

APPLICATION: MA/08/2323 Date: 21 November 2008 Received: 16 February 2009

APPLICANT: Wealden Homes

LOCATION: LAND AT 113 AND 115 AND 123, TONBRIDGE ROAD, MAIDSTONE, KENT, ME16 8JS

PARISH: Maidstone

PROPOSAL: Demolition of existing building and erection 1no. detached dwelling and 12no. two-storey terraced dwellings in four blocks and associated works including access and parking in accordance with the heads of terms as received on the 12 December 2009, plans numbered P030-03; P030/04; P030-05; P030-05; P030-06; P030-07; P030/012; P030-013; P030-15; P030/016; P030-017; P030-018; P030-19; P030-020; P030-021; P030-022; P030-023; P030-024; P030-025; P030-26; P030-027; P030-028; P030-030; P030-031; P030-032 as received on the 11 November 2009, and design and access statement and noise assessment. received on the 25 November 2008.

AGENDA DATE: 25th February 2010

CASE OFFICER: Chris Hawkins

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

- Councillor Schnell and Councillor Beerling have requested it be reported for the reason set out in the report

### **POLICIES**

Maidstone Borough-Wide Local Plan 2000: ENV6, T13, CF1  
South East Plan 2009: CC4, NRM11, T4, CC1, T4, H5, W1, W6, BE1  
Government Policy: PPS1, PPS3, PPS9, PPG13, PPG24

### **HISTORY**

**MA/08/0900** Land at 113, 115 and 123 Tonbridge Road, Maidstone, Kent. Demolition of existing building and erection of fourteen new dwellings with new access and landscaping – Refused – Appeal Dismissed.

This application was refused on the following grounds: -

- 1) The proposed development, by virtue of its design, height, bulk and layout would fail to provide a high quality, or inclusive design and, together with the excessive levels of hard surfacing, lack of soft landscaping, layout, materials and design would result in a development which fails to engender a sense of place, or create a high quality, distinguishable form of development which would therefore fail to respect the prevailing character of the area, and the context of the site, as such would prove contrary to PPS1, The Kent Design Guide and Policy QL1 of the Kent and Medway Structure Plan 2006.
- 2) The proposed development, by virtue of the height of the proposed units (numbered 4-11) and their proximity to, and relationship with the neighbouring properties, would result in a significant level of overlooking, severely detrimental to the amenities that the occupiers of these properties currently enjoy, contrary to Kent and Medway Structure Plan 2006.

Details about the Inspector's decision are to be found within the main body of the report, with a copy of the decision appended.

Other relevant history: -

**MA/03/1141** 113 Tonbridge Road, Maidstone, Kent. Erection of a two storey side extension – Approved.

There is no other planning history relevant to this application.

## **1.0 CONSULTATIONS**

**1.1 Maidstone Borough Council Environmental Health Officer** was consulted and assessed the following matters: noise, land contamination, dust and amenity. He noted that a noise assessment had been submitted as part of the application, and he concurred with the proposed mitigation measures. He noted that there is no history of contamination, and no reason to suspect that the land would be contaminated. He did however, recommend a condition covering the issues of noise. Informatives were also recommended to be added to any permission

**1.2 Maidstone Borough Council Parks and Open Space** were consulted and raised no objections to this proposal subject to the provision of a suitable contribution for parks and open space provision, which would be brought about by the additional units proposed within this site. This would total £18,900 and would be spent within a 2mile radius of the application site.

**1.3 Kent County Council Highways Authority** were consulted and raised no objection to this proposal subject to the imposition of suitable safeguarding conditions. These conditions are set out at the end of this report.

**1.4 Southern Water** were consulted and raised no objections to this proposal subject to the imposition of suitable safeguarding conditions concerning drainage. This condition is set out at the end of this report.

**1.5 West Kent Primary Health Care Trust (PCT)** were consulted on this application and raise no objections subject to the receipt of a contribution towards the improvement of existing facilities within the locality, which would be required by the additional demands placed upon these services by virtue of this development. The sum requested to cover this cost is £11,916.

**1.6 Kent County Council (Mouchel)** were consulted on this application and raised no objections to the proposal subject to the receipt of a contribution towards libraries, adult education, youth and community and adult social services facilities. This contribution would be required on the basis that the units proposed would place additional strain on the existing facilities. It is requested that £227 be provided per dwelling for libraries, £180 per dwelling for adult education, £827 per dwelling for youth and community facilities and £1201 per dwelling for adult social services.

