

APPLICATION: MA/10/0284 Date: 16 February 2010 Received: 18 February 2010

APPLICANT: Turkey Mill Investments & Kidsunlimited

LOCATION: LAND ADJ TOLHURST COURT TURKEY MILL, ASHFORD ROAD,
MAIDSTONE, KENT, ME14 5PP

PARISH: Boxley

PROPOSAL: Erection of Day Nursery with associated external play areas, car parking and landscaping as shown on drawing nos. 07.62.80, 2718/001,002, 003, 004, 005, Tree Survey/010/B, Tree Constraints Plan/020/C and Design and Access Statement, Transport Assessment, Landscape Appraisal Report, Flood Risk Assessment Tree Survey Report Planning Statement and Updated Ecological Appraisal received 18/02/2010 and as amended by Landscape Strategy Plan 030/E received 06/07/2010.

AGENDA DATE: 22nd July 2010

CASE OFFICER: Steve Clarke

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

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

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV35, ED2, T13
Village Design Statement: N/A
Government Policy: PPS1, PPS4, PPS5, PPS9, PPS22, PPS25, PPG13

2. HISTORY

- 2.1 The site has been in industrial use since originally erected as a paper mill by the Whatman family. In more recent years the buildings on the site have been used for a number of separate and diverse business uses falling within Use Classes B1, B2 and B8, including some floorspace used for retailing cars, a use which ceased when the current owners took over the site.
- 2.2 As a result, the site has an extensive planning history, the most relevant of which is set out below:-

- MA/10/0283: Proposed Office development, installation of new river crossing, associated car parking and landscaping/river corridor enhancement-: UNDETERMINED and on the papers
- MA/07/2076: Change of use (Unit 6 Tolhurst Court) from B1 to cosmetic dental practice (Class D1):APPROVED 02/01/2008
- MA/05/1948: Change of use of suite 3 and 4 Tolhurst Court from class B1 office use to use as a consulting clinic (class D1): APPROVED 28/11/2005
- MA/04/0934: Erection of Class B1 office development, alterations to access, car parking and landscaping (amendments to planning permission MA/02/0202: APPROVED 09/07/2004
- MA/02/0202: Erection of class B1 office development (Revised scheme), alterations to access, car parking and landscaping: APPROVED 16/05/2003
- MA/91/0655: Erection of buildings for use within classes B1 & B8 (Use Classes order 1987) and provision of a footpath and footbridge: APPROVED 03/05/1994

2.3 Planning permission MA/02/0202 was subject to a s106 agreement that obligated the developer not to implement any remaining part of the MA/91/0655 permission (that had been implemented, see paragraph 2.4 below) on land on the north bank of the River Len but did not preclude further development on the part of the site south of the river.

2.4 The footpath and footbridge over the River Len (both now within the LNR) were constructed as part of planning permission MA/91/0655. The permission, subject to the exclusion secured through the s106 agreement relating to application MA/02/0202, is therefore still extant. This permission included the provision of a 3,250m² B1/B8 development on the site of the currently proposed office development.

3. CONSULTATIONS

3.1 **Boxley Parish Council:** Have noted the submission of the application and do not wish to comment.

3.2 **Natural England (02/03/2010):** Commented in respect of protected species as follows;

Bats: Natural England is satisfied that the survey information provided by the applicants suggests that no bats are present with the application site. Consequently, we have no comments to make in relation to these species at present.

Great crested newts: Natural England is satisfied that the survey information provided by the applicants suggests that no great crested newts are present within the application site or any pond within 500 metres of the site. Consequently, we have no comments to make in relation to these species at present.

Widespread reptiles: Natural England is satisfied that the survey information provided by the applicants demonstrates that no widespread reptiles are utilising features within the application site that are to be affected by the proposals.

Water vole: Natural England would like to recommend that you consult the Environment Agency with regard to potential impacts on water voles and their habitats by the proposed development.'

3.3 **Environment Agency (19/04/2010):**

'We have no objection to the development provided the following conditions are implemented.

This site lies on the Hythe formation, which is classified as a principal aquifer in the Groundwater Protection: Policy and Practice. This site does not lie in a Source Protection Zone (SPZ).

Surface Drainage

If the applicant proposes to use soakaway then the following informatives applies.

