

REPORT SUMMARY

REFERENCE NO: - 18/506662/FULL

APPLICATION PROPOSAL:

Demolition of the rear section of the building and erection of replacement structure, and conversion of front section of building including external alterations, to facilitate the creation of 2 dwellings with associated parking and garden areas. Demolition of existing derelict and unstable (north-east facing) garden wall, reconstruction on existing line at reduced height with 2 additional openings, repairs, restoration of other garden walls and restoration of 1 sunken glasshouse.

ADDRESS: Courtyard Studios Hollingbourne House Hollingbourne Hill Hollingbourne Maidstone Kent ME17 1QJ

RECOMMENDATION: Grant planning permission subject to conditions set out in Section 11.0

SUMMARY OF REASONS FOR RECOMMENDATION:

The Court of Appeal found, in summary, that the earlier decision was flawed because the Council in applying DM 5 had failed to take into consideration the entire site and had focused only on the existing building. The judgement therefore concluded that the following matters needed re-consideration:

- The respondent will need to determine whether or not the application site as a whole is of high environmental value

- The respondent will also have to assess whether the other criteria (of Policy DM5) are met including whether the proposed redevelopment will result in a significant environmental benefit

The proposal has been re-considered with reference to Local Plan guidance on policy DM5 (in particular paragraphs 6.35 and 6.37) and the policy itself, the proposal site as a whole (including everything in the red line) is not considered to be of high environmental value. With the proposed works significant improvement will arise in a number of ways as set out in the report below and including :

- The proposal will remove the existing business use that is operating substantially below capacity and provide two family homes offering a good standard of space and improvements to neighbour amenity.
- The proposal involves the reinstatement of original building openings that will reduce the current blank ground floor appearance and restore the building symmetry.
- The removal of this overly restricted commercial use will remove a non-conforming use in this location with a positive impact on amenity.
- Further improvements will arise from the restoration works to the historic walls with slight modification that will allow the buildings to provide two family units with access to the rear amenity space. These works restoring the residential link to these gardens and ensuring the long term maintenance of the walls and bring the gardens back into use.
- With the substantial historical alterations to the curtilage brick walls (including LBC99/1078) the proposal will retain their significance that comes from their alignment materials, and bond.

The density reflects the character and appearance of the area and the site can reasonably be made accessible by sustainable modes to a larger village and has the benefit of removing a use that would have higher trip generation . The site will be made accessible by sustainable modes by the provision of cycle parking, electric vehicle charging points (for existing and future residents) and by other agreed measures through a condition to encourage sustainable travel options. In light of these considerations the proposal is found to be in accordance with policy DM5 of the adopted Local Plan.

Other matters which weigh in favour of the proposal and a positive recommendation for approval are :

- Large photographic studio spaces, like the one on the application site are in general decline and the current use operates below capacity and inefficiently.
- The proximity of other residential uses means the commercial use was approved as an exception subject to a number of restrictions to prevent harm to amenity. These restrictions and the proximity to residential reduce the potential for long term viable business use without harm to neighbouring residents.
- The council has previously accepted the loss of the business use granting permission for ancillary residential use as a swimming pool with a tennis court in the rear garden.
- The proposal is not a conversion and any more intense business use, due to the adjacent residential uses, would be directed to the economic development areas urban area or the rural service centres.
- The proposal includes car parking in accordance with minimum standards and is acceptable in relation to trip generation, biodiversity and landscape.
- Special regard has been had to the desirability of preserving Hollingbourne House its significance, its setting, and features of special architectural or historic interest including the curtilage listed walls.
- The harm that will result from the proposal to the significance of Hollingbourne House, the curtilage listed walls, the glasshouse, donkey wheel and gazebo will be less than substantial. The less than substantial harm to the significance of these heritage assets will be outweighed by the public benefits of the development. These public benefits include improvements to the front building elevation, heritage benefits arising from repairs to all the garden wall that will ensure their long term survival, the accessibility improvements to the garden space for future occupiers and the restoration works to the sunken glasshouses and securing the optimum viable uses consistent with their conservation.
- The proposed roof extensions facilitate the provision of staircases that allow the efficient use of the building as part of the provision of 2 good quality family homes with the existing roof space assessed by roof hatches.

