

## REPORT SUMMARY

<b>REFERENCE NO:</b> 22/504747/FULL		
<b>APPLICATION PROPOSAL:</b> Erection of 4 residential dwellings with associated access, parking and landscaping (Re-sub of 21/503821/FULL).		
<b>ADDRESS:</b> Land rear of The Taj Of Kent, Church Green, Marden, Kent		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> The development is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Marden Parish Council have requested application is considered by Planning Committee if Officers are minded to approve application. This request is made for the reasons outlined in the consultation section below.		
<b>WARD:</b> Marden & Yalding	<b>PARISH:</b> Marden	<b>APPLICANT:</b> Oast Investments <b>AGENT:</b> Freeths LLP
<b>CASE OFFICER:</b> Kate Altieri	<b>VALIDATION DATE:</b> 29/09/22	<b>DECISION DUE DATE:</b> 19/12/22
<b>ADVERTISED AS A DEPARTURE:</b> NO		

## RELEVANT PLANNING HISTORY

- 21/503821 – Erection of 6 dwellings – Refused for following (summarised) reasons:
  1. *Proposal, by virtue of its appearance, layout & scale, would result in harm to character, appearance and significance of Marden Conservation Area and grade II listed buildings (Church Green Cottts.). This harm is not outweighed by any public benefits and proposal is contrary to policies DM1, DM4 & SP18 of Local Plan; policies NE3 & BE1 of Marden NP; and paras 189, 199, 200, 202 of NPPF.*
  2. *Submission failed to demonstrate future residential occupants of site would not be adversely impacted upon in terms of odours from adjacent abattoir. Proposal would therefore be contrary to policy DM1 of Local Plan; policy BE2 of the Marden NP; and aims of NPPF (incl. para 130).*
  3. *Submission failed to demonstrate acceptability of proposal in relation to highway safety. This would be contrary to aims of policies DM1 and DM21 of Local Plan; and para 111 of NPPF.*
  4. *Submission failed to demonstrate protected species would not be adversely impacted upon as a result of proposal. This is contrary to policies DM1 & DM3 of Local Plan; policy NE4 of Marden NP; Para 99 of Govt. Circular (ODPM 06/2005); Natural England Standing Advice; and paragraph 174 of NPPF.*
- 19/502689 – Pre-app: Proposed office block – Officer views were negative towards proposal
- 15/503611 – (outline) Erection of building (260m<sup>2</sup> of B1 use on ground floor level with potential mezzanine): Access, layout & scale sought – Refused (dismissed at appeal)
- MA/12/0551 – 8 dwellings: occupation for over 55yrs (access & scale considered) - Refused
- MA/11/0773 – 8 dwellings: occupation for over 55yrs (access & scale considered) - Refused

## 1.0 DESCRIPTION OF SITE

- 1.01 The proposal site relates to an irregular shaped parcel of land located on the northern side of Church Green that is currently car parking area and an overgrown area of land. The 'backland' site is accessed via an existing point in between the Taj of Kent and Kent Mart, to the south of the main site; to the north is the railway line; to the east is an abattoir; and to the west is undeveloped land and then a number of residential properties, including 1 and 2 Church Green Cottages that are Grade II listed. For the purposes of the Local Plan the proposal site falls within Marden village (a Rural Service Centre). The site also falls within Marden Conservation Area; an area with archaeological potential; and Flood Zone 1.

## 2.0 PROPOSAL

2.01 The proposal is described as: *Erection of 4 residential dwellings with associated access, parking and landscaping (Resubmission of 21/503821/FULL).*

2.02 The dwellings (2x2-bed and 2x3-bed), would be laid out as a pair of semi-detached units and two detached units, all with garden space to the rear. The dwellings would not stand more than 6.4m in height; and plots 1 and 2 would have a gross internal floor area of some 88.5m<sup>2</sup>, with plots 3 and 4 measuring some 115m<sup>2</sup>.