The use of shallow soakaways in the Hythe Beds are not recommended as they can promote instability of the geology via washout of the sandier horizons, leading to the opening and enlargement of fissures within the Hythe Beds, and subsequent collapse.

There must be no discharge into land impacted by contamination or land previously identified as being contaminated. There must be no direct discharge to groundwater, a controlled water. There must be no discharge to made ground.

Only clean uncontaminated water should drain to the surface water system. Roof water shall discharge direct to soakaway via a sealed down pipes (capable of preventing accidental/unauthorised discharge of contaminated liquid into the soakaway) without passing through either trapped gullies or interceptors. Open gullies should not be used.

Prior to being discharged into any soakaway system, all surface water drainage from parking areas, roads and hardstanding areas shall be passed through trapped gullies to BS 5911:1982, with an overall capacity compatible with the site being drained.

Foul Drainage

All foul must be discharged to main sewer as stated on the application form.

Land contamination

Condition

If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until the developer has submitted, and obtained written approval from the LPA, details of how this unsuspected contamination shall be dealt with.

Reason

To ensure that any risks relating to contamination discovered during development are dealt with appropriately as required under PPS23: Planning and Pollution Control.

Fuel/Chemical Storage

Care should be taken during and after construction to ensure that all fuels, oils and any other potentially contaminating materials should be stored (for example in bunded areas secured from public access) so as to prevent accidental/ unauthorised discharge to ground. The area's for storage should not drain to any surface water system.

Where it is proposed to store more than 200 litres (45 gallon drum = 205litres) of any type of oil on site it must be stored in accordance with the Control of Pollution (Oil Storage) (England) Regulations 2001. Drums and barrels can be kept in drip trays if the drip tray is capable of retaining 25% of the total capacity of all oil stored.

Flood Risk

Recent hydraulic modelling undertaken on the River Len suggests that the 1 in 100 year 20% climate change predicted flood level for the site is 10.8 metres above Ordnance Datum Newlyn (maODN). The proposed buildings are therefore situated outside of the high probability flood risk area.

Under the terms of the Water Resources Act 1991, and the Southern Region Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of the River Len designated a 'main river'. The proposed surface water outfall and bridge will therefore require consent, in addition to the benefit of planning permission. For information, the soffit level of the bridge should be at least 300 - 600mm above the predicted flood level of 10.8maODN in order to ensure there is no obstruction to flood flows.'

3.4 **English Heritage (11/03/2010):** Do not wish to comment on the application and recommend that the application is determined on the basis of national and local policy guidance and the Council's own specialist conservation advice.

3.5 **KCC Heritage Conservation (26/03/2010):** Commented as follows

'The Turkey Mill complex is a site of industrial archaeological interest. The site of the application also lies on or immediately adjacent to a World War II anti tank trap, which probably takes the form of a series of ditches. Archaeological remains could be encountered during the proposed groundworks and I advise that the following condition be applied to any forthcoming consent:

No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.'

3.6 **Kent Highway Services (07/04/2010):**

'The application comprises a new day nursery and a separate application has been submitted for an office development on this site (application number MA/10/0283). A

Transport Assessment has been prepared which indicates that the traffic generated by these combined applications is likely to be in the region of 91 additional two way trips during the morning peak hour and 79 additional trips in the evening peak hour.

There is an extant permission on the site for 3252m² of B1 use which was expected to generate 66 two way trips in the morning peak hour and 53 trips in the evening peak hour. The new applications would lead to an estimated increase in vehicle movements of 25 two way trips during the morning peak hour and 26 in the evening peak hour, over and above that expected from the previously approved 1991 B1 application.

Access to the site is via a ghosted right turn junction of the A20 Ashford Road. A capacity assessment has been completed which indicates that the traffic generated by the proposed B1 office use and the day nursery can be adequately accommodated in the 2016 design year.

Parking at the site is in line with the Kent & Medway Vehicle Parking Standards which is acceptable.'

A number of conditions and informatives are suggested.

3.7 **Kent Wildlife Trust (29/03/2010):**

'The River Len passing through the application site falls within the recently designated (April 2009) Mote Park & River Len Local Wildlife Site - LWS, MA61. The citation for the Site refers to the "rich bank flora" of the river and confirms records of water vole and the white-legged damselfly, amongst other important fauna.

An experienced consultant has carried out the ecological survey of the site and assessment of the development proposals. The Trust has no reason to question the findings and recommendations contained in the report but, given the risk to protected species (for example, bats and water voles) arising from the development, we would urge the Council to test the proposal against the standing advice from Natural England.