Overall

- The proposal is in accordance with the Maidstone Borough Local Plan (2017) policies SS1, SP17, SP18, SP19, SP21 DM1, DM3, DM4, DM5, DM6, DM8, DM23 DM30, DM31 and Appendix B.

REASON FOR REFERRAL TO COMMITTEE:

Cllr Patrik Garten has referred this application to committee on the basis of the comments set out in the report below.

WARD: North Downs	PARISH/TOWN COUNCIL: Hollingbourne	APPLICANT: Mr Paul Dixon AGENT: John Collins
CASE OFFICER: Rachael Elliott	VALIDATION DATE: 22/05/20	DECISION DUE DATE: 22/01/21
ADVERTISED AS A DEPARTURE: NO		

Relevant Planning History

19/506031/LBC Listed Building Consent for the demolition of existing derelict and unstable (north-east facing) garden wall, reconstruction on existing line at reduced height with 2 additional openings, repairs, restoration of other garden walls and restoration of 1 sunken glasshouse. Pending Consideration (separate report on this agenda).

18/500228/FULL Conversion and adaptation of existing photography studio into 2 dwellings with associated parking and garden area. Refused 17.04.2018 for the following reasons:

- 1) *The proposed external works and extension due to the, design, scale and bulk of the*

proposals fail to respect the character and appearance of the existing buildings and would result in an overly domestic, urban and disjointed appearance that fails to respect the existing buildings contrary to Policies SP17, DM1, DM30, DM31 and the National Planning Policy Framework 2012.

2) The application fails to demonstrate that the buildings are of sound construction and their re-use and the reconstruction in the form proposed can be achieved without major or complete reconstruction contrary to Policy DM31 of the Maidstone Borough Local Plan 2017.

3) The proposed development would be located in an isolated position within the defined countryside, as established by adopted Local Plan Policy SS1 and SP17 which places emphasis on housing development within sustainable locations. The application for the creation of additional dwellings here has failed to demonstrate a significant environmental improvement and that the site can be reasonably made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village as is therefore contrary to Policies SS1, SP17 and DM5 of the Maidstone Borough Local Plan 2017 and the National Planning Policy Framework 2012.

14/0201 Change of use of studio outbuilding and associated service areas to a purpose incidental to the enjoyment of Mulberry and Well Cottages, and erection of fencing around a tennis court. Granted 07.04.2014

99/1078 Listed building consent for partial reduction in height of garden wall and formation of new gateway Granted 16.08.1999

99/0120 Retrospective listed building consent application for partial demolition of garden wall to provide fire escapes to building regulations requirements and amenity to office and workroom facilities. Refused 19.03.1999 for the following reasons *"The section of wall, the subject of this proposal is listed having been erected prior to 1948 and is within the historic curtilage of Hollingbourne House which is a grade II listed building. It is considered that this section of wall forms an important and integral part of the historic setting of Hollingbourne House and its demolition adversely affects the special historic and architectural interest of this listed building and its curtilage contrary to policy ENV19 of the Kent Structure Plan 1996, policies ENV3 and ENV4 of the Maidstone Local Plan 1993 and policies ENV11 and ENV12 of the Maidstone Wide Local Plan (Deposit) draft".*

99/0119 (Part retrospective) Insertion of windows and doors to north east elevation of the office and workroom facilities Granted 19.03.1999

97/1765 Change of use to a mixed use for photographic business (B1) and continuation of existing carpentry business ancillary to existing electronic workshop, and external alterations. Granted 01.05.1998 with conditions including a restriction to only B1(b) and B1(c) for the reason that "Unrestricted use of the building or land would cause demonstrable harm to the character, appearance and functioning of the surrounding area and/or the enjoyment of their properties by adjoining residential occupiers" and stating that no activity in connection with the uses hereby permitted shall be carried out outside the hours of 18:00 and 08:00 and not at any time on Sundays, Bank or Public Holidays in order to safeguard the enjoyment of their properties by adjoining residential occupiers

89/1936 Erection of detached garage block. Granted 20.02.1990

83/1419 Retrospective application for change of use from residential to electronic workshop and office. Granted 28.12.1983

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site (covering 0.02ha) is approximately 1km from the Hollingbourne settlement (Hollingbourne Hill and Pilgrims Way crossroads). The main part of the application site is approximately 85 metres to the south east of Hollingbourne Hill (B2163) with an internal service road providing vehicle access from the main road.
- 1.02 Whilst in the countryside, the application site is not in an 'isolated' location. The application site is located within a larger group of buildings that include a collection of functional agricultural buildings (Hollingbourne Farm) to the south east. The residential building called the Garden Cottage wraps around the northern corner of the application site.