2.03 The proposal would provide eight onsite parking spaces; and vehicle access for the proposal would be via an existing access to the side of the Taj of Kent. The external materials palette for the units is shown as follows:

- Plain clay roof tiles and tile hanging
- Weatherboarding (painted white)
- Facing brick plinth
- Dark metal clad dormer windows and Conservation style rooflights
- Timber framed window casements
- Permeable block paving

2.04 For comparison, please see the proposed layouts and elevations for this current proposal and the scheme refused under 21/503821:



### 3.0 POLICY AND OTHER CONSIDERATIONS

- Local Plan (2017): SS1, SP5, SP9, SP18, SP19, SP23, DM1, DM2, DM4, DM5, DM6, DM8, DM12, DM21, DM23
- Marden Neighbourhood Plan (2017-2031)
- Landscape Character Assessment (2013) & Supplement (2012)
- Landscape Capacity Study: Sensitivity Assessment (2015)
- National Planning Policy Framework (2021) & National Planning Practice Guidance
- Building for Life 12 (2018)
- Regulation 22 of emerging Local Plan: LPRSP6; LPRSP6(E); LPRSP10; LPRSP14; LPRSP14(A); LPRSP14(B); LPRSP14(C); LPRSP15; LPRTRA2; LPRTRA4; LPRENV1; LPRQ&D1; LPRQ&D2; LPRQ&D4; LPRQ&D6; and LPRQ&D7.

#### Local Plan

- 3.01 Outside the Maidstone urban area, which is the most sustainable settlement in the hierarchy, the second tier of rural service centres (RSCs) can accommodate limited growth. Indeed, Local Plan policy SP5 stipulates that the Council will focus new housing development within RSCs when it is (inter alia): *Minor development such as infilling.*
- 3.02 Furthermore, Local Plan policies seek high quality design to ensure that new development (inter alia): does not result in harm to the character and appearance of the area; respects the amenity local residents and future occupants; is acceptable in highway safety terms; it protects and enhances any on-site biodiversity features where appropriate or provides sufficient mitigation measures; and it is acceptable in flood risk and heritage terms. Part of the application site also appears to be previously developed land.

#### Marden Neighbourhood Plan (2017-2031)

- 3.03 The Marden Neighbourhood Plan is adopted and is part of the Council's Development Plan. It seeks new development (inter alia): To be designed to integrate into their surroundings in the landscape, and contribute positively to the conservation and enhancement of that landscape; to provide a biodiversity net gain; to incorporate appropriate additional landscaping; to respect residential amenity; and to be based upon the principles of sustainable construction. Furthermore, policy BE1 (Local Character) states:

*Development proposals should be designed to protect fabric and setting of any designated and non-designated heritage asset and respect and enhance existing character of village. New development must be both visually and functionally sympathetic to existing styles and materials, which are illustrated at pages 21/22 in this Plan and also described in the Marden Design Statement (2001), in order to maintain and enhance Marden's sense of place.*

#### Maidstone Landscape Character Assessment & Capacity Study

- 3.04 The Maidstone Landscape Character Assessment identifies most of the application site as falling within the Staplehurst Low Weald (Area 44). The landscape guidelines for this area are to 'CONSERVE'. The Landscape Capacity Study (Jan 2015) has the Staplehurst Low Weald as being assessed as being of 'HIGH' overall landscape sensitivity and 'sensitive to change'.

#### NPPF

- 3.05 The NPPF is clear that good design is a key aspect of sustainable development; and section 12 of the NPPF refers to achieving well-designed places. Section 16 relates to conserving and enhancing the historic environment.

#### Other matters/guidance

- 3.06 Sections 16(2) and 66(1) of the Planning (Listed buildings and Conservation Areas Act) 1990 require the decision maker to have special regard to the desirability of preserving listed buildings, or their setting, or any features of special architectural or historic interest which they possess, must be given.
- 3.07 A Marden Conservation Area appraisal and management plan is not available.

### **Regulation 22 Local Plan**

- 3.08 This is a material consideration, but limited weight is attached to the document because of the stage it has reached, having not yet been the subject of full public examination. Notwithstanding this, it is worth noting that Marden remains a Rural Service Centre in the emerging Local Plan (the secondary focus for housing development); and that minor infilling development is still supported subject to the details of any submitted scheme.

## **4.0 LOCAL REPRESENTATIONS**

- 4.01 **Local Residents:** 3 representations have been received raising following concerns over: Highway safety/traffic generation; ecology; drainage/sewage disposal; residential amenity; building heights not shown on plans; fire safety; refuse collection; repeated applications being submitted; noise; impact upon stone pillar to side of access; and heritage impact.