**1.7 Southern Gas Networks** were consulted and raised no objection to this proposal.

**1.8 EDF Energy** were consulted and raised no objections to this proposal.

## **2.0 REPRESENTATIONS**

2.1 **Councillor Schnell and Councillor Beerling** requested that this application be taken to Planning Committee on the basis that the proposed development is too great and that the impact of it would be detrimental to the adjoining properties in Upper Fant Road. He also raises concern about the fact that large amounts of rainwater will simply rush into the gardens of Upper Fant Road, by virtue of the levels of hardstanding.

2.1 Neighbouring occupiers were notified and to date thirteen letters of objection have been received. The main concerns raised within these letters are summarised below: -

- The proposal would result in a loss of light to neighbouring occupiers;
- The proposal would result in a loss of privacy;
- The level of hardstanding is excessive;
- The development is out of character with the area;

- There are adequate services within the area to cope with additional families;
- Existing trees were cut down prior to the applications being submitted;
- The height of the buildings would be too great;
- Creating an access onto Tonbridge Road may give rise to highway safety issues;
- The access road would not be adequate for two cars to pass;
- The proposal would give rise to drainage problems;
- The density of the development would be too great;
- Could give rise to problems for the emergency services;
- The impact of the proposal upon wildlife
- The proposal would result in security risks to existing occupiers;
- The proposal would generate noise and disturbance.

### **3.0 CONSIDERATIONS**

#### **3.1 Site Description**

- 3.1.1 The application site is located within the urban area of Maidstone, upon the southern side of Tonbridge Road. The application site lies within a predominantly residential area, upon the main Tonbridge Road (A26). It is a site which is considered to be on the fringe of the town centre, with a variety of different types of properties within the locality. Fronting onto Tonbridge Road are a number of substantial, detached properties, which vary in age, as well as scale and bulk. Some of these do rise to three storey, although they are predominantly two storey in height. The widths of plots within this locality are also relatively varied, although there is a good level of separation between the buildings along this particular stretch of road. The site falls away towards Upper Fant Road, by approximately 5metres, and the land then falls away at an even steeper gradient within the rear gardens of Upper Fant Road.
- 3.1.2 The site currently contains a two storey residential property which would be demolished to make way for this proposal. This property is of mid twentieth century construction, and is of no significant merit. The remainder of the land within the application site is formed of gardens of residential properties. The site has a maximum depth of 109metres, and a maximum width of 54metres. The overall site area is approximately 0.4hectares.
- 3.1.3 The area is predominantly residential in character, and although this consists of mainly frontage development, these are particularly long rear gardens (approximately 80metre in depth) and as such it is not inconceivable that there may be future developments of this nature within the locality. Indeed this site has been identified within the as one for potential development within the housing provision assessment recently undertaken as part of the Local Development Framework.

## **3.2 Proposal**

- 3.2.1 The application is for the erection of thirteen new dwellings, consisting of one detached five bedroom property, and 12 terraced properties (within rows of three) which would be three bedroom units.
- 3.2.2 The five bedroom detached property would be located to the front of the application site, and would be two and a half storeys in height. The property would have a maximum width of 9metres, a depth of 10metres, and a maximum height (to ridge) of 9.8metre, and would be of brick built construction, with a tile roof, and would have an integral garage. The property would be set back 12metres from the edge of the highway, with a driveway and turning head provided within the front garden. A brick wall would be provided along its side boundary alongside the proposed access road.
- 3.2.3 The majority of the development would be to the rear of the site, with twelve of the proposed units located here. These would be set out in four blocks of three, with attached garages positioned on either end of each. As all blocks are nearly identical, I will provide an overall description. These properties have an overall width of 16.5metres, a depth of 9.5metres, and a maximum height of 8.8metres. The blocks would be provided with a gable feature positioned relatively centrally, and a porch above each entrance door. These blocks are set out within a T-shaped layout, with a block on either side of the access, one being to the east, one to the west, with two blocks running at 90 degrees to these, at the end of the access road. The density of this development would be 32.5 dwellings per hectare, which is slightly above the figure provided within PPS3 for suitable for new housing development.
- 3.2.4 The access road is to run into the site and then form a large 'hammer head' at the end. This would be constructed of block pavers, with a pavement provided around the edge of the highway. Soft landscaping is also to be provided within the application, details of which are set out within the report below.