The Trust has no objection, in principle, to the development, subject to planning conditions being used to secure the completion of avoidance, mitigation, compensation and enhancement measures recommended in the ecology and a complementary landscape appraisal report.

Given the LWS designation, the Council should also require, by condition or agreement, the submission of a fully-funded Ecological Enhancement and Management Plan that confirms where, when and what features will be provided at the site to achieve the declared aim of enhancing biodiversity and to act as a buffer to the River Len and the Len Valley LNR. The Plan should comply with the principles set down in the ecological and landscape appraisal reports.

We would expect the Plan to incorporate, amongst other measures:

- sustainable urban drainage features,
- management prescriptions for the existing hedgerow on the west boundary of the site,

- management prescriptions for the long grassland and riparian vegetation along the river banks,
- arrangements to mitigate the harmful effects of illumination at the site (buildings, access roads and parking areas),
- measures to ensure there is no disturbance to cold water and headwater species (including, potentially, the glacial relic species *Apatania muleibris*) at the point of issue of the spring, and
- a generous provision of bat and bird boxes.

The Plan should be responsive to the results of periodic key habitat and species monitoring.'

3.8 **Southern Water (24/02/2010):**

Have identified a public sewer lying close to the site and have stated that no development or tree planting should take place within the 3m of the centre line of the sewer. They has requested a condition be imposed on any permission requesting details of measures to protect the public sewer during the course of development.

They have indicated that they can provide foul sewage disposal to service the proposed development. They have advised that a formal application for connection to the sewer must be made and have provided contact details to be used as an informative to the applicant to this effect. They have also commented on the intention to use a SUDS based surface water drainage system and the need to ensure that this is properly designed and then managed and maintained to ensure no flooding problems occur. They recommend a condition is imposed requiring that details of foul and surface water drainage are submitted and approved before the development commences.

3.9 **EDF Energy (08/03/2010):** No objections

3.10 **MBC Conservation Officer:**

Has no objections to the proposals in terms of the setting of the nearby listed buildings within the site or the adjacent registered historic park. No objections are raised to the design of the proposed building which has been amended to overcome concerns expressed prior to the submission of the application.

3.11 **MBC Environmental Health (25/03/2010):**

'The site is about 50m from a local railway line and a similar distance from the nearest residences. The Turkey Mill Estate is a business park predominated by offices and light industry. I do not consider that this proposal is likely to impact negatively on the amenity of local residents. I note that the location was originally part of a paper mill business and although maps show the main buildings etc associated with the paper mill to be approximately 100m to the East of the proposed nursery location, there will be a vulnerable group of receptors (i.e. young children) on site, so I think it prudent that a contaminated land condition should be set. If the nursery will be providing food for the

children they will need to contact Environmental Health's Food-Health & Safety Team at least 28 days before they open for business.'

No objections subject to the imposition of a land contamination condition and the following informatives

'You are required to register your food business establishment with the Local Authority at least 28 days before food business operations commence, by virtue of Regulation (EC) 852/2004 on the hygiene of foodstuffs.

Prior to use, the Environmental Health Manager should be contacted to ensure compliance with the Food Safety Act 1990 and all relevant statutes.

Prior to use, Environmental Health should be contacted to ensure compliance with the Health and Safety at Work etc. Act 1974 and all relevant statutes.'

3.12 MBC Landscape Officer (19/03/2010): Commented as follows

'The site where the proposed Day Nursery is to be located is currently a car park in which there are a number of young mature Ash and Lime trees forming an avenue. It is shown on the proposed site plan that 4 trees will be removed at the western part of the existing car park, along with a number other young trees in the adjacent grassland which are to be transplanted. Given their size and location, it is fair to say that the removal of these trees would not pose a constraint to the proposed development.

Recommendation: It is, therefore, recommended that on landscape/arboricultural grounds the application should be **APPROVED** with the following conditions.

Conditions

Where it is proposed to transplant any trees an arboricultural method statement should be provided stating how they will be removed from their current location and relocated. A detailed tree establishment programme should also be submitted providing information regarding ground preparation, future management and maintenance; the purpose of which is to ensure that the transplanted trees are successfully retained.

A Landscaping scheme should be submitted using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines.