## **5.0 CONSULTATIONS**

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

- 5.01 **Marden Parish Council:** Wish to see application refused and reported to Planning Committee if officers are minded to recommend approval for the following (summarised) reasons:

*Cllrs recognise some concerns from previous application had been addressed and accept site is sustainable. However, we are concerned about site access and wished to reiterate previous comments:*

*Limited width and height of access would cause problems during construction; and following occupation of site there would be ongoing restrictions for emergency services, removal vehicles and refuse collection. Larger vehicles would not be able to access site directly which will only exacerbate existing parking problems in Church Green area to unacceptable extent and are likely to encourage double parking and/or pavement parking and congestion thus worsening road safety problems.*

*Number of retail establishments including convenience store, fish & chip shop, garage, Indian restaurant and butchers in area already create high level of vehicles parked on road causing blocking and congestion across entrance to site, particularly at lunchtime and early evening. This is exacerbated with pedestrians and vehicles leaving train station. This is contrary to Marden Neighbourhood Plan Policy In3. Access is irredeemable which Cllrs could not see being resolved during construction or occupancy.*

*Concerned where refuse collection would take place and where residents of dwellings would store their refuse bins on collection day. No available space was clear, or indicated, at front of site. There is no mention in Heritage Statement (HS) of mounting block on side wall of convenience store (Kent Mart). Thus contrary to Marden NP Policy BE1. HS does not appear to address issue of archaeological finds which are known to exist; and contrary to Marden NP Policy NE1 as Cllrs felt that due to known surface and ground water issues in area this should be dealt with in application and not left to be conditioned.*

- 5.02 **MBC Conservation Officer:** Raises no heritage objections to proposal (see main report).
- 5.03 **Environmental Protection Team:** Raises no objections to proposal (see main report).
- 5.04 **KCC Highways:** Raises no objections to proposal (see main report).
- 5.05 **KCC Biodiversity Officer:** Raises no objections to proposal (see main report).
- 5.06 **MBC Landscape Officer:** Raises no objections to proposal (see main report).
- 5.07 **KCC Archaeology:** Raise no objection (see main report).
- 5.08 **Historic England:** Advises for local specialist conservation/archaeological advice to be sought.
- 5.09 **Network Rail:** Confirm they have no objections to the proposal.

## 6.0 APPRAISAL

6.01 The key issues are:

- Impact upon character and appearance of area;
- Highway safety matters;
- Residential amenity;
- Biodiversity matters; and
- Other matters.

### **Impact upon character and appearance of area**

6.02 Policy SP18 of the Local Plan relates to the historic environment and requires that inter-alia the characteristics of heritage assets are protected, and design is sensitive to heritage assets and their setting. Policy DM4 of the Local Plan also relates to development affecting designated heritage assets, and requires applicants to ensure that new development affecting heritage assets conserve, and where possible enhance, the significance of the heritage asset.

6.03 The NPPF sets out what should be considered in terms of conserving and enhancing the historic environment. Paragraphs 195, 197 & 199 state:

*Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.*

*In determining applications, local planning authorities should take account of:*

- a) desirability of sustaining and enhancing significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) desirability of new development making positive contribution to local character and distinctiveness.*

*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.*

6.04 The submission is accompanied by a Heritage Statement. This assessment will include consideration of the proposal's impact upon the significance of the near-by listed buildings (Church Green Cottages) and Marden Conservation Area; and will include heritage comments that have been made by the Council's Conservation Officer.

6.05 The streetscene within the vicinity of the site is mixed, with both residential and commercial properties of differing scale, design and age. Furthermore, whilst the buildings in the rear yards are seen within the conservation area, they are primarily modest in terms of scale and size, with the frontage buildings remaining the dominant structures; and the variety of materials, architectural features, and built forms contribute to the character of the surrounding area. The application site itself, is an area of overgrown land to the rear of buildings fronting Church Green.

6.06 It has previously been established that the application site currently makes no significant contribution to the setting of the buildings in this part of the conservation area. Notwithstanding this, any new development here should not adversely alter the current subservient character of the existing development in this yard area, to the detriment of the conservation area.