## **3.3 Principle of Development**

- 3.3.1 Firstly, I shall address the matter of principle. This site lies within the urban confines, and is the rear gardens of existing properties. As such, the site is classified as brownfield land as specified within Annex B of PPS3, and the principle of developing the land is accepted subject to the assessment of all other material considerations. It is noted that the Inspector did not raise any concern that the principle of development at this site would be unacceptable.

## **3.4 Planning History**

- 3.4.1 As can be seen from the above, a previous application (MA/08/0900) was submitted for the erection of 14 dwellings at the site which was refused on two grounds, as set out above. This application sought to erect a number of three storey properties, set out within a T-shape formation, with a number of the properties backing on to the rear gardens of properties within Upper Fant Road. The properties were proposed to be of a mock Georgian style, with integral garages.
- 3.4.2 The applicant then appealed this decision, but the Inspector agreed with the Council's decision in that the development would have been poorly designed, and would have been at odds with the surrounding development appropriately. The Inspector concluded that the proposal did not *'represent good design which would respect the character and quality of the area or integrate satisfactorily into its surroundings.'* It should also be noted within the Inspector's decision that the proposal had an excessive amount of hardstanding within, which would have been to the detriment of the character of the development as a whole.
- 3.4.3 The Inspector also concluded that the proposal would have had a detrimental impact upon the amenities of the neighbouring occupiers. This was on the basis that the original proposal was for three storey properties, which would have backed on to Upper Fant Road, which is set down at a lower level than the application site. The Inspector noted that there would have been a total of 28 windows at first and second floor windows that would directly face these neighbouring properties. The Inspector concluded that *'notwithstanding the separation distances, this number of windows, together with their height above the existing development would result in over dominance of the gardens making them less pleasant places to be. I therefore conclude that the proposal would be an un-neighbourly development.'*
- 3.4.4 Following on from this decision, the applicant resubmitted a fresh planning application, which again was not considered to overcome the concerns previously raised. As such, further negotiations have been undertaken on the submitted application, with the scheme now before Members the result.

### **3.5 Layout**

- 3.5.1 As one of the grounds for refusal on the previous application was on the basis that the layout was poorly designed, it was important to ensure that this development completely overcame that ground. The site has a narrow access point, with the majority of the land located away from the road frontage. This therefore provides significant constraints in terms of the layout that could be achieved, insofar as there would need to be a relatively long access road into the site, with no scope for development to face onto it. It was therefore considered important to ensure that this access point is dealt with sensitively, and does not appear simply as a large swathe of hardstanding. It was on this basis that the

applicant was advised to demonstrate that a good level of soft landscaping would be provided to soften its appearance, and to reflect the fact that it would be running through an area that was previously rear garden. The applicant has therefore shown a 'kink' in the access road, that would be surrounded by a good level of planting, which would not only provide an element of visual interest, but also soften the development to the rear, when viewed from Tonbridge Road. This is considered to be an appropriate manner in which to address this particular issue.

- 3.5.2 Despite the relatively narrow access point, there is sufficient space on the north-eastern side of the access to erect a single detached dwelling. This would be a two and a half storey detached property, which would be of relatively traditional design. Whilst relatively close to the boundary with the adjacent property to the east, it is not considered that this would appear cramped within the site, and it would respect, and continue the existing building line to the front. As the proposed access road would run parallel to the rear garden of this property, it is important to ensure that there would be no significant noise and disturbance to any future residents, and also that a high quality finish be achieved to this development. It is on this basis that a brick wall would be erected along this boundary.
- 3.5.3 As previously stated, the rear of the site opens up significantly, with a maximum width of approximately 54metres, and a depth of approximately 56.5metres. As one enters the site at this point, it is proposed that there be two rows of three terraced properties on either side of the access, with both provided with a double garage at their northern end and a single attached garage at their southern end. This is considered to represent an appropriate design layout, as this would address the street frontage, with the properties having an appropriate set back from the street so as to not appear overly dominant. The properties would be two storey, and have a central gable feature upon the front elevation. With the garages located at the northern end of each terrace, this would provide a gradual build up in height, and would also ensure that there would not be bland elevations facing towards Tonbridge Road (whilst also ensuring that there would be no overlooking to existing neighbouring properties). All properties would be provided with small, but adequate garden spaces (with a minimum depth of 8metres) which could be accessed from the rear.
- 3.5.4 Two further blocks of three houses are proposed at the rear of the site, which would face back towards Tonbridge Road. These would be of a similar design as other blocks within the site, and again would be set a short distance from the access road. Again, the blocks would be provided with attached garaging, which would be located at their ends. These properties would be two storey and set some 8.5metres from the rear boundary with the properties within Upper Fant Road. It is considered that this form of layout is legible, and would ensure that there are active frontages, and little unusable space.