Where any excavations are likely to be carried within the root protection area of retained trees, an arboricultural method statement is required, stating necessary measures required to ensure no unnecessary damage occurs to the retained trees. The method statement should identify whether any remedial work to the trees will have to be carried out prior to the commencement of the works, how the existing surface will be removed and, if any roots are encountered, how they will be severed so that the tree will not be harmed in any way. Any works to trees must be carried out by a suitable qualified arboriculturalist.'

4. REPRESENTATIONS

- 4.1 **Cllr English** has requested that the application is reported to the Planning Committee on the grounds that;
'The scale, form and design of the development will need careful consideration due to its sensitive location.'
- 4.2 Eight letters of representation have been received. Objections are raised on the following (summarised) grounds.
- Increased traffic on to the junction with the A20 and loss of visitors parking within the site
 - Unacceptable visual impact arising from the car parking and new building on the occupiers of properties in Blythe Road
 - Increased noise and disturbance
 - Loss of a pleasant walk along the River Len
 - If granted no further development should be allowed west of the proposed site and the existing car park should be further screened by tree planting

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site is located within the Turkey Mill Business Park located on the south side of Ashford Road. The Business Park amounts to approximately 8.4ha in area and comprises some 11,667m² of business and conference facilities with a further 704m² floorspace of D1 medical/dental consultancies and a cafe/sandwich bar. The site lies between the Maidstone East to Ashford railway which forms its northern boundary and Mote Park which forms its southern boundary which is delineated by a 2m high ragstone wall.
- 5.1.2 Access to the site is gained from the A20 Ashford Road under the existing Grade II listed railway viaduct. The former mill owner's house (now in use as offices) located at the eastern end of the site and complex of buildings is Grade II* listed and the adjacent drying loft and industrial buildings are Grade II Listed. All other buildings within the site that pre-date 1 July 1948 are listed by virtue of their status as curtilage buildings. The River Len runs from east to west roughly through the centre of the site. The land either side of the river, to its north and south, rises steeply.
- 5.1.3 There are a variety of buildings within the site of differing styles and sizes. The most recent is Tolhurst Court, completed in approximately 2005. This is located on the north bank of the River Len and has car parking to the front (south) and rear (north) of it.

- 5.1.4 The main part of the site is a designated Employment Area under policy ED2 of the Maidstone Borough-wide Local Plan (MBWLP) 2000. The western part of the site lies within an Area of Local Landscape Importance subject to policy ENV35 of the MBWLP 2000. The entire complex is located within the defined urban area of Maidstone. The site also forms part of the Mote Park & River Len Local Wildlife Site designated in April 2009. The area to the west of the Business Park is a Local Nature Reserve.
- 5.1.5 The site of the nursery lies outside the designated employment site but within the indicated area of the ALLI.
- 5.1.6 The nearest residential dwellings are located in Blythe Road (nos. 41 and 43) approximately 100m south west of the proposed nursery building, their rear gardens drop down to the River Len. The dwellings in Blythe Road are located on higher ground than the site and are visible from it.

5.2 Proposal

- 5.2.1 The application is a full application and seeks permission for the erection of a day nursery. The nursery building would be located some 30m west of the existing office building 'Tolhurst Court' on the north side of the Len Valley. The application is not speculative it has been designed to be operated by 'Kids Unlimited'. It would accommodate 88 pre-school children with an initial staffing level of 8-10 full-time equivalent staff rising ultimately to 25 full time equivalent posts. The nursery would operate from 7:30am to 6:30pm.
- 5.2.2 The proposed building amounts to some 624m² in area with accommodation over two floor levels cutting into and utilising the existing slope/banking on the site. It would be 7.7m high at its tallest point. The roof is split at the ridge to allow high level natural lighting and ventilation to the first floor corridor. It has an eaves height of 5.5m. The building would be a maximum of some 14.4m in width and 23.1m (maximum) in length.
- 5.2.3 Externally, the building would be partly white rendered with extensive areas of pre-treated timber faced cladding panels and would utilise powder coated aluminium doors and windows. The roof and eaves would be metal.
- 5.2.4 Three external play areas are to be provided. Area 1 immediately to the north of and at the same floor level as the building would be used by babies attending the nursery this would be surfaced with artificial grass. Area 2 would be located on the western side of the building also at the same level as the building. Area 3 would be located on higher ground to the north of the building and accessed by two bridges on the north side of the building. This area would be between 2.5m and 3m higher than the ground floor level of the building and would comprise a mixture of grass and safety surfacing as would Area 2.