6.07 It is considered that the amount of development proposed would retain the subservient character of the site, given the scale and layout of the development now proposed. Indeed, the four dwellings would stand less than 6.4m in height from their ridge lines to ground level, with the first floor accommodation within the roof; it is noted that the buildings would not stand taller

than the adjacent abattoir nor Church Green Cottages (listed buildings to west of site); and the low eaves heights (less than 3m from ground level) and the hipped roofs, would further reduce the bulk of the buildings. In addition to this, the level of hardstanding is not considered to be excessive and there is the opportunity for landscape enhancements when compared to the current condition of the site; and the layout allows for a sense of space to be retained within the site, with plot sizes generally reflecting what is in the locality. On this basis, the proposal would no longer represent a cramped form of development on this backland site, and nor would it appear obtrusive in terms of the setting of the conservation area.

6.08 The design and appearance of the dwellings are also considered to be appropriate. Indeed, the dwellings are of a simple and traditional design, and clearly domestic in character (which is considered to be an appropriate approach for this backland site); the dormer windows are well proportioned and sit well within the roofscape; the level of glazing to the front elevations is not considered excessive; and the tile hanging on the flank elevations and the brick plinths would add further interest and quality to the scheme. The suggested external materials and these are the subject of a condition for the dwellings are also considered to be appropriate for the location, and broadly in accordance with the local vernacular (as set out in the Marden Neighbourhood Plan); and details of these would be secured by way of condition. To further safeguard the character and appearance of the area, conditions are also recommended for details of hardsurfacing; hard boundary treatments; landscaping (to be 100% native planting); and to remove the permitted development rights for house extensions, outbuildings and hard boundary treatments.

6.09 There are likely to be public views of the proposal from the site's access and from Pattenden Lane (in between Church Green Cottages and Coronation Villas). However, as the submission has demonstrated (see proposed images below), these would only be glimpsed views and mostly of the tops of a clay tiled roofscape. On this basis, it would be difficult to argue that the proposal would appear harmfully dominant and visually incongruous from any public vantage point.



**VIEW THROUGH SITE ACCESS**



**VIEW FROM PATTENDEN LANE**



**VIEW FROM PATTENDEN LANE**

6.10 The Council's Conservation Officer has also reviewed the submission and has raised no objection in terms of heritage impacts (subject to conditions for details of joinery; conservation roof lights and sample materials). In summary, they have commented as follows:

*Resubmission follows a refusal of permission for 6 dwellings. Revised proposal shows a reduction in dwellings from 6 to 4, the re-siting of dwellings and changes in fenestration. Reduction in dwellings would no doubt provide additional space around new builds and would allow site to appear less cramped. In my previous comments I raised concerns regarding overdevelopment of site and overall scale of each building. This has now been reduced and overcome my earlier concerns. Proposed gardens to front and rear will soften existing hardstanding and enhance character of conservation area (CA).*

*Improvements have been made that reduce overall impact on setting of CA. While development will result in a small degree of harm to setting of Marden CA, the harm has been identified due to the amount of development proposed on a historically undeveloped site, this would be at lower end of less than substantial. There are benefits to scheme in that the softening of hardstanding and addition of trees would enhance character of the conservation area.*

6.11 With everything considered (including the Conservation Officer's specialist comments), it is accepted that the proposal would now cause less than substantial harm (at the lower end) to the setting of Marden Conservation Area. In accordance with paragraph 202 of the NPPF, this harm needs to be weighed against the public benefits of the proposal. There are benefits to the current scheme, in that it would enhance native landscaping on the site, that in turn would enhance the character of the conservation area; and the proposal would provide well designed new housing in a sustainable location. On this basis, it is therefore considered that the public benefits of the proposal would outweigh the low heritage harm identified.

6.12 In terms of the proposal's impact upon surrounding listed buildings, the Conservation Officer has commented as follows (in summary):

*Plot 1 would be sited closer to a listed building than previous refused scheme, nevertheless there would be a substantial gap between two buildings and therefore I do not consider development to harm the setting of Grade II listed Church Green Cottages. Views would be possible of proposal from Pattenden Lane, however as the heritage statement states, these views would remain predominantly unaltered with views of greenery/trees but may feature glimpses of the dwellings traditionally covered clay tile roofs. Proposed materials would be traditional and therefore views of scheme would not appear out of keeping in area.*

6.13 With this considered, the Conservation Officer is satisfied that the proposal would not harm the setting and significance of any listed building, and on the basis of this specialist advice, there is no justifiable reason to object to the proposal on this matter.

6.14 In short, the proposal is considered to be in accordance with the relevant policies within the current Local Plan, the Marden Neighbourhood Plan and the NPPF; and the proposal would no longer cause unacceptable harm to the character, appearance, setting and significance of Marden Conservation Area nor any listed building.