3.5.5 The road layout has been altered significantly so that the road has become less dominant. Whilst the access has retained a width of at least 4.5metre throughout, as all properties would have a small front garden area, which would be provided with soft landscaping. Whilst in looking at this scheme in isolation it perhaps would be preferable to see a slightly narrower access created, I am aware that there is the potential for further sites at the rear of properties within Tonbridge Road to become available for residential development. Should this be the case, I consider that it be preferable for these to utilise this access, rather than to see the proliferation of new access points created along Tonbridge Road (which is a primary route into and out of Maidstone). It is on this basis that I consider the width of the road acceptable in this instance. Furthermore, the applicant would provide a mixture of permeable surfaces within the site, which would reduce its overall impact.

3.5.6 It is therefore considered that the layout is now of a sufficient standard to ensure that the development would be of a high quality, and to ensure that the road would not dominant. It is therefore considered that the applicant has therefore overcome the Inspectors concerns on this matter, and that the layout conforms with the requirements of the Kent Design Guide.

### **3.6 Visual Amenity**

3.6.1 There are two main issues to consider with regards to the visual amenity, the design of the buildings, and the hard and soft landscaping proposed.

3.6.2 Firstly, the design of the buildings. The proposed dwellings are relatively unremarkable in form, being of brick built construction, with a plain tile roof. Their form is again, simple, with much of the fenestration having a horizontal emphasis, although the dwellings would also have brick banding, and detailing beneath the windows.

3.6.3 The building fronting Tonbridge Road would be the most visible dwelling of those proposed. This is to be a two storey dwelling, with two small flat roof dormer windows proposed within the front and rear roof slopes. This would be a large five bedroom dwelling, with an integral garage. This property has a stronger vertical emphasis than those within the site, but this reflects many of the properties within the street. The street is relatively mixed in terms of property type, both in terms of design and size, and this design, being of a simple form, would not appear incongruous within this varied streetscape.

3.6.4 The properties to the rear of the application site would not be as highly visible from a public vantage point, but the design of any development on this site was clearly considered important by the Inspectorate when forming their previous decision. In this instance, I consider that the design of these properties is of a



size and form that one would expect to see on a backland site within an edge of town centre location. These would be of a brick built construction, again with plain tile roofs. The applicant has created an element of visual interest with a central gable projection and projection porches. It is also suggested that a condition be imposed requiring windows/doors (including garage doors) be recessed a minimum of 70mm in order to ensure that the buildings have a degree of layering – with shadowing creating interest. I would also suggest that it is important to receive precise details of the roof overhang for the same reasons.

- 3.6.5 I am of the opinion that the design of these properties is of a sufficient standard to warrant approval. As stated above, these would not be of any significant merit, but proportionately they are acceptable, and subject to the use of a high quality material, I believe that the dwellings would not detract from the character and appearance of the locality.
- 3.6.6 With regards to the landscaping provision within the site, the applicant has submitted a landscaping plan with this application. This plan would see the planting of Birch, Cherry and Maple trees throughout the application site. It is proposed that two trees be planted to the front of the application site, adjacent to the access point. This would help to soften the hardstanding behind (which is provided for plot 1). This is considered appropriate, and will help to continue the theme along this stretch of road, of tree and shrub planting within front gardens.
- 3.6.7 The planting proposed adjacent to the 'kink' in the access road is also considered to include suitable species for the area. As this site lies within the Maidstone Urban Area as designated by the Landscape Character Assessment, these are considered to be appropriate species for this locality. This area would also contain low level planting which would include Roseacre, Viburnum, and Weigela. Again, this is considered to be acceptable within this location.
- 3.6.8 Soft landscaping to the rear of the site would be limited to the front and rear gardens of the properties, and as such only a small number of trees have been proposed. I consider that this is acceptable on the basis that future owners would wish to attend to their own gardens and maintain them in their own manner.
- 3.6.9 It is proposed that the road be constructed of tarmac to a point approximately 75metres into the site. I do not agree that this is acceptable, and as such, suggest a condition that requires a greater proportion of this to be of permeable paving. This is on the basis that it would improve the character and appearance of the development, and also reduce the level of surface run-off, and thus improve the sustainability of the site. I would suggest that no more than the first 10metres be constructed of tarmac. To the rear of the site it is proposed that block pavers be used within the highway, and parking area, which