- 5.2.5 The majority of the car parking (11 spaces) and a drop-off zone for the nursery would be located immediately to the east of the building adjacent to Tolhurst Court. This area would be block paved. Staff car parking would be located in an extension to the existing car park that is situated to the north of Tolhurst Court.
- 5.2.6 A detailed wider landscape and biodiversity enhancement scheme for the site has been submitted as part of both current applications on the site. The strong existing hedge-line that forms the boundary of the site with the Local Nature Reserve (LNR) is to be retained north and south of the river.
- 5.2.7 North of the river adjacent to the nursery there would be areas of substantial planting introduced to the west and south west of the nursery to provide screening and additional security from the nature reserve to the west. The northern play area would also be screened by planting. The existing grass areas would be managed to create a varying height sward.
- 5.2.8 The application was accompanied by a design and access statement, a planning statement, a flood risk assessment, a tree survey, a landscape appraisal, ecological assessment and a transport statement. Also submitted as part of the application is a detailed landscape strategy that also relates to the application seeking permission for a new office building on the south side of the river valley (application MA/10/0283).

5.3 Principle of Development

- 5.3.1 As stated earlier, the site is located in the defined urban area of Maidstone. However, it is acknowledged that the proposed building is located outside the designated employment area within the Turkey Mill site and that it is located within a designated ALLI. It is for these reasons that the application has been advertised as departure from the Development Plan.
- 5.3.2 The proposed use can be considered as a form of economic development within the definition contained within PPS4 as it is employment generating creating 8-10 full time equivalent staff when operations start increasing up to 25 full-time equivalent staff when fully operational and as a type of public or community use. I also consider that the proposed use is a use which would compliment the existing businesses on the Turkey Mill estate and could provide child-care opportunities for workers within the estate.
- 5.3.3 This should however be balanced against the fact that the site is in an ALLI and outside the designated employment site.
- 5.3.4 Development in an ALLI is not precluded by Policy ENV35 of the Borough-wide Local Plan 2000, but any development that takes place should maintain its

character and landscape. Tolhurst Court and the grassed valley-side slopes to its west where the nursery would be sited are clearly visible from properties in Blythe Road (100m to the south west) and also from within Mote Park. The proposed development would also be visible from the properties in Blythe Road and Mote Park.

5.3.5 The proposed development will reduce some of the current openness of this part of the Turkey Mill Estate. However, it has been designed to fit into the existing topography of the site and would be approximately 2.3m lower in terms of ridge height and sited 1.75m lower down the valley side than Tolhurst Court to its east thus in my view reducing its visual impact to an acceptable level. It is also considerably shorter than Tolhurst Court. The building would sit below the top of the existing valley slope and the background of the boundary planting along the Ashford Road and railway line. There would also still be open areas maintained around the building and these would be landscaped and managed in the interests of enhancing ecology and biodiversity on the site.

5.3.6 Therefore, whilst clearly more built development will be introduced onto the site and the overall openness reduced, I do not consider that the development would cause unacceptable harm to the character and appearance of the ALLI, a designation which 'washes over' the majority of the existing Business Park and buildings within it.

5.3.7 On balance therefore, I raise no objections to the development of a day nursery on the site.

5.4 Visual Impact

5.4.1 The proposed building would be located on the north side of the Len Valley. It would be 30m from the existing Tolhurst Court building. Tolhurst Court is approximately 10m in height to the ridge and has a finished floor level of approximately 14.75mAOD and is approximately 55m in overall length. This compares to the proposed nursery building being 7.7m to ridge and at a finished floor level of 13.0m AOD. The currently proposed nursery building is therefore sited approximately 1.75m lower down the valley side and is 2.3m lower in overall height resulting in a difference overall of some 4.05m compared to the highest point of Tolhurst Court. The proposed building is also approximately 31m shorter than Tolhurst Court at 23.1m in length.

5.4.2 Whilst the nursery would be visible from properties in Blythe Road and from within the confines of Mote Park, I do not consider that it would be as visually dominant as Tolhurst Court due to its lower ridge height, shorter length and lower position on the valley side. The proposed landscaping to its west and south west sides and additional tree planting in the existing car park area to the south of the building will serve to further reduce the visual impact of the building.