6.15 Please note that the Conservation Officer was previously made aware of the stone mounting block adjacent to side of Kent Mart and they have not raised any specific objection to the proposal in respect of this. Furthermore, the agent has demonstrated that the proposal will not impact this mounting block.

### **Highway safety matters**

6.16 Unlike the previous refusal, this application is now accompanied by a Transport Statement and the current proposal is for one less unit.

6.17 The site will make use of an existing access that currently serves a car park behind The Taj of Kent restaurant. In terms of parking provision, the proposal would provide 8 on-site parking spaces, and this is in accordance with the Local Plan adopted parking standards (including visitor parking provision). Each unit would also benefit from covered and secure bicycle parking provision for 2 bicycles each.

6.18 The Highways Authority have reviewed the application and have raised no objection to the proposal in highway safety matters (as summarised below):

*Site is located in close proximity to public transport and local facilities in Marden and development provides for adequate car and cycle parking. Access is proposed via existing access onto Church Green. Visibility from existing access is restricted by restaurant building to east. Consideration is given to Inspector's comments relating to a previous application (15/503611). Inspector was of view that provision of 9 parking spaces, as proposed, would be unlikely to lead to a significant increase in traffic movements, bearing in mind historic use of car park and sustainable location. Inspector concluded proposal would not result in additional highway hazards. Current application proposes 8 parking spaces and traffic generation of only 2 two way traffic movements in each peak hour. This is not likely to lead to any significant impact on highway safety or congestion and therefore I do not wish to raise objection subject to recommended conditions.*

6.19 It is noted that KCC has not raised any concern with the resulting loss of nine of the existing thirteen parking spaces to the rear of the Taj of Kent.



- 6.20 Paragraph 111 of the NPPF states: *Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.* With everything considered, this development is not considered to result in a 'severe' impact and as such no objection is raised to the application on highway safety grounds, subject to recommended conditions to secure permanent retention of parking spaces and bicycle parking.

### **Residential amenity**

#### Future occupants

- 6.21 The site is in the proximity of an abattoir; railway line; and restaurant. An Odour Assessment has been submitted and the Environmental Protection Officer consider this to be a comprehensive report that establishes that the impact of odours from both the abattoir and the nearby restaurant would be low, and so no objection is now raised to the proposal in this respect. The Environmental Protection Officer have also again raised no objection to the proposal in terms of noise; and in summary, they are satisfied that appropriate mitigation can be secured by way of their recommended condition, that would seek further details to demonstrate that noise levels would conform to the standard identified by the current version of BS:8233 (2014). It is noted that the adjacent abattoir does have a 24hr emergency casualty animal facility. On the basis of this serviced being infrequent, the Environmental Protection Officer confirms that they still raise no objection to the current proposal.
- 6.22 It is also considered that future occupants of the site would benefit from acceptable living conditions, in terms of light, outlook and privacy (both internally and externally); and the proposal complies with the Government's Technical Internal Space Standards. Furthermore, the garden space would be adjacent to each relevant dwelling; there would be external access available to all gardens; and the gardens are considered to be of an acceptable shape and size.

#### Existing residential neighbours

- 6.23 Given the proposed dwellings separation distances from any existing residential property, the submission would not have an adverse impact upon any local resident when enjoying their own property, in terms of light, outlook and appearing overbearing. The new dwellings would also be a significant distance from any residential property; there would only be angled rooflights to the rear roofscape; and no dormer window would directly overlook any immediate private garden area. On this basis, it is accepted that the proposal would not have an adverse impact upon local residents in terms of privacy. By its nature, the proposal would also not have an adverse impact upon the amenity of local residents in terms of general noise and disturbance (including the associated comings and goings of people/vehicles to and from the site).
- 6.24 With all of the above considered, there is no objection to the proposal in residential amenity terms and the proposal is considered to be compliant with Local Plan policy DM1 in this respect.

### **Biodiversity matters**

- 6.25 Paragraph 99 of the ODPM 06/2005 states: *"it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"*.