is considered to be acceptable (subject to details). As such, I am therefore of the opinion that the development would have an acceptable appearance, with both the design of the buildings, and the landscaping provision of a suitable quality to warrant approval in this instance.

### **3.7 Highways**

- 3.7.1 Kent County Council Highways Authority were consulted on this application, and have raised no objections to the proposal, on the basis that the access into and out of the site is adequate, and that there is suitable car parking provision within the development. Whilst this is an access onto a primary route into and out of Maidstone (A26) no concern has been raised, as suitable visibility splays have been achieved on either side of the access. It is also noted that no objection was previously raised on the refused application to the point of access, which has remained unchanged. It is therefore considered to be unreasonable to seek to refuse this application on this basis.
- 3.7.2 Pedestrian access into the site is also considered to be of a sufficient standard, with a new pavement running alongside the access road. This is considered to be of a suitable design.
- 3.7.3 The parking provision within the site would amount to 2 spaces per unit. As these are substantial properties, and due to the fact that this is an edge of town location, it is not considered that this would prove to be an excessive level within this site. I am also of the opinion that should future residents park upon the highway, this would be unlikely to give rise to highway safety concerns. Furthermore, there are strict parking controls along Tonbridge Road, which further restricts parking. As Members are aware, this Authority does not have minimum parking standards, and the provision currently shown is below the maximum adopted and on this basis there would be no grounds to refuse this application on the level of parking.
- 3.7.4 The applicant has demonstrated that a refuse vehicle could enter and leave the site in a forward gear, as turning circles have been shown.
- 3.7.5 The applicant has demonstrated that they would be willing to make a contribution of £5,000 to see the improvement of the existing bus stops facilities within the locality of the site. This could be spent on raising the kerb, or to provide real time bus information, to ensure that this is a more attractive option for local residents, which may see the further use of this mode of public transport. This would improve the sustainability of this site.
- 3.7.5 As such, for the reasons above, it is considered that this proposal would not give rise to highway safety concerns and on this basis it is recommended that there are no grounds to refuse the application on this basis.

### **3.8 Residential Amenity**

- 3.8.1 One of the previous grounds for refusal on this site was the impact that the proposal would have had on the properties to the rear of the site, within Upper Fant Road. The main concern at this point being the fact that three storey properties were proposed, close to the rear boundary with these neighbouring properties. This application would see the erection of two storey properties, throughout the whole site, and as such the height, and relationship between the proposed and existing would be somewhat altered.
- 3.8.2 The properties at the rear of the site (blocks 2 & 3) would now be set some 8.5metres from the rear boundary, and this, together with the reduction in height (from three to two storey) would ensure that there would be no significant overlooking of these neighbouring properties, despite the topography of the adjacent land. I therefore conclude that this previous ground for refusal has been overcome.
- 3.8.3 All other properties within the development would be orientated in such a way as to ensure that there would be no overlooking, or loss of light to neighbouring occupiers. Whilst both blocks 1 and 4 would be orientated with their rear elevations facing the back gardens of existing properties, these would be towards the rear of extensive gardens (in excess of 75metres in length) and as such would not impact upon the immediate amenity of the neighbouring occupiers.
- 3.8.4 The proposal would not result in any significant loss of light, or have an overbearing impact upon the existing residential properties due to their distance from them. All proposed properties to the rear of the site are in excess of 30metres from existing dwellings. In addition, plot 1 would be positioned in such a way to ensure that there would be no impact upon the neighbouring property, as is would be alongside the side elevation, which contains no windows.
- 3.8.5 Whilst the access road into the site is proposed to be in close proximity to 123 Tonbridge Road, I am of the opinion that should the applicant provide an acoustic fence along this elevation (alongside the property – not up to the highway) the impact would be reduced. Whilst this access road would serve up to 12 dwellings, it should also be noted that the impact upon noise and disturbance to the occupiers of this dwelling was not considered to be a ground for refusal on the previous application, and was not a matter of concern raised by the Inspectorate. I do not therefore consider that any impact upon the occupiers of this property would be such as to warrant a ground for refusal.
- 3.8.6 In conclusion, I consider that the proposal would not have a detrimental impact upon the amenities of the neighbouring occupiers, both in terms of overlooking,