Figure 1: Aerial photograph of the application site (Credit Google Earth)



- 1.03 To the south west of the red line application site boundary is Hollingbourne House (grade II listed). In addition to the main house (which faces south west), the building footprint also includes two cottages to the rear, with Wells Cottage attached to the rear of Hollingbourne House and Mulberry Cottage attached to Wells Cottage. These two cottages are in the applicant's ownership with the main Hollingbourne House in separate ownership. A further group of residential properties are located to the north west (125 metres from the site boundary) located on the opposite side of Hollingbourne Hill.
- 1.04 There are three entries on the national list of historically important buildings in the area surrounding the application site. To the north of the site entrance to Hollingbourne Hill (86 metres from the main part of the application site) is the Gazebo which is grade II listed. The Donkey Wheel is located 9 metres to the north west of the application site boundary which is grade II listed and Hollingbourne House (Mulberry Cottage and Wells Cottage) which is also grade II listed adjoins a section of the south west application site boundary.
- 1.05 Whilst the building on the application site is not listed or a non-designated heritage asset, a stretch of wall to the north east (rear) of this building has been identified as being curtilage listed by the local planning authority by virtue of its age and location in the curtilage of the original main house. The other walls of this residential garden area and one of two derelict glasshouses within the garden are also curtilage listed.

- 1.06 An area of Ancient Woodland (Marshall's Shaw) is located 185 metres to the north east, a local wildlife site is located 170 metres to the south west of the site. The roadside verges between the access to the application site to a point just to the north east of the Hollingbourne Hill and Pilgrims Way junction are protected. The application site is located in the Kent Downs Area of Outstanding Natural Beauty. There are group tree preservation orders on the opposite side of the site access in Hollingbourne Hill and the isolated tree in the open field to the north east (30 metres from the application site) is also covered by a tree preservation order.
- 1.07 The red line application site boundary includes the vehicle access drive from Hollingbourne Hill, with the main part of the application site broadly rectangular in shape.

Figure 2: Site outlined in red and adjacent heritage assets



- 1.08 The internal access drive from Hollingbourne Hill arrives at a courtyard that is located at the rear of the main Hollingbourne House building. Immediately to the left as you enter the courtyard is a small single storey building called the Smokery. The courtyard is located between a building attached to the rear of Hollingbourne House and the front of the building on the application site.
- 1.09 After the building to the rear of Hollingbourne House was purchased, it was renovated by the applicant and converted to provide the two cottages that are now present. The applicant lives in Mulberry Cottage and Wells Cottage provides a holiday let. Whilst these two cottages are located just outside the application site, an area of raised beds in front of the cottages is part of the application site.
- 1.10 The buildings occupied by the cottages would originally have provided ancillary accommodation to the main Hollingbourne House such as kitchens and servants quarters. Whilst these buildings are not mentioned in the official listing description, with this association and attachment they form part of the Hollingbourne House listed building.
- 1.11 The application site is occupied by a large commercial building. Submitted evidence suggests that a former building in this location was also previously used as ancillary space to the main house, including as stabling and as a milking shed prior to the sale of the adjacent farm in 1975. The existing building on the application site is currently used by a photographic business (known as 'Apache' Studios or Courtyard Studios) following the planning permission under reference

97/1765.

- 1.12 Externally there is a clear visual distinction between the front and rear parts of the building. The rear building constructed in the 1950's is a redundant cattle shed with a steel frame construction, breezeblock wall infills, cement sheet roof. The existing black timber cladding dates from around 1992. The building has a roof eaves height of circa 3.3 metres and a ridge height of 5.4 metres and is 27 metres wide with the side elevation of 10 metres. A section of the roof space of this rear part of the building has a concrete floor and is accessed by way of two roof hatches. The rear part of the building is internally domestic in scale consisting of smaller rooms and ancillary space to the main front studio space.

