

<b>REFERENCE NO:</b> 21/506545/FULL		
<b>DEVELOPMENT:</b> Six dwellings with associated allotments, landscaping, parking, communal landscaped areas, and other associated works (part retrospective).		
<b>ADDRESS:</b> Wilsons Yard George Street Hunton Kent ME15 0RF		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> Notwithstanding, the departure aspect of the proposal it has been established that the development overall will result in a significant environmental improvement. These benefits include: <ul style="list-style-type: none"><li>• The removal of the unsightly parking area and outbuildings associated with the light industrial use that will be replaced with open garden areas and new planting.</li><li>• The heritage harm is 'less than substantial' harm and the development will reduce impact compared to the dilapidated state of the original building. The development will go some way to restoring the setting of the grade II listed Hunton Place.</li><li>• With implementation of the proposed landscape masterplan and ecological enhancements, the proposal will be beneficial in terms of landscape and visual impacts and screen the negative impact of built form.</li><li>• The proposal will make efficient use of this site with the building reflecting the size and proportions of the earlier prior approval applications.</li><li>• The activity, noise and disturbance from a residential use including from vehicle movements is likely to be lower than a commercial use in the building.</li><li>• Part of site is brownfield land and the development overall will result in significant environmental improvement. Identified harm is minimal and will be outweighed by benefits that the scheme will bring.</li><li>• The development is acceptable in terms of all other material planning considerations.</li></ul>		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Development is contrary to the adopted Local Plan.		
<b>WARD:</b> Coxheath/Hunton	<b>PARISH COUNCIL:</b> Hunton	<b>APPLICANT:</b> Ashurst Homes (Hunton) Ltd <b>AGENT:</b> Squires Planning
<b>TARGET DECISION DATE:</b> 25/03/22	<b>PUBLICITY EXPIRY DATE:</b> 03/03/22	

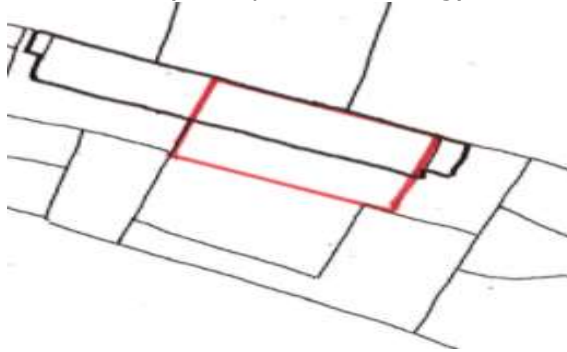
**Relevant planning history:**

- 21/500516 – Enforcement case: Construction works outside parameters allowed under 18/506016 & 19/501420 – Open (pending outcome of this application)
- 21/502131/SUB – Details for condition 1 (contamination) for 18/506016 - Approved
- 21/502130/SUB –Details for condition 1 (contamination) for 19/501420 - Approved
- 20/505447/SUB – Details for condition 1 (contamination) for 19/501420 - Refused

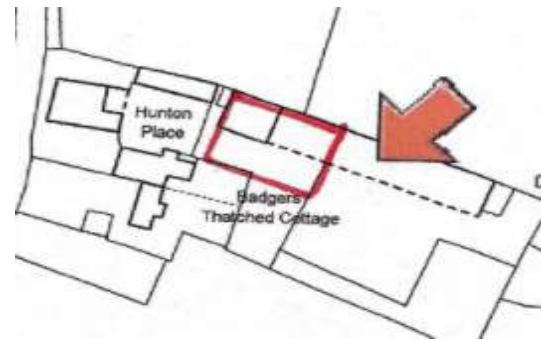
- 20/505446/SUB – Details for condition 1 (contamination) for 18/506016 - Refused
- 19/501420/PNQCLA– PN (Class Q: Agricultural) for 3 dwellings – Prior approval granted (required completion by 13.05.2022).
- 18/506016/PNPA – PN (Class PA: Light industrial) for 3 dwellings – Prior approval granted (required completion by 25.01.2022).

The plans below identify the site areas for the two prior approval applications that related to the conversion of the retained building on the site:

18/506016/PNPA (front part of building)



19/501420/PNQCLA (rear of site)



## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.02 The application site is located on the western side of George Street and a short distance from the junction with Redwall Lane to the north of the site. The adjacent property to the west of the site (Hunton Place) which fronts East Street is Grade II listed.
- 1.03 Prior to recent building works the site was occupied by a long building approximately 62 metres long and 9.4 metres deep. This building was of some age and was subdivided internally into five separate commercial units providing a mix of agricultural and light industrial uses. The steel framed building had a corrugated asbestos roof with corrugated sheeting and concrete blockwork walls.
- 1.04 The current application follows a planning enforcement complaint that found that construction works being carried out on site did not benefit from planning permission or prior approval. The photographs below are of the application site in 2016 and February 2022.

Application site in 2016



Application site in November 2021



- 1.05 The woodland opposite the site (across George Street) is designated ancient woodland. There are public rights of way in the proximity of the site, including PROW KM171 to the north of the site and PROW KM172 to the south.
- 1.06 The surrounding area is characterised by sporadic built form of differing scale, age and design, and undeveloped parcels of land and woodland.
- 1.07 For the purposes of the Local Plan the application site falls within the designated countryside. The site is in Flood Zone 1 and within an area of archaeological potential.

## 2. PROPOSAL

19/501420/PNQCLA (as approved)



18/506016/PNPA (as approved)



Front elevation currently proposed.