overshadowing, or the creation of a sense of enclosure. Likewise I do not considered that noise and disturbance to neighbouring occupiers would be so great as to warrant a refusal of this planning application.

### **3.9 Ecology**

3.9.1 As the site is currently used as garden space, with much of the site overgrown at the point of my visit, I would conclude that there might be the possibility of a reasonable level of biodiversity throughout the site. The applicant has not submitted any ecological study, however, and no information has been provided to me to demonstrate that any protected species are located within the site. However, I would suggest it appropriate to impose a condition requesting that an ecological study be undertaken prior to the development commencing, in order that any necessary mitigation measures be undertaken.

3.9.2 There are no significant trees within the site (many were removed prior to the submission of the first application) and as such it is not considered that the proposal would have any detrimental impact upon breeding birds within the locality. Likewise, there is no evidence of bats using the site. I do however, consider it appropriate to suggest that swift bricks be used within the development, and likewise bat boxes be implemented, by way of an informative.

3.9.3 In conclusion, whilst clearly the loss of the whole garden for residential development would have an impact upon ecology, I do not considered that this would result in a ground for refusal, subject to suitable conditions and informatives being imposed.

### **3.10 Heads of Terms**

3.10.1 The applicant has been informed of the requirements to provide certain contributions which would be generated by this proposal. The applicant has agreed to make the following contributions to the development: -

- Primary Care Trust: £11,916
- Maidstone Borough Council (Parks and Open Space): £18,900
- Kent County Council (Mouchel): £29,220  
(this is for libraries, adult education, youth and community and adult social services)
- Kent Highway Services: £5,000  
(this is to improve nearby bus stop)

3.10.2 The applicant has therefore demonstrated that they are willing to meet all contributions within this site, that has been requested of them, and as such it is considered that this complies with the policies within the Development Plan. It will be necessary for the applicant to enter into a legal agreement with this

Authority however to ensure that these contributions are received at the appropriate point of the development. It has been agreed with the applicant that 50% of the contributions be paid at the completion of the 7<sup>th</sup> unit, with the full, and final contribution to be made following the sale of the final unit within the development. This is considered acceptable on the basis that it does provide the applicant with more financial flexibility in what are tough financial circumstances, but will also ensure that the money can be spent once fully occupied.

### **3.11 Other Matters**

3.11.1 The applicant has demonstrated that they are willing for the properties to achieve Level 3 of the code for sustainable homes. This is in accordance with policy C4 of the South East Plan. It is therefore suggested that a condition be imposed requiring a *minimum* of level 3 being achieved.

3.11.2 Concern has been raised about the potential for flooding within the application site. The applicant will therefore be subject to strict conditions to ensure that the development does not overburden the existing sewer network, and to ensure that there would not be a significant level of run off onto the main Tonbridge Road.

3.11.3 No details of any new lighting within the site have been submitted to date, and as such, I would seek to impose a condition requiring the applicant to submit details of any street lighting prior to the development commencing, to ensure that there would be no detrimental impact upon the amenities of the existing neighbouring occupiers.

3.11.4 The applicant has submitted a noise survey, which is considered to demonstrate that the property to the front of the site can be designed in such a way that there would be no concerns with regards to road noise for any future occupiers. It is recommended that should permission be given, a condition be imposed to ensure that the appropriate mitigation measures are undertaken.