Figure 3: Existing front building elevation



Figure 4 Garden view to the south east towards neighbouring agricultural buildings

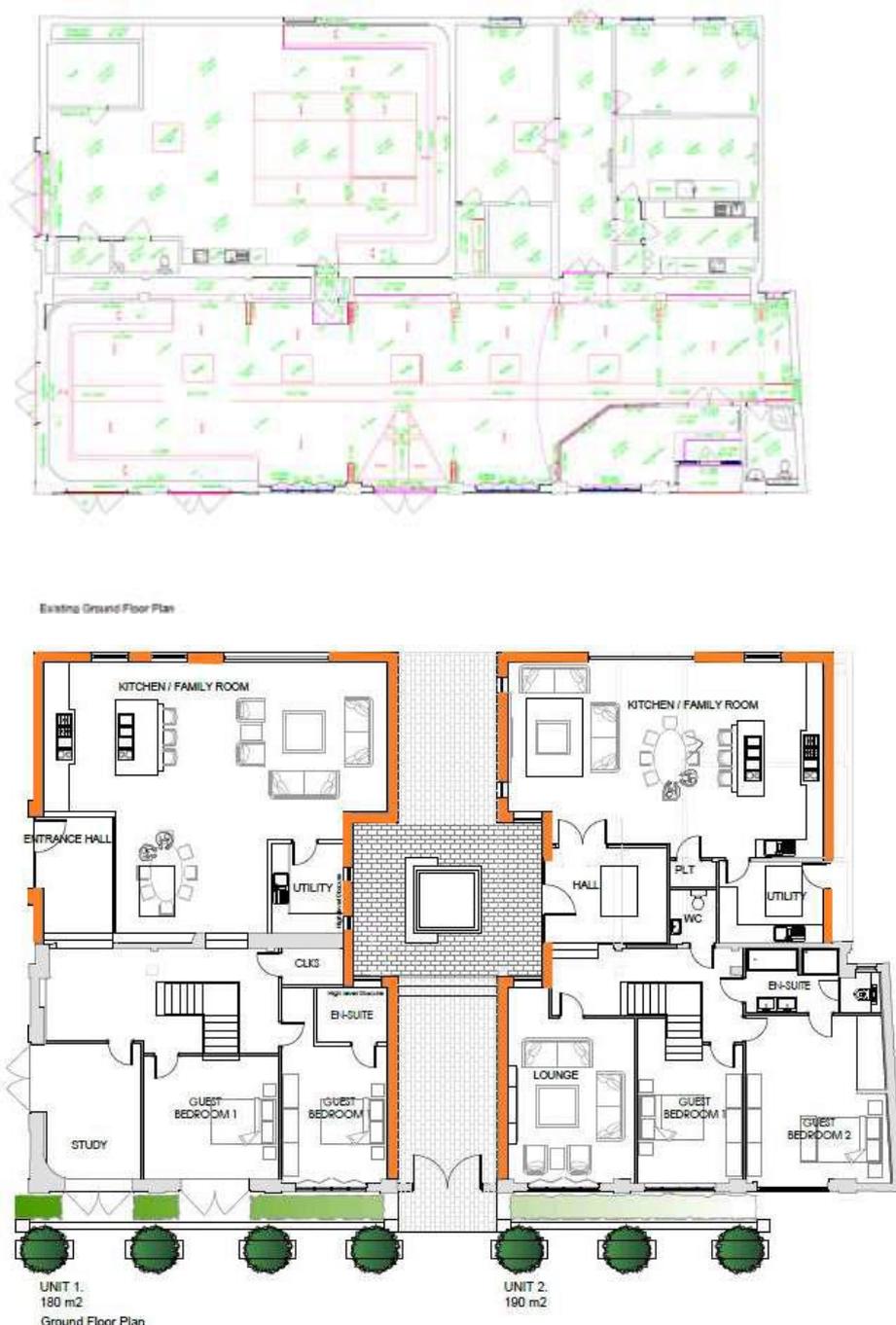


- 1.13 The front building in red facing brick and a cement sheet roof was constructed in

the 1980s as part of works to replace and extend the front part of the building. This building has a roof eaves height of circa 3.7 metres and a ridge height of 5.8 metres and is 28 metres wide with a side elevation of 8 metres. The front part of the building has a double height space that provides the main large single studio space for the current use with natural light provided by existing roof lights.

- 1.14 Although of different heights and widths, the two buildings both have dual pitched roofs and side gables with a triangular dormer in the middle of the front elevation. This building is not listed, it is not a heritage asset and due to its relatively young age the building is not curtilage listed.

Figure 5 existing ground floor