafter.

Reason: In the interests of flood protection .

15. No sleeping accomodation shall be provided on the ground floor of the building hereby permitted.

Reason: In the interests of flood protection .

16. The slab level of the building hereby permitted shall be 400mm above the existing ground level and there shall be no changes to existing ground levels within any part of the site.

Reason: In the interests of flood protection and to maintain flood storage capacity.

17. The development shall not commence until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure features of archaeological interest are properly examined and recorded. This information is required prior to commencement as works may harm items of archaeological value.

18. The development shall not commence until details of surface and waste water disposal have been submitted for the prior approval in writing of the local planning authority. The development shall only be carried out in accordance with the approved details which shall be maintained as such at all times thereafter.

Reason: In the interests of flood and pollution prevention. This information is required prior to commencement as works may prevent the installation of necessary measures.

19. The development hereby permitted shall be carried out in accordance with the following approved plans being drawing nos: 0-08/92/001 A being the existing cattle shed layout and appearance plans, block plan at a scale of 1:1000 and proposed elevation plan received on the 29th April 2015, proposed layout plan received the 10th April 2015 and 1:1250 block plan received the 10th April 2015.

Reason: To ensure the quality of the development is maintained in the interests of visual amenity.

INFORMATIVES:

Construction

As the development involves demolition and / or construction the development should be carried out in accordance with the Mid Kent Environmental Code of Development Practice.

Asbestos

The applicant is advised that adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

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 offering a pre-application advice and duty desk service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance following clarification of the submitted details the application was acceptable.

Case Officer: Graham Parkinson

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