- 5.4.3 As stated above, the building would be within a landscaped setting and would not in my view cause unacceptable harm to the character of this part of the site or the ALLI as a whole.
- 5.4.4 I also consider the design of the proposed building to be acceptable. It is a building varied in form with mono-pitched roof sections split at the ridge, eaves overhangs and a varied use of the proposed timber cladding, render and glazing on the elevations to provide visual interest. The building would compliment and not directly conflict with existing development elsewhere on the estate.
- 5.4.5 Members will be aware that neither the Conservation Officer nor English Heritage have raised objections to the proposals in terms of the impact of the development on the setting of the listed buildings within the site. I concur with this assessment.

5.5 Residential Amenity

- 5.5.1 The proposed building is located approximately 100m north east of the nearest dwellings in Blythe Road to the south west. It is noted that their rear gardens run down to the river bank. The dwellings in Blythe Road are at a higher level than the site and the proposed building will be visible from them. However, in my view, given the separation distance and the differences in levels no unacceptable loss of privacy or disturbance will occur. The proposed screening and additional tree planting to the car park will further reduce the visual impact of the building as they mature. I do not consider therefore that the development will result in an unacceptable impact on residential amenity.

5.6 Highways

- 5.6.1 Kent Highway Services have considered the Transport Assessment submitted with the application and assessed the highway implications of the proposal. As can be seen from paragraph 3.6 earlier in the report, no objections are raised from a highway point of view to the impact of the traffic likely to be generated by the proposal on the adjacent highway network or in relation to the capacity of the junction of the site access road with the A20 Ashford Road. Kent Highway Services have raised no objections to the parking provision.
- 5.6.2 The nursery building is to be provided with a total of 30 spaces at ratio of 1space/member of staff and 1space/4 children in line with KCC parking standards as there is no equivalent in PPG13. I have sought to reduce the level of car parking provision but the applicants have reiterated their wish to retain currently proposed levels for operational reasons.

- 5.6.3 Notwithstanding this however, the parking proposed is sensitively sited and located between the proposed nursery and Tolhurst Court with staff parking to the rear of Tolhurst Court as an extension to the existing car park in that area. The proposed parking adjacent to the building as well as the existing car park, would be screened by proposed additional planting west and south of the building.
- 5.6.4 The development is also below the threshold where a Travel Plan is sought as a matter of course. However it is considered that the applicants should be advised to contact KCC Sustainable Travel Planning team with a view to developing a Travel Plan for the estate as a whole.

5.7 Landscaping and Ecology

- 5.7.1 As Members will have noted from earlier in the report, the ecological and landscape implications of the proposal have been subject to full assessment as part of the application. The ecological appraisal submitted with the application identifies the day nursery site currently as 'amenity grassland' with dispersed broadleaved trees. It is closely mown and offers little in terms of ecology or biodiversity.
- 5.7.2 A fully detailed Landscape Strategy has been submitted in respect of both current applications. This has been amended to take into account objections relating to the impact of the development on the biodiversity/ecology of the river and the existing springs etc. that pass through the site.
- 5.7.3 As stated earlier, north of the River Len extensive buffer planting will be introduced between the LNR and the proposed nursery and around the play area to the north. I consider that to emulate the existing planting within the LNR to the west that this buffer should be predominantly planted with hawthorn. The remaining existing 'amenity grassland' on the site will be managed to create a varying height sward. This will improve the ecological and biodiversity potential of the grassland from its current closely mown state. Existing tree planting in the existing car park on the north bank of the river will be extended.
- 5.7.4 The applicants are also proposing to install bird and bat boxes around the site as further enhancement.
- 5.7.5 Subject to appropriate conditions relating to the detailing of the proposals, I consider that the proposed landscape strategy has the potential to enhance the site and the biodiversity within it.