### **4.0 Conclusion**

4.1 It is therefore considered that the proposal would constitute a good standard of development, and would not adversely impact upon the character and appearance of the locality. The proposal has been designed in such a way as to result in no significant impact upon the amenities of the neighbouring occupiers. It is therefore considered that the previous grounds for refusal have now been overcome, and it is on this basis that I am recommending that Members give this application favourable consideration, and give delegated powers to the Development Control Manager to grant planning permission subject to the receipt of a Section 106 legal agreement addressing the heads of terms set out above, and the conditions and informatives .

## **RECOMMENDATION**

Prior to the completion of a legal agreement in such terms as the Head of Legal Services may advise to secure: -

Subject to:

- i) A contribution of £11,916 (plus any legal costs) to the NHS West Kent Primary Care Trust.
- i) A contribution of £18,900 for parks and open space, which would be spent within a 2 mile radius of the application site.
- ii) A contribution of £29,220 for contributions towards Adult Education, Libraries, and Youth and Community facilities within the locality of the application site.
- iii) A contribution of £5,000 for the improvement of the existing public transport facilities.

I be GIVEN DELEGATED POWERS to 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, written details and samples of the materials 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 PPS1.

3. The development shall not commence until, details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in

writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site in accordance with PPS1.

4. The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the 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 PPS1 and PPS3.

5. 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 PPG13.

6. Notwithstanding the details shown on the submitted plans, no development shall take place until precise details of the surfacing of the access road into the site (with a maximum of 10metres being constructed of tarmacadam at the point of access, with the remainder being block pavers) have been submitted to, and approved in writing by the Local Planning Authority. Such details as are submitted shall be completed before the first occupation of any residential units (with the exception of plot 1).

Reason: In the interests of visual amenity, and to reduce the level of surface water run off to surrounding land, in accordance with PPS1.

7. 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 indications of all existing trees, hedgerows and boundary planted areas on the land, and details of any to be retained, together with measures for their protection in the course of development in conjunction with the details required pursuant to condition 8, and a programme for the approved scheme's implementation to include the planting of the southern boundary landscaping in the first planting season following commencement of the development and the scheme's long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines. The submitted details shall include inter-alia full consideration of the protection of potential slow worm habitats in and around the marginal boundary areas during construction. The approved protection measures shall be implemented 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: No such details have been submitted and in the interests of the visual amenities of the locality, the safeguarding of existing trees, hedgerows, boundary planted areas and potential slow worm habitats to be retained in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000 and PPS1 and PPS9, and the interests of the residential amenity in accordance with policies CC1 and CC6 of the South East Plan 2009 and PPS1.

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 Policy ENV6 of the Maidstone Borough Wide Local Plan 2000, and PPS1.

9. No development shall take place 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.

10. Removal of existing trees or hedgerows containing nesting birds shall take place outside of the bird-breeding season (generally March to August).

Reason: To ensure the protection of biodiversity on the site, in accordance with PPS9.

11. 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.
- ii) Details of windows and doors and recesses/reveals (which shall be a minimum of 70mm).
- iii) Details of the soldier arches.

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 PPS1.

12. No development shall take place (with the exception of plot 1) until details of an acoustic fence of a height of no less than 1.6 metres to be erected along the western boundary, adjacent to 123 Tonbridge Road have been submitted and agreed in writing by the Local Planning Authority. Any fence agreed shall be erected prior to the first occupation of any of plots 2-13 as shown on the submitted plans.

Reason: In the interests of residential amenity in accordance with PPS3.

13. The development shall be carried out in accordance with the requirements of the noise assessment submitted to the Local Planning Authority on the 25 November

2008.

Reason: In the interests of the residential amenities of the future occupiers in accordance with PPS3.

14. The dwellings shall achieve Level 3 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 3 has been achieved.

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

### **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.

Clearance and subsequent burning of existing woodland or rubbish must be carried out without nuisance from smoke, etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

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

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

Adequate and suitable provision in the form of water sprays should be used to reduce dust from demolition work.

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.

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

Where possible, the developer shall provide the Council and residents with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work, for example scaffolding alarm misfiring late in the night/early hours of the morning, any over-run of any kind.

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

There shall be no burning of waste materials on site.

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

#### **REASON FOR APPROVAL**

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and Kent Structure Plan 1996) and there are no overriding material consideration to indicate a refusal of planning consent.