ELEMENT	DIFFERENCES BETWEEN PRIOR APPROVAL PLANS AND THE CURRENT APPLICATION
Building length	Building is the same length at 57.5m
Ridge height	Ridge height is the same
Building depth	Building is same depth at 9.3m
Eaves	Eaves of building are same. It is noted that when comparing plans, eaves of as built building appear higher than they previously were on original plans. When applicant took control of site it became apparent that previous plans were incorrect and building had to be remeasured.
External ground levels	Previously, the building was set into hillside. As part of the build, ground levels have been reduced immediately around the building at western end.
Dwelling widths	The units are broadly the same as previously.
Fenestration	Again, these have been removed and apart from retention of general architectural style few are as set out on prior approval plans. Alterations include: <u>Front elevation</u> - Addition of front doors (& canopies – although these are not yet built) - Large glazed panel are now all to left of each unit rather than being where previous openings were - Windows have been made more uniform - Relocation of and extra velux windows <u>Rear Elevation</u> - Windows on wall are broadly as approved, although they are not the same - The number of velux windows have doubled from 12 to 24

- 2.01 The application involves the development of this site to provide 6 terraced dwellings. The applicant advises "This application is in part retrospective, in that it

*seeks to regularise development that has already taken place in constructing the dwellings, and part prospective, in that it also seeks the grant of permission for proposed development to enable the completion of development of the site, this includes the change of use of some of the land, and provision of suitable landscaping, parking, drainage system, bin stores, bike stores, tool store, allotments and turning head".*

- 2.02 The submitted planning statement sets out the differences between the prior approvals and what is/will be undertaken on site. The table above provides a summary of the differences and extracts from the previously approved and current plans:
- 2.03 The applicant further advises *"The new dwellings retain the overall form and dimensions of the original building and retain a rural utilitarian character, being finished with oak weatherboarding above a plain brick plinth, to replace the original timber-clad steel framed building. The new natural slate roof replaces the previous corrugated asbestos roof and features Velux windows and PV solar panels. The homes are currently "wind and watertight" and are largely fitted out internally, although works have currently ceased on site, at the request of Maidstone Borough Council while this application is pending".*
- 2.04 The proposal includes 16 vehicle parking spaces (each with an electric charging point) and two communal lockable bike stores. A communal bin store is also provided, and a tool shed (with living roofs). A sustainable urban drainage scheme will be implemented in the form of a wildlife pond which would attenuate water during rainfall. The wildlife pond and proposed landscaping will provide a biodiversity net gain on the site. The development will make use of the existing vehicle site access.

### **3. POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough Local Plan (2017): SS1, SP17, SP18, DM1, DM2, DM3, DM4, DM5, DM8, DM23, DM30
- National Planning Policy Framework (2021) & National Planning Practice Guidance
- Maidstone Landscape Character Assessment (amended 2013)
- Landscape Capacity Study (Jan 2015)
- Regulation 19 Maidstone Local Plan
- Natural England Standing Advice
- Para 99 of Govt. Circular (ODPM 06/2005) Biodiversity & Geological Conservation - Statutory Obligations & Their Impact Within the Planning System
- Natural Environment and Rural Communities Act (2006)

#### Regulation 19 Local Plan

- 3.01 Following recent approval by members, the Council's Reg 19 Local Plan has recently been out to public consultation. This document is a material planning consideration, however at this time individual policies are not apportioned much weight.
- 3.02 The weight to be attached to individual policies will be adjusted upwards or downwards depending on whether objections have been received. The current programme involves submission to the Planning Inspectorate in late Spring 2022.

#### 4. LOCAL REPRESENTATIONS

##### Local Residents:

- 4.01 Following consultation on this application (including advertising as a departure from the Local Plan) four representations have been received making the following (summarised) comments:
- Land contamination details are not available, and it is not known how buried contamination will be affected;
  - There is support for the balancing pond for surface water discharge and the proposed landscaping;
  - There is support for electric vehicle charging points and community orchard; and rooflights will cause glare.

#### 5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the responses discussed in more detail in the main report when considered necessary)

- 5.01 **Councillor Webb:** Wishes to see application reported to Planning Committee if officers are minded to recommend refusal for the following reasons : *Application will provide environmental and social benefits to site and wider Parish which are material considerations in determination of this application and, in my opinion, sufficient to outweigh any negative impacts. As such it is my view that permission should be granted.* (NB: Officer recommendation is in line with the wishes of Cllr Webb but case is reported to members as it is a departure from the Local Plan).
- 5.02 **Hunton Parish Council:** Raises no objection to application.
- 5.03 **Conservation Officer:** Raises no heritage objection to application.
- 5.04 **KCC Highways:** Raises no objection to application.
- 5.05 **Environmental Protection Team:** Raises no objection to application.
- 5.06 **KCC Biodiversity Officer:** Raises no objection to application.
- 5.07 **Landscape Officer:** Raises no arboricultural objection.
- 5.08 **KCC Archaeological Officer:** No representations received.
- 5.09 **Forestry Commission:** Ancient woodland is irreplaceable, referring to standing advice.
- 5.10 **Natural England:** Raise no objection to application.
- 5.11 **Kent Fire and Rescue:** Raises issue of emergency access (see main report).

#### 6. APPRAISAL

- 6.01 Local Plan policy SP17 states (inter alia) that development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area. The application was found to be a departure from policy SP17 in that the proposed building results in harm and the proposal is not in full accordance with other Local Plan policies.

6.02 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and after acknowledging the departure from the plan it needs to be considered whether material considerations are present that suggest that such a departure would be justified. The material considerations include the following:

- Policy DM5 and brownfield land
- Design, appearance, the countryside and landscape
- Heritage
- Neighbour amenity
- External lighting
- Standard of proposed residential accommodation.
- Access and servicing transport and traffic
- Ecology and biodiversity.

### **Policy DM5 and brownfield land**

6.03 The middle part of the application site was previously in light industrial use (see Area B in the image below) and as a result was within the standard NPPF definition of brownfield land. Most of the front part of the site (Area C in the image below) was not brownfield land and the rear part of the application site (Area A in the image below) was in agricultural use so was also outside the standard definition of brownfield land.