5.8 Flood Risk

- 5.8.1 The application was accompanied by a Flood Risk Assessment assessing the impact of a potential 1 in 100 year flood event allowing an additional 20% for climate change. The Flood Risk Assessment which has been accepted by the Environment Agency shows that the flood for a 1 in 100 year +20% for Climate Change event would be at 10.54mAOD. The finished floor level of the nursery would be at 13.0mAOD. This effectively renders the development outside Flood Zone 3 and into Flood Zone 1. In terms of Flood Risk therefore, I raise no objections to the proposals.
- 5.8.2 Another area of concern has been the impact of potential inundation from a breach of the dam at Mote Park Lake. The site of the nursery does lie within the indicative area advised by the Environment Agency that would be potentially affected by a breach, in common with much of the existing Turkey Mill site.
- 5.8.3 Given this fact, discussions have taken place between the applicants, the Council, the Environment Agency and KCC Emergency Planning. The likelihood of a breach is remote and furthermore, I can advise Members that levels are within the Mote Park Lake are constantly monitored by telemetry that sends automatic warnings if lake levels rise beyond a certain point, thus enabling sufficient warning of potential problems to be given. There are also proposals to undertake further work within Mote Park to reinstate an existing spillway and to raise land levels where there are currently dips in the embankment between Mote Park and Turkey Mill. The management of the Turkey Mill Estate are also signed-up to the Environment Agency's early warning flood system and have an internal emergency contact system for tenants within the estate.
- 5.8.4 Despite the remote risk of a breach and the early warning systems currently in place, it is nevertheless considered expedient to recommend a condition requiring the submission of an evacuation management plan for the nursery in the unlikely event of a threatened breach of the dam.

6. CONCLUSION

- 6.1 I consider the proposed development to be acceptable in terms of its principle as a form of economic development located adjacent to an allocated employment site and as a use which as well as providing employment opportunities in its own right, will compliment existing businesses within the estate. This should however be balanced against the fact that the site is in an ALLI and outside the designated employment site.
- 6.2 Tolhurst Court and the grassed slopes to its west where the nursery would be sited are clearly visible from properties in Blythe Road (100m to the south west) and also from within Mote Park. The proposed development would also be visible from the properties in Blythe Road. Development in an ALLI is not precluded by

Policy ENV35 of the Borough-wide Local Plan 2000, but any development that takes place should maintain its character and landscape.

- 6.3 The proposed development has been designed to fit into the existing topography of the site and would be approximately 2.3m lower in terms of ridge height and sited 1.75m lower down the valley side than Tolhurst Court to its east thus in my view reducing its visual impact to an acceptable level. It is also considerably shorter than Tolhurst Court. The building would sit below the top of the existing valley slope and the background of the boundary planting along the Ashford Road and railway line. There would also still be open areas maintained around the building and these would be landscaped and managed in the interests of enhancing ecology and biodiversity on the site. I do not consider therefore that despite the loss of some of the existing openness of the land to the west of Tolhurst Court, the development would not unacceptably harm the character and appearance of the ALLI, a designation which 'washes over' the majority of the designated employment site and existing Business Park.
- 6.4 The design of the building and layout of the site as proposed is also acceptable. There are no highway objections relating to the development.
- 6.5 Subject to appropriate safeguarding conditions I consider the following recommendation to be appropriate.

6 RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

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

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

2. The development shall not commence until, 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 pursuant to the advice in PPS1.

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

Reason: No such details have been submitted and to ensure a satisfactory appearance to the scheme pursuant to policies ENV6 and ENV35 of the Maidstone Borough-wide Local Plan 2000.

4. 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 building(s) 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 pursuant to policies ENV6 and ENV35 of the Maidstone Borough-wide Local Plan 2000..

5. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development pursuant to policies ENV6 and ENV35 of the Maidstone Borough-wide Local Plan 2000.

6. Notwithstanding the details shown on Landscape Strategy drawing 030revE received 06/07/2010, Landscape Appraisal revD and the Biodiversity Enhancement Statement received 14/05/2010, the development shall not be commenced until a more detailed landscape management plan in conjunction with the details submitted pursuant to condition 3 above, including long- term design objectives, management

responsibilities and maintenance schedules for all landscaped areas adjacent to the river and River Len Local Nature Reserve and within the site, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

The scheme shall include the following elements:

- (i) The detailed extent and type of new planting (with planting to be of native species of local provenance)
- (ii) The extent of non-native tree removal
- (iii) Details of maintenance regimes
- (iv) Details of any new habitat created on site
- (v) Details of biodiversity enhancement measures such as bird and bat boxes
- (vi) Details of the location and extent within the site of a proportion of the cord wood arising from felled trees
- (vii) The use of predominantly hawthorn for the tree and shrub boundary screening to the western boundary of the day nursery
- (viii) An arboricultural method statement if excavation works are to be undertaken within the root protection areas of any retained trees stating the methods that will be used to avoid unnecessary damage to the trees. The method statement should identify whether any remedial works to the trees will have to be carried out prior to commencement of the works, how the existing surface will be removed and, if any roots are encountered how they will be severed so that the trees will not be harmed in any way. Any works to the trees must be carried out by a suitably qualified arboriculturalist
- (ix) An arboricultural method statement for any trees that are to be transplanted stating how they will be removed from their current location and relocated

Reason: To ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site pursuant to the advice in PPS9.