- 6.26 Unlike before, an Ecological Assessment has now been submitted as part of this application. The Biodiversity Officer has reviewed the submission and has commented as follows (in summary):

*There is potential for bats to be roosting in immediate surroundings, as well as possibility for reptiles to be on-site. However, due to relatively small-scale of development and location of site, precautionary mitigation measures have been proposed. This includes measures such as habitat manipulation during reptile active season and ensuring finished development has a sensitive lighting design. Breeding birds are likely be present in scrub and, therefore, such vegetation should be removed outside breeding bird season. This may conflict with precautionary mitigation for reptiles. As such, we strongly recommend vegetation is removed during Sept/Oct to avoid conflict. To ensure precautionary mitigation measures are enacted, we advise a condition is attached to any granted planning permission.*



6.27 On the basis of this specialist advice, it is considered that the recommended condition is reasonable and it shall be duly imposed. As also recommended, a suitable condition will be imposed regarding any external lighting, that is to be in accordance with the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting'.

6.28 In terms of enhancements, the Biodiversity Officer has commented as follows (in summary):

*Under section 40 of NERC Act (2006), para 174 of NPPF and Environment Act (2021), 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.*

*Our primary concern with this development is that the replacement of ruderal vegetation and scrub with hardstanding, buildings and curtilages would appear to be resulting in a biodiversity net-loss. Use of Defra metric would confirm/refute this. However, without secondary legislation for Environment Act, refusing application on these grounds alone may be difficult to defend. If LPA decide putative loss of biodiversity is acceptable, we advise landscaping consists of native species only and that bird boxes are provisioned.*

6.29 At this time, it is agreed that only refusing the application because it would result in a biodiversity net-loss, would be difficult to defend at this time. There is the opportunity to secure enhancements, such as integrated design methods, small mammal highways, log piles, and native landscaping; and the submitted Ecological Assessment has demonstrated that protected species would not be adversely impacted upon as a result of proposal. As such, and on balance, no objection is raised to the proposal in ecological terms subject to the recommended conditions set out at the end of this report.

#### **Other matters**

6.30 The Landscape Officer has reviewed the submitted arboricultural information and is satisfied that there are no arboricultural grounds to refuse this application, subject to conditions requiring the development to comply with the submitted arboricultural information by Sylvan Arb consultants. The Landscape Officer has also concluded that the proposal would in fact be less intrusive on the retained Horse Chestnut (listed as T1 in Sylvan Arb report), than the scheme most recently refused on the site.

6.31 The KCC Archaeological Officer has confirmed that there are indications of iron working, some of which may be of prehistoric date and some may be Medieval; and that there are indications of Medieval activity around the T-junction just west of the application site. In addition, there is a suggestion that there may be remains of a 19<sup>th</sup> century or earlier building within the application site (possibly for the stabling for horses if the Taj was originally a coaching inn). On this basis, the recommended condition is considered reasonable to ensure that features of archaeological interest are properly examined, recorded, reported and disseminated.

6.32 In accordance with Local Plan policy and to ensure an energy efficient form of development, a condition is recommended requesting details of renewable energies to be incorporated into the development. It is not necessary to secure the provision of operational electric vehicle charging points for low-emission plug-in vehicles, as this is dealt with under building regulations.

6.33 The Environmental Protection Team have also raised no objection to the proposal in terms of air quality and land contamination, subject to a pre-commencement condition relating to contamination. Such a condition is considered reasonable and in the interests of public health. The proposal site is within Flood Zone 1 and there is no objection in terms of flood risk; and surface water and foul sewage will both be disposed of by way of mains sewer. No objection is raised on these matters and no further details are required. In terms of refuse storage/collection, bins would be stored in the garden areas and then brought out by the residents on collection day to be emptied, as seems to be typical in the area. This is not objectionable and no further details are required.

6.34 There are two pre-commencement conditions recommended (relating to archaeology and contamination), and the agent has confirmed their acceptance of these conditions.

- 6.35 The issues raised by Marden Parish Council and local residents have been considered in the assessment of this application. Please note that issues surrounding health and safety are covered under building regulations; the submitted plans do not need to be annotated with measurements as they are to a measurable scale; and the Highways Authority have not requested a construction management plan to be submitted in order to make this proposal acceptable in highway safety terms. Furthermore, the issue of land ownership was raised and in response the agent has amended the site location plan to remove the land in question. This change does not impact the main planning assessment for this application and no further details are required in this respect.
- 6.36 Due regard has also 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 development would not undermine the objectives of the Duty.
- 6.37 The development is CIL liable. The Council adopted a Community Infrastructure Levy in October 2017 and began charging on all CIL liable applications approved on and from 1<sup>st</sup> 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 if planning permission is granted or shortly after.