#### Extent of previously developed land



(Google Earth image dated April 2020)

*A = Rear of site that was in agricultural use*

*B = Middle of site that was in light industrial use (with parking area)*

*C = Front part of site that largely appeared to be undeveloped land*

6.04 Local Plan policy DM5 is only relevant to the parts of the site that was previously brownfield land. This policy allows for the redevelopment of brownfield land in the countryside subject to certain criteria.

6.05 Policy DM 5 of the local plan states "Exceptionally, the residential redevelopment of brownfield sites in the countryside...." will be permitted where they meet the following criteria a) The site is not of high environmental value. b) The 'redevelopment' will result in a significant environmental improvement. c) The density reflects the character and appearance of the area (DM12). d) the site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village.

6.06 To assist in the interpretation of policy DM5 the supporting text in the Local Plan (paragraph 6.37) sets out six 'key' considerations to be used in assessing the

redevelopment of brownfield sites in the countryside. These considerations are as follows:

- The level of harm to the character and appearance of an area.
- The impact of proposals on the landscape and environment.
- Any positive impacts on residential amenity.
- What sustainable travel modes are available or could reasonably be provided.
- What traffic the present or past use has generated; and
- The number of car movements that would be generated by the new use, and what distances, if there are no more sustainable alternatives.

Consideration of DM5 a) The site is not of high environmental value. b) The 'redevelopment' will result in a significant environmental improvement.

- 6.07 The two key questions here are whether the former commercial building on the site was of high environmental value, and whether the 'redevelopment' will result in a significant environmental improvement to the site.
- 6.08 The former building on the site had no special architectural or historical interest. The building was of some age and was subdivided internally into five separate commercial units providing a mix of agricultural and light industrial uses. The steel framed building had a corrugated asbestos roof with corrugated sheeting and concrete blockwork walls. In this context the building was not of high environmental value.
- 6.09 The local plan does not include a definition of what constitutes significant environmental improvement, however the guidance in the supporting text to DM5 (paragraph 6.37) refers to an assessment of the impact of the proposals on the landscape and the environment and any positive impacts on residential amenity.
- 6.10 The design of the proposed building has sought to retain the positive features of the current functional building including the rhythm and spacing of the openings across the frontage. The submitted proposal will improve the character and appearance of the site in a number of ways including the new landscaping on the site and the new wildlife pond.
- 6.11 The removal of the former agriculture and light industry uses, and the resulting activity, traffic and disturbance will have a positive impact on residential amenity for nearby occupiers. These changes using paragraph 6.37 of the local plan as a guide are of a magnitude to be described as significant improvements. The proposal is in line with DM5 a) and b).

Consideration of DM5 c) The density reflects the character and appearance of the area (DM12).

- 6.12 Policy DM12 advises "All new housing will be developed at a density that is consistent with achieving good design and does not compromise the distinctive character of the area in which it is situated. Development proposals that fail to make efficient use of land for housing, having regard to the character and location of the area, will be refused permission".
- 6.13 The submitted proposal, includes the use of the site that was formally in commercial use for the provision of 6 family residential units of a good standard. The provision of the six residential units will make efficient use of this site with the building reflecting the size and proportions of the former commercial building on the site. The density of the proposal is acceptable in this location and the development is in line with DM5c).

Consideration of DM5 d) the site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village

- 6.14 In applying policy DM5, the key characteristics or questions to be considered are set out at paragraph 6.37 of the Local Plan. These are, what sustainable travel modes are available or could reasonably be provided; what traffic the present or past use has generated; and the number of car movements that would be generated by the new use, and what distances, if there are no more sustainable alternatives.
- 6.15 With poor facilities for pedestrians and the nature of local roads it is likely that walking will not be a safe or viable option for future occupiers. It is however possible to make provision for other sustainable travel modes in the terms of cycling and electric vehicles as part of the development. The submitted proposal show the provision of 16 electric charging points linked to the 16 car parking spaces that are provided for occupiers, along with two communal lockable bike stores.
- 6.16 Planning conditions are recommended to ensure that the electric vehicle charging points and cycle storage facilities are provided prior to first occupation. A condition is also recommended requesting measures to encourage sustainable travel choices by future occupiers (could be vouchers for cycle purchase, travel vouchers etc).
- 6.17 The supporting text to policy DM5 refers to a comparison between existing and proposed uses in terms of traffic movements and the distance of the actual trips if there are no sustainable alternatives. The previous building was in use for agriculture and light industry use. The vehicle trips associated with the six proposed residential units would be generally less than the trips generated by the former uses of the building.
- 6.18 The distance of vehicle or cycle trips from the application site would be relatively short with the site approximately 2 kilometres from the Local Plan designated larger village of Coxheath and 1.3 kilometres from Hunton. Paragraph 4.21 of the Local Plan advises that "The five larger villages ...have fewer services than rural service centres but can still provide for the day-to-day needs of local communities and the wider hinterland". With this policy wording referring to the 'wider hinterland' acknowledging the wider benefits outside the defined larger village settlement boundaries. Paragraph 4.21 goes on to say "All villages provide a nursery and primary school; a shop (including a post office); at least one place of worship, public house and community hall as well as open space provision. All have a range of local employment opportunities".
- 6.19 In conclusion, whilst the site is not accessible to Coxheath on foot it is possible to improve the accessibility by sustainable modes with a number of measures. These include ensuring that electric charging points are provided, ensuring that cycle storage facilities are provided and by putting measures in place through a condition to encourage sustainable travel choices by future occupiers. The residential use would generate fewer vehicle trips than the former uses on the site. The private vehicle trips to local facilities and public transport would be relatively short journeys.
- 6.20 This brownfield site in the countryside is not on a site of high environmental value, the proposal will result in significant environmental improvement, the density reflects the character and appearance of the original site, and the site can reasonably be made, accessible by sustainable modes to a larger village and has the benefit of removing a use that would have higher trip generation . After these considerations the proposed redevelopment of the brownfield land on the site is broadly in accordance with policy DM5 of the adopted Local Plan.