7. 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 pursuant to policy T13 of the Maidstone Borough-wide Local Plan 2000.

8. The development shall not commence until, the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded pursuant to the advice in PPS5

9. The finished floor level of the ground floor of the building hereby permitted shall not be lower than 13.00mAOD Newlyn.

Reason: To ensure adequate protection from identified flood risk levels for a 1 in 100 year +20% for climate change flood event pursuant to the advice in PPS25.

10. The development shall not commence until;

1. The application site has been subjected to a detailed scheme for the investigation and recording of site contamination and a report has been submitted to and approved by the Local planning authority. The investigation strategy shall be based upon relevant information discovered by a desk study. The report shall include a risk assessment and detail how site monitoring during decontamination shall be carried out. The site investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology and these details recorded.

2. Detailed proposals in line with current best practice for removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') have been submitted to and approved by the Local Planning Authority. The Contamination Proposals shall detail sources of best practice employed.

3. Approved remediation works have been carried out in full on site under a Quality Assurance scheme to demonstrate compliance with the proposed methodology. If, during any works, contamination is identified which has not previously been identified additional Contamination Proposals shall be submitted to and approved by, the local planning authority.

4. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved methodology. The closure report shall 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;

Reason: To prevent harm to human health and pollution of the environment pursuant to the advice in PPS23.

11. The day nursery building hereby permitted shall achieve a minimum BREEAM Education rating of at least Very Good. No part of the day nursery building shall be occupied until a final certificate has been issued for it certifying that a BREEAM Education rating of at least Very Good has been achieved.

Reason: To ensure a sustainable and energy efficient form of development in accordance with Kent Design and PPS1.

12. The development shall not commence until, details in the form of large scale drawings (at a scale of 1:20 or 1:50) of the following matters have been submitted to and approved by the Local Planning Authority;

- i) Details of the roof overhangs and eaves.
- ii) Details of windows and doors and recesses/reveals
- iii) Details of the junction between the rendered areas, timber cladding and glazing

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.

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

Reason: In the interest of pollution and flood prevention pursuant to the advice in PPS25 and biodiversity pursuant to the advice in PPS9.

14. The building hereby permitted shall not be occupied until a detailed evacuation plan for the building in the event of a notified imminent breach of Mote Park Lake (which is categorised as a reservoir under the provisions of the Reservoirs Act 1975) has been submitted to and approved by the local planning authority in consultation with the Environment Agency and Kent County Council Emergency Planning. The submitted plan shall include details of emergency contacts and alerting arrangements for the occupiers of the building and shall once approved, be updated

at each time the occupancy of the building changes or in accordance with such time period as required by the Council in consultation with the Environment Agency and Kent County Council Emergency Planning.

Reason: In the interests of the safety of the occupiers of the building and in compliance with the responsibility upon Kent County Council, as required by DEFRA and the Civil Contingencies Secretariat (under the Civil Contingencies Act, 2004) to develop off-site emergency plans for water bodies categorised as reservoirs under the Reservoirs Act 1975.

Informatives set out below

You are recommended to contact the Kent County Council Sustainable Transport Team (tel. 01622 696819 or 01622 696914) with a view to the joint preparation of a Travel Plan for the Turkey Mill Business Park.

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.

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.

The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Atkins Ltd. Anglo St James House, 39A, Southgate Street, Winchester SO23 9EH (tel 01962 858688) or via www.southernwater.co.uk

The proposed development is not in accordance with the policies of the Maidstone Borough-Wide Local Plan 2000. However, the development, subject to the conditions stated, is considered to comply with Government guidance contained within PPS4: Planning for Sustainable Economic Growth and which is considered to represent circumstances that outweigh the existing policies in the Development Plan. It is also considered that the development would not cause unacceptable harm to the character and appearance of the Area of Local Landscape Importance in which the site is situated and there are no overriding material considerations to indicate a refusal of planning consent.