## **7.0 CONCLUSION**

- 7.01 For the reasons set out above, the application is considered to be acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant; and it has addressed the previous reasons for refusal under 21/503821. A recommendation of approval is therefore made on this basis.

## **8.0 RECOMMENDATION**

- 8.01 **GRANT PLANNING PERMISSION** subject to the following conditions with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

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 hereby permitted shall be carried out in accordance with the following approved plans/documents:

- Drawing references: 18009-P-101; 102; 103 Rev A; 104; 105; 106 Rev A; 107; and 108.
- Tree Removal Plan (ref: CG/TRP/1791-02B); Tree protection Plan (ref: CG/TRP/1791-03-B); Tree Survey Plan (ref: CG/TRP/1791-01); and Arboricultural Report (ref: SA/1791/21-B dated: 10<sup>th</sup> Sept 2022);.
- Ecological Assessment (Greenspace Ecological Solutions - Aug 2022); Environmental Noise Impact Assessment (ADT - Sept 2022); Odour Appraisal (Oast Investments Ltd - Aug 2022); Transport Statement (Oast Investments Ltd - Aug 2022); Planning Statement (Freeths - Sept 2022); and Design and Access Statement (Zuber Dobson Architects - Sept 2022).

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

3. Prior to the commencement of development the applicant, or their agents or successors in title, will secure and implement:
- (i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
  - (ii) further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority;
  - iii programme of post excavation assessment and publication.

Reason: To ensure that features of archaeological interest are properly examined, recorded, reported and disseminated.

4. The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:
- (1) A preliminary risk assessment which has identified:
    - all previous uses
    - potential contaminants associated with those uses
    - a conceptual model of the site indicating sources, pathways and receptors
    - potentially unacceptable risks arising from contamination at the site.
  - (2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - (3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: These details are required prior to the commencement of the development in the interests of public health.

5. 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 remediation method statement, 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.

Reason: In the interests of public health.

6. In accordance with the submitted plans and prior to the commencement of development above damp-proof course level, written details of the materials to be used in the construction of the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the local planning authority. These details shall be:
- (i) Multi-stock brick for building plinths;
  - (ii) Timber weatherboarding (painted white) for external elevations;
  - (iii) Plain clay roof tiles and plain clay hanging tiles; and
  - (iv) Details of zinc cladding for dormer windows (dark grey in colour).

The development shall be constructed using the approved materials and shall be maintained as such thereafter.

Reason: To safeguard the character and appearance of the area that falls within Marden Conservation Area.

7. The development hereby approved shall not commence until, full details of the following matters have been submitted to and approved in writing by the local planning authority:
- (i) New external joinery in the form of large scale drawings; and
  - (ii) Details of Conservation rooflights to be used.

The development shall be carried out in accordance with the approved details and shall be maintained as such thereafter.

Reason: To safeguard the character and appearance of the area that falls within Marden Conservation Area.

8. Prior to the commencement of development above damp-proof course level, details of all fencing, walling and other boundary treatments, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall be maintained as such thereafter.

Reason: To safeguard the character and appearance of the area that falls within Marden Conservation Area; and to safeguard the enjoyment of their properties by existing and prospective occupiers.

9. Prior to the commencement of development above damp-proof course level, details of 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 a programme for the approved scheme's implementation and long-term management, shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be designed using the principle's established in the Council's adopted Landscape Character Assessment (2012) and shall show:
- (i) Location, species, number and size of all new trees, perennials and shrubs to be planted within site;
  - (ii) Provision of new 100% mixed native species hedgerow planting along northern and western boundaries of site;
  - (iii) Provision of 100% native species tree planting (minimum of Standard size);
  - (iv) Details of block paving access road and parking spaces within the site.

Only non-plastic guards shall be used for the new trees and hedgerows and no Sycamore trees shall be planted. The implementation and long term management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned domestic gardens. The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the area that falls within Marden Conservation Area; and in the interests of biodiversity enhancements.

10. The approved landscaping 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 trees or plants, which, within a period of 5 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.

Reason: To safeguard the character and appearance of the area that falls within Marden Conservation Area; and in the interests of biodiversity enhancements.