**Design, appearance, the countryside and landscape**

- 6.21 Policy SP 17 of the Local Plan provides advice on the countryside which is defined as all those parts of the plan area outside the designated settlement boundaries on the policies map. Development proposals in the countryside will not be permitted unless they accord with other policies in this plan, and they will not result in harm to the character and appearance of the area.
- 6.22 There are public rights of way in the proximity of the site, including PROW KM171 to the north of the site and PROW KM172 to the south. The development introduces a new building on the site that inevitably will cause harm to the character and appearance of the countryside, particularly given the public views of the building (albeit of varying degrees of visibility) from George Street (at the entrance); from the two public footpaths to the north (KM171) and south (KM172) of the site; from East Street (to west); and from Redwall Lane (to north). The aerial photograph on the next page has been annotated to show approximate distances between the application site and nearby public roads/footpaths.
- 6.23 The introduction of the replacement building would cause harm to the character and appearance of the countryside with the site visible in public viewpoints (accepted that there is general policy support for the reuse of the brownfield land that occupies part of the site). The proposal provides a terrace of six dwellings in a rural, unsustainable location with the parking area; storage facilities; allotments; and turning head further domesticating the appearance of the site.
- 6.24 Whilst the proposed building will be visible and result in landscape harm the unsightly parking area and outbuildings associated with the light industrial use will be replaced with open garden areas and new planting. Existing boundary landscaping will be retained. It should also be noted that whilst there is no lawful light industrial building on the site, the commercial use remains lawful and so the principle for a new light industrial building if proposed in the future would be difficult to resist and this in itself would cause some harm to the character and appearance of the countryside.

Distances from the site to nearby public roads/footpaths.



- 6.25 Policy DM 30 (Design principles in the countryside) states that proposals which would create high quality design, satisfy the requirements of other policies in this plan and meet a number of stated criteria will be permitted. These criteria are considered below.

*i. The type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features.*

- 6.26 The design and appearance of the submitted proposal has sought to respect and enhance the positive aspects in the appearance of the former commercial building. The similarities and differences between the former building and the building currently proposed are set out earlier in this report. The introduction of residential use will be more compatible with adjacent uses and there will be visual improvements to the site with the introduction of landscaping.

*ii. Impacts on the appearance and character of the landscape would be appropriately mitigated.*

- 6.27 The applicant has submitted a landscape plan in support of the planning application and proposed ecological enhancements. The implementation of the landscape plan and ecological enhancements will mitigate adverse impact on the appearance and character of the countryside and will result in a beneficial impact.

*iii. Proposals would not result in unacceptable traffic levels on nearby roads ...or the erosion of roadside verges.*

- 6.28 The proposal will not result in unacceptable traffic levels on nearby roads and is likely to reduce the potential for damage to roadside verges as the removal of the commercial use will reduce the need for commercial vehicles to visit the application site and reduce trip generation.

*iv. Where built development is proposed, there would be no existing building or structure suitable for conversion or re-use to provide the required facilities. Any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflect the landscape character of the area.*

- 6.29 The submitted proposal includes a new building on the footprint of the former building. The proposal also includes new landscape screening.

*v. Where an extension or alteration to an existing building is proposed, it would be of a scale which relates sympathetically to the existing building and the rural area; respect local building styles and materials; have no significant adverse impact on the form, appearance or setting of the building, and would respect the architectural and historic integrity of any adjoining building or group of buildings of which it forms part.*

- 6.30 The applicant has advised "The new dwellings retain the overall form and dimensions of the original building and retain a rural utilitarian character, being finished with oak weatherboarding above a plain brick plinth, to replace the original timber-clad steel framed building. The new natural slate roof replaces the previous corrugated asbestos roof and features Velux windows and PV solar panels...". The proposal complies with this requirement.

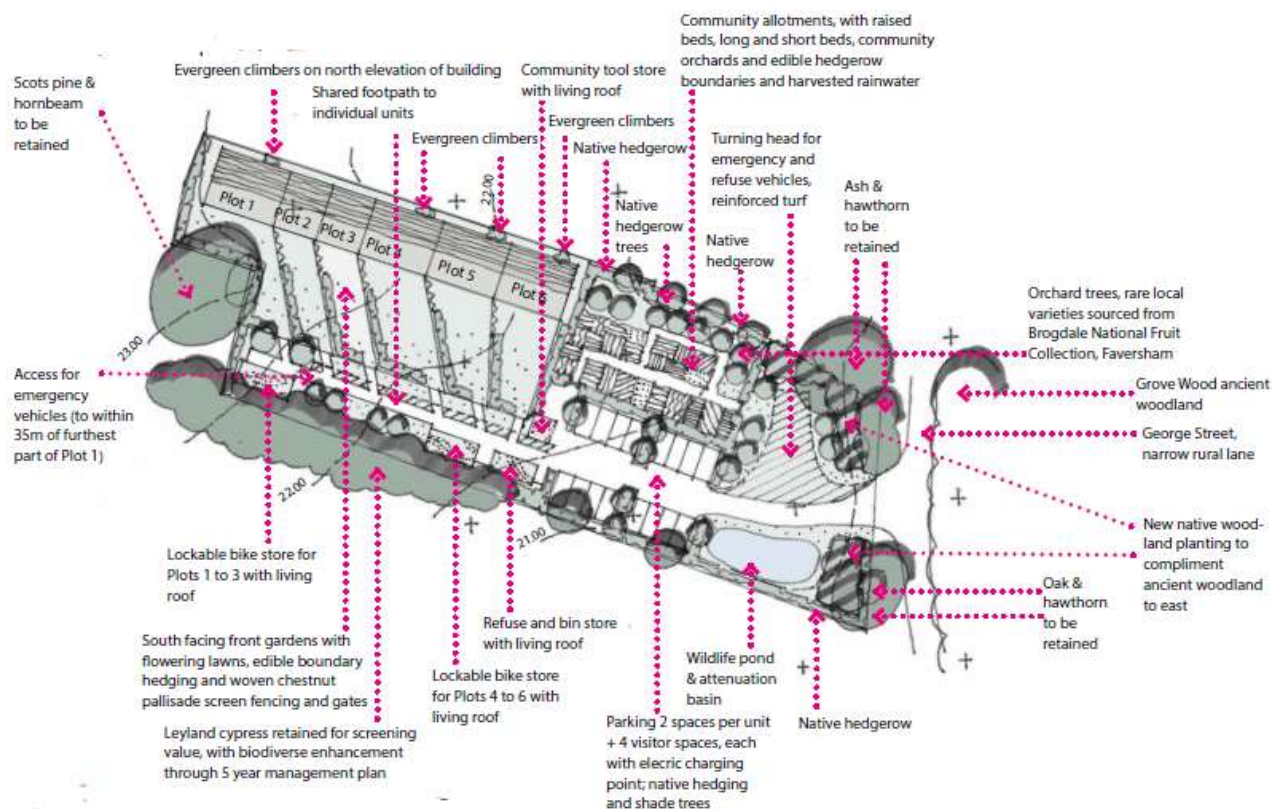
*Vi Account should be taken of the Kent Downs AONB Management Plan and the Maidstone Borough Landscape Character Guidelines SPD*

6.31 The Maidstone Landscape Character Assessment identifies most of the application site as falling within the Low Weald Yalding Farmlands (Area 38). The landscape guidelines for this area are to 'CONSERVE' and a summary of actions are as follows:

- Consider generic guidelines for Low Weald
- Conserve largely undeveloped rural landscape and remote quality of existing development
- Conserve rural setting of traditional buildings and farmhouses
- Conserve distinctive ragstone walling
- Conserve undeveloped character of the landscape
- Avoid linear infill development along roads
- Soften impact of agricultural buildings and fruit equipment storage areas with native planting.

6.32 The Landscape Capacity Study (Jan 2015) has the Low Weald Yalding Farmlands as being assessed as being of 'HIGH' overall landscape sensitivity and 'sensitive to change', and it states (inter alia): *Development potential is limited to within and immediately adjacent to existing settlements and farmsteads in keeping with existing. Other development could be considered to support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.*

#### Landscape Masterplan



6.33 The application includes a Landscape Assessment prepared by the applicant. Overall, the Council's Landscape Officer considers this assessment to be acceptable in terms of general principles. This assessment concludes (in summary): "Landscape effects and visual effects of development have been considered in this report; development is located in a discreet site and retains footprint and massing of former single storey agricultural building; 6 proposed residential units would have no adverse visual or landscape effects on their surroundings. With

*implementation of proposed landscape masterplan and ecological enhancements, the landscape and visual impacts will both be slightly beneficial”.*

### **Heritage**

- 6.34 In making decisions on all listed building consent applications, or any planning application for development that affects a listed building, or its setting, a local planning authority must have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest. This obligation, found in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1), applies to all decisions concerning listed buildings.
- 6.35 Policy SP18 of the Local Plan relates to the historic environment advising that the characteristics, distinctiveness, diversity and quality of heritage assets will be protected and, where possible, enhanced to ensure their continued contribution to the quality of life in the borough. This aim will be achieved by the council encouraging and supporting measures that secure the sensitive restoration, reuse, enjoyment, conservation and/or enhancement of heritage assets, in particular designated assets identified as being at risk, to include securing the sensitive management and design of development which impacts on heritage assets and their settings.
- 6.36 Policy DM4 of the Local Plan relates to development affecting designated and non-designated heritage assets. Applicants will be expected to ensure that new development incorporates measures to conserve, and where possible enhance, the significance of the heritage asset and, where appropriate, its setting.
- 6.37 NPPF advises “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”. The NPPF adds “Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification....”.
- 6.38 In assessing the level of harm that may occur and the planning balance NPPF advises “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”.
- 6.39 The adjacent property to the west of the site, Hunton Place, is Grade II listed. The Conservation Officer has considered the application and has commented as follows: *“Development is to re-clad existing industrial building with a slate roof and oak weatherboarding above a brick plinth. Amount of fenestration will be increased substantially from existing arrangement and roof lights and solar panels are also proposed. This work has already been carried out as a part of process to convert building to residential use. Refurbished building will undoubtedly cause harm to setting of Hunton Place, but I would class it as is ‘less than substantial’ harm which reduces impact compared to existing building in its dilapidated state. I take view, in line with the conservation officer under 16/506756, that development will go some way to restoring setting of Hunton Place and I would therefore, from a heritage viewpoint, recommend approval”.*
- 6.40 In accordance with the NPPF, the ‘less than substantial’ harm needs to be weighed against the public benefits of the development. In this instance, there is public

benefit in providing additional housing and the landscaping and biodiversity enhancements. These benefits are given significant weight in the assessment of this application.

- 6.41 Policy DM4 of the Local Plan states that where development is proposed for a site which includes or has the potential to include heritage assets with archaeological interest, applicants must submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 6.42 Whilst the application site is in an area known to have archaeological interest. The proposed building is on the footprint of the original building. The original building was also relatively modern, and its construction is likely to have destroyed anything of interest that was present in the ground. It is for these reasons that no further archaeological information is required to support the current application.

### **Neighbour amenity**

- 6.43 Local Plan policy DM 1 states that proposals which would create high quality design will be permitted where they respect the amenities of occupiers of neighbouring properties. Development should not result in, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion. Built form should not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties. Noise and disturbance.
- 6.44 The current proposal will remove the existing commercial use and introduce a residential use that conforms with the use of neighbouring buildings. The activity, noise and disturbance from a residential use including from vehicle movements is likely to be lower than a commercial use in the building. The proposal would not have an adverse impact upon the living conditions of any local resident in terms of privacy, light, outlook and being overbearing.