11. Prior to the commencement of the development above damp-proof course level, details of the following ecological enhancements shall be submitted to and approved in writing by the local planning authority:
- (i) Integrated enhancements into the design and fabric of each dwelling, to include bat tubes/tiles and bee bricks;
  - (ii) Multiple swift nest boxes;
  - (iii) Measures to allow hedgehogs to move through the development site; and
  - (iv) The incorporation of log piles, bug hotels, hibernaculas and bee posts.

The development shall be implemented in accordance with the approved details prior to the first occupation of any dwelling and all features shall be maintained as approved thereafter.

Reason: To enhance biodiversity on the site and to achieve a net biodiversity gain.

12. From the commencement of the development hereby approved (including site clearance), all precautionary mitigation measures for protected species shall be carried out in accordance with the details contain in section 6.4 of the submitted Ecological Assessment (Greenspace Ecological Solutions Aug 2022).

Reason: In order to safeguard protected species.

13. Prior to the commencement of the development above damp-proof course level, details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the dwellings hereby permitted shall be submitted to and approved in writing by the local planning authority. The approved details shall be installed and operational prior to the first occupation of the relevant dwelling and shall be maintained as such thereafter.

Reason: To ensure an energy efficient form of development.

14. Prior to the first occupation of any dwelling hereby approved, a scheme (equivalent to that submitted in the ADT report ref: ADT 3412/ENIA Rev B) to demonstrate that the internal noise levels within the residential units and the external noise levels in gardens and other relevant amenity areas would conform to the standard identified by the current version of BS 8233 2014, Sound Insulation and Noise Reduction for Buildings, shall be submitted to and approved in writing by the local planning authority. The assessment shall have regard to ProPG: Planning & Noise (2017) and the Acoustics Ventilation and Heating Guide (2020) to ensure that there is a good balance between acoustics, ventilation and thermal comfort for future occupants. It is expected that higher levels of noise that require windows to be closed to meet BS8233 internal level specifications will need greater ventilation than the minimum standard in the Building Regulations in trying to achieve open window equivalence which will involve user control of ventilation rates to key rooms such as living rooms and bedrooms. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of any dwelling and it shall be maintained as such thereafter.

Reason: To safeguard the amenity of future occupants.

15. The development hereby approved shall be carried out in accordance with submitted Arboricultural Report by Sylvan Arb (ref: SA/1791/21-B, dated 10<sup>th</sup> Aug 2022); the Tree Removal Plan (ref: CG/TRP/1791-02B, dated 4<sup>th</sup> Feb 2021) by Sylvan Arb; and the Tree protection Plan (ref: CG/TRP/1791-03-B, dated 4<sup>th</sup> Feb 2021) by Sylvan Arb.

Reason: To safeguard the character and appearance of the area that falls within Marden Conservation Area and the interests of protecting the Horse Chestnut tree (listed as T1 in Sylvan Arb report).

16. No external lighting shall be installed until a detailed scheme of lighting has been submitted to, and approved in writing by the local planning authority prior to the commencement of the development. This scheme shall take note of and refer to 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. The submitted lighting scheme shall also be in accordance with the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting'. The scheme of lighting shall be installed, maintained and operated in accordance with the approved details.

Reason: In the interests of amenity and to mitigate against potential adverse effects on bats (and other nocturnal wildlife).

17. The vehicle parking spaces within the application site, as shown on the submitted plans, shall be provided prior to occupation of any dwelling 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.

18. The secure bicycle storage for 2 bicycles per dwelling, as shown on the submitted plans, shall be provided and useable prior to the occupation of the relevant dwelling they are associated with and shall then be permanently retained as such thereafter.

Reason: In the interest of sustainability.

19. The development hereby approved shall be carried out in accordance with the submitted site sections (drawing ref: 18009-P-107).

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

20. 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), and except for what is shown on the approved plans and the details to be approved pursuant to condition 8 of this decision, no development within Schedule 2, Part 1 Classes A, AA, B, D, and E; and Schedule 2, Part 2, Class A, shall be carried out.

Reason: To safeguard the character of the area that falls within Marden Conservation Area and in the in the interests of residential amenity.

Informatives:

1. The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25<sup>th</sup> October 2017 and began charging on all CIL liable applications approved on and from 1<sup>st</sup> 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. The applicant is advised to consider the fact that the adjacent abattoir runs a 24hr emergency casualty animal facility when submitting details pursuant to condition 14 of this permission.
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. Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissionsand-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181