### **External lighting**

- 6.45 Policy DM 8 states that external lighting will be permitted where it can be demonstrated that the lighting is the minimum amount necessary and that the design and specification of the lighting would minimise glare and light spillage. The lighting scheme should not be visually detrimental to its immediate or wider setting, particularly intrinsically dark landscapes.
- 6.46 The application site is in a group of other buildings including several other residential uses. Whilst visually any new external lighting will be seen in the context of these other buildings and uses, in order to avoid amenity issues a planning is recommended that seeks the submission of details of any lighting to be installed on the site.
- 6.47 In conclusion the submitted proposal is acceptable in relation to maintaining neighbour amenity and is in accordance with policy DM1.

### **Standard of proposed residential accommodation.**

- 6.48 Local Plan policy DM1 and paragraph 127 of the NPPF states that proposals will be permitted where they create high quality design and provide adequate residential amenities for future occupiers of the development by ensuring that development is not exposed to, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion.
- 6.49 The proposed accommodation provides a good standard of residential accommodation with adequate internal space for the intended function of individual

rooms and spaces. The submitted plans show that the accommodation is provided with sufficient daylight, sunlight and outlook for future occupiers.

- 6.50 The Environmental Protection Team raised no objection to the development in terms of noise; air quality; and land contamination. *Notwithstanding this, in terms of contamination they have commented as follows: "Whilst we are broadly satisfied with the investigation into contaminated land, this has identified elevated levels of hydrocarbons and heavy metals on sections of the site that require remediation. This is primarily in the form of a capping layer which has not been specified in detail. Other measure including vapour protection membranes and protected channels for water supply pipes are recommended. The report also identifies that further investigation of the allotment area is required and that a discovery strategy should be implemented".*
- 6.51 In response to the concerns expressed by the Environmental Protection Team planning conditions have been recommended for the submission of a remediation method statement (RMS) within 3 months of an approval and a closure report on the completion of the development.
- 6.52 In conclusion the submitted proposal is acceptable in relation to the standard of accommodation and is in accordance with Local Plan policy DM1 and the NPPF.

#### **Access and servicing transport and traffic**

- 6.53 Local Plan policy DM 1 states that proposals which create high quality design will be permitted, where they safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access.
- 6.54 The existing vehicle access to the site is from George Street and this access is retained as part of the submitted proposal. The existing access is suitable including in relation to its width, driver sight lines and the future servicing of the accommodation.
- 6.55 The bin storage is shown on the plan and will be located close to, and accessible for collection. In terms of refuse vehicles, through the former commercial use of the site the retained access has been shown to be suitable for HGV's.
- 6.56 Local Plan DM21 seeks to ensure that the vehicle trips generated by a use can be adequately accommodated on the road network. The vehicle trips associated with the efficient operation of the commercial use on the application site would be more than those associated with the proposed residential accommodation.
- 6.57 It is acknowledged that the site is not in a sustainable location. A planning condition is recommended requesting the submission of measures to promote sustainable travel choices by future occupiers of the accommodation. This could include information given to new occupiers, including public transport timetables.
- 6.58 Kent Fire and Rescue have commented as follows: *"It would appear the 45m hose laying distance, as required under B5 of Building Regs 2010, cannot be achieved to furthest dwellings. 45m distance may be extended up to 90m on provision of a domestic automatic water fire suppression system. Applicants should be aware that in event of permission being granted, Fire and Rescue Service would require emergency access to be established".* If the application were to be approved, a suitable informative would be added to notify the applicant of this.

- 6.59 In conclusion the submitted proposal is acceptable in relation to access and servicing transport and traffic and is in accordance with Local Plan policies DM1 and DM21.

Car parking

- 6.60 Local Plan policy DM 23 states that the car parking for residential development will take into account the type, size and mix of dwellings and the need for visitor parking. Parking shall secure an efficient and attractive layout of development whilst ensuring the appropriate provision of integrated vehicle parking.
- 6.61 The 16 proposed car parking spaces are sufficient for the 6 proposed houses. The local plan advises that new developments should ensure that proposals incorporate electric vehicle charging infrastructure. The proposal also includes 16 electric vehicle charging points. In conclusion the submitted proposal is acceptable in relation to car parking and is in accordance with Local Plan policy DM 23 and Appendix B.

Cycle parking

- 6.62 Local Plan policy DM 23 states that cycle parking facilities on new developments will be of an appropriate design and sited in a convenient, safe, secure and sheltered location. The layout of the site incorporates two cycle parking buildings. A planning condition is recommended seeking the provision of the cycle storage shown to be in place prior to first occupation. In conclusion with the recommended condition the submitted proposal is acceptable in relation to cycle parking and is in accordance with Local Plan policy DM 23.

**Ecology and biodiversity**

- 6.63 Local Plan policy DM3 states: "To enable Maidstone borough to retain a high quality of living and to be able to respond to the effects of climate change, developers will ensure that new development protects and enhances the natural environment ...where appropriate development proposals will be expected to appraise the value of the borough's natural environment through the provision of...an ecological evaluation of development sites...to take full account of the biodiversity present, including the potential for the retention and provision of native plant species".
- 6.64 The KCC Biodiversity Officer has reviewed the application and has commented as follows: *As much of site has been cleared, accompanying ecology report highlights that a previous 2015 ecology survey of site identified "...Site as supporting a small range of habitats including semi improved neutral grassland and tall ruderal vegetation (comprising approx. 25% of Site) and boundary trees..."*.
- 6.65 The KCC Biodiversity Officer advises "A reptile survey was also carried out but found no evidence of reptiles. Under section 40 of the NERC Act (2006), and para 180 of NPPF, biodiversity must be maintained and enhanced through planning system. Additionally, in alignment with para 180 of NPPF, implementation of enhancements for biodiversity should be encouraged. Although clearance works are unlikely to have significantly impacted protected species, in absence of compensatory habitat, it is likely development would not have achieved biodiversity net-gain. However, as noted in accompanying ecology report, a number of ecologically-beneficial features have been incorporated into development which is likely to offset biodiversity loss. This includes:
- Native species hedge/tree planting.
  - Provision of green walls/roofs.
  - Installation of integrated bat bricks.
  - Creation of an orchard (with traditional Kentish apple varieties).

*As such, we are satisfied that if all proposals in ecology report (as reflected in submitted landscape masterplan) are enacted, biodiversity net-gain can be achieved”.*

- 6.66 One of the principles of the NPPF (para 180) is that: *Opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.* With this considered, a condition is recommended seeking biodiversity enhancements on the site (demonstrating biodiversity net gain). The condition requests enhancements through integrated methods into the design and fabric of the building (i.e. swift bricks; bat tiles/tubes; and bee bricks). With these conditions the submitted proposal is acceptable in relation to ecology.

### **Fallback consideration**

- 6.67 Six dwellings were approved through the prior notification process under 19/501420 and 18/506016. The rearmost building related to agricultural use and the frontmost building a light industrial use. The fallback position (what could happen on the land if the current planning application was not approved), is a material consideration in the determination of this planning application (see *Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314*).
- 6.68 The site photo below was taken in June 2021 and shows the extent of works that have been carried out on the site. It is evident that the rearmost part of the building had been removed and that there was significant works carried out to the frontmost part of the building.

Site photo June 2021



- 6.69 The submitted Planning Statement confirms that much of the fabric of the original light industrial building had been taken down, such as the roof, exterior walls, windows and doors, and that the steel frame was dismantled and then reassembled and incorporated into the building works.
- 6.70 Given the level of works carried out on the site, it is considered that the current application does not benefit from permitted development rights because it is a matter of fact and degree that the development on the site is a new build and not a conversion. As such, the principle for the erection of six new dwellings in this



rural location is not established as the previous grant of the two prior approvals (18/506016 & 19/501420) is no longer in place.

- 6.71 In summary, under 19/501420 and 18/506016, prior approval was granted for six dwellings on the site. It is considered that the development carried out on the site is tantamount to a new build, as opposed to the conversion of the existing buildings. As such, the fall-back position of implementing the previous grant of the two prior approvals, or indeed relying on the permitted development rights attached to the original buildings, does not now exist as the previous buildings no longer exist.

### **Other matters**

- 6.72 The application site is within Flood Zone 1 and there is no objection in terms of flood risk. Surface water will be disposed of via a sustainable drainage system and foul sewage will be disposed of by mains sewer. No objection is raised on these matters and no further details are required.
- 6.73 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010 and it is considered that the application would not undermine the objectives of this Duty.
- 6.74 The proposed development is CIL liable. The Council has adopted a Community Infrastructure Levy and began charging on all CIL liable applications, approved on and from 1st October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and the relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

## **7. CONCLUSION/ PLANNING BALANCE**

- 7.01 As the extent of works carried out on site are substantially greater than the works that were approved under the prior approval decisions the prior approval decisions do not provide any fall-back position. There are also no relevant permitted development rights.
- 7.02 The development would not generate a materially different level of trips by car than the previous agricultural and light industrial uses of the site. Whilst the site is in an unsustainable location the similar trip generation will reduce the overall impact of the proposal.
- 7.03 The proposed building does cause harm to the character and appearance of the countryside, and it has been established that part of the site is not brownfield land and new housing here is as a result is contrary to the provisions of the Local Plan.
- 7.04 Notwithstanding, the departure aspect of the proposal it has been established that the development overall will result in a significant environmental improvement. These benefits include:
- The removal of the unsightly parking area and outbuildings associated with the light industrial use that will be replaced with open garden areas and new planting.
  - The heritage harm is 'less than substantial' harm and the development will reduce impact compared to the dilapidated state of the original building. The development will go some way to restoring the setting of the grade II listed Hunton Place.

- With implementation of the proposed landscape masterplan and ecological enhancements, the proposal will be beneficial in terms of landscape and visual impacts and screen the negative impact of built form.
- The proposal will make efficient use of this site with the building reflecting the size and proportions of the earlier prior approval applications.
- The activity, noise and disturbance from a residential use including from vehicle movements is likely to be lower than a commercial use in the building.
- Part of site is brownfield land and the development overall will result in significant environmental improvement. Identified harm is minimal and will be outweighed by benefits that the scheme will bring.
- The development is acceptable in terms of all other material planning considerations.

7.05 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and after acknowledging the departure from the plan it is considered that material considerations are present that justify a departure from the Local Plan.

7.06 On balance the harm that had been identified would be outweighed by the benefits that the scheme will bring. On this basis, a balanced recommendation of approval is therefore made.

**8.0 RECOMMENDATION** - GRANT planning permission subject to the following conditions:

1. The development hereby permitted shall cease and all buildings, structures, hard surfacing, fencing, equipment and all other materials brought onto the land for the purposes of the development shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (vi) below:

(a) Within 3 months of the date of this decision a scheme, hereafter referred to as the Site Development Scheme, shall have been submitted for the written approval of the local planning authority. The Site Development Scheme shall include details of:

- (i) ecological enhancements, to include integrated methods into the design and fabric of the buildings hereby approved, to include swift bricks, bat tubes and bee bricks; and the provision of a wildlife pond. The development shall be implemented in accordance with the approved details prior to the first occupation of the dwellings and all approved features shall be maintained as such thereafter.
- (ii) how decentralised and renewable or low-carbon sources of energy will be incorporated into the development. The approved details shall then be installed and operational prior to first occupation of the dwellings and shall be maintained as such thereafter.
- (iii) a landscaping scheme (in accordance with submitted plans/details and the principles established in Council's adopted Landscape Character Assessment) that shall include details of species, plant sizes, proposed numbers and densities, planting plans and arrangements for maintenance; new native woodland planting to compliment nearby Ancient Woodland; the creation of an onsite orchard (with traditional Kentish apple varieties); provision of 'living roofs' for bicycle, refuse and tool stores; new 100% mixed native hedgerow planting; native tree planting; and the retention of the existing trees (as shown on drawing ref: Tree Constraints Plan TCP-01).

- (iv) all fencing, walling and other hard boundary treatments. The development shall be carried out in accordance with the approved details before the first occupation of the dwellings and shall be maintained as such thereafter.
- (v) a remediation method statement (RMS) based on the site investigation results and the detailed risk assessment based on the submitted Ecologia report. 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. The scheme shall thereafter be implemented as approved.
- (vi) a timetable for implementation of the Site Development Scheme.

(b) If within 11 months of the date of this decision the local planning authority refuse to approve the Site Development Scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(c) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Site Development Scheme shall have been approved by the Secretary of State.

(d) The approved Site Development Scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved Site Development Scheme specified in this condition, that Scheme shall thereafter be maintained/retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside; and in the interests of residential amenity; for ecological enhancement/biodiversity gain; to ensure an energy efficient form of development; and in the interests of public health.

2. Pursuant to condition 1, the approved landscaping scheme associated with the individual dwellings shall be in place at the end of the first planting and seeding season following completion of the relevant individual dwelling. Any other communal, shared or street landscaping shall be in place at the end of the first planting and seeding season following completion of the final unit. Any planting which, within a period of 10 years from the completion of the development die, are removed, or become seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme. Reason: To safeguard the character and appearance of the countryside.
3. Prior to the first occupation of the development hereby approved, on completion of the works a Closure Report shall be submitted and approved by the local planning authority. The closure report shall include full verification details as set out in the approved remediation method statement pursuant to condition 1v, and 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 and the scheme shall thereafter be implemented as approved. Reason: In the

interests of public health.

4. The development hereby approved shall be carried out in accordance with the external materials, as shown on the submitted plans, and shall be maintained as such thereafter.

Reason: To safeguard the character and appearance of the countryside.

5. The development hereby approved shall be carried out in accordance with the submitted GRS arboricultural report (GRS ref: GRS/TS/AIP/TPP/AIA/185/21). Reason: To safeguard the character and appearance of the countryside.

6. No development including site clearance and demolition shall commence until details of tree protection in accordance with the current edition of BS 5837 has been installed on site. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

7. No external lighting, whether temporary or permanent, shall be placed or erected within the site unless details are submitted to and approved in writing by the local planning authority. Any details to be submitted shall be in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005 (and any subsequent revisions), and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. Any details to be submitted shall also follow the recommendations within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.

Reason: In the interests of residential amenity and to protect bats.

8. Foul and surface water disposal associated to the development hereby approved shall be carried out in accordance with the submitted details and shall be implemented prior to the first occupation of the development hereby permitted and maintained as such thereafter. Reason: To ensure satisfactory measures for foul and surface water disposal.

9. The development hereby approved shall provide a minimum of sixteen operational electric vehicle charging points for low-emission plug-in vehicles prior to the first occupation of any dwelling and the electric vehicle charging points shall be maintained as such thereafter. Reason: To promote reduction of CO2 emissions through use of low emissions vehicles.

10. The vehicle parking spaces, as shown on the submitted plans, shall be provided prior to occupation of the development hereby approved and shall be permanently retained for parking thereafter and not used for any other purpose. Reason: In the interest of highway safety and parking provision.

11. The bike stores, as shown on the approved plans, shall be installed on the site and properly useable for the secure storage of bikes prior to the first occupation of any dwelling hereby approved and shall be permanently retained as such thereafter and not used for any other purpose. Reason: In the interests of sustainability.
12. Notwithstanding the provisions of the Town and Country Planning General Permitted Development (Amendment) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development within Schedule 2, Part 1 Classes A, AA, B, C, D, and E shall be carried out. Reason: To ensure a high quality appearance to the development and to conserve and enhance the significance and setting of Lenham Conservation Area; and in the interests of residential amenity.
13. Prior to first occupation of the development hereby approved measures to encourage sustainable travel choices by future occupiers shall have been submitted to and approved in writing by the Local Planning Authority, the measures shall be in place prior to first occupation and maintained for the lifetime of the development. Reason: In the interests of sustainable travel and pollution prevention.
14. The development hereby permitted shall be carried out in accordance with the following approved drawings/documents:
  - Proposed block plan (1:500); 1491 P002E; P001E; P005E; P006E; P007E; P100E; P003E; and P004E; 344-P01C; and WG1330/201 Rev C3
  - Planning and Heritage Statement (Dec 2021)
  - Landscape Assessment (Nov 2021)
  - Highway Technical Note (Nov 2021)
  - GRS Arboricultural Report (ref: GRS/TS/AIP/TPP/AIA/185/21) (Nov 2021) including Tree Protection Plan TL-01; Tree Constraints Plan TCP-01; and Tree Protection Plan TPP-01
  - Preliminary Ecological Appraisal Report & Biodiversity Enhancement Strategy (Nov 2021)
  - Ecologia contamination letter report (Nov 2021)

Reason: For the avoidance of doubt and in the interests of proper planning.

#### Informatives

1. The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25th October 2017 and began charging on all CIL liable applications approved on and from 1st October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.
2. Kent Fire and Rescue have advised that the 45m hose laying distance, as required under B5 of Building Regs 2010, cannot be achieved to the furthest away dwellings. 45m distance may be extended up to 90m on provision of a domestic automatic water fire suppression system. Applicants are reminded that the Fire and Rescue Service would require emergency access to be established. Fire Service access and facility provisions are a requirement under B5 of the Building Regs 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.
3. It is the responsibility of applicant to ensure, before development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by Highway Authority.

Planning Committee Report  
24 March 2022

Case Officer: Kathryn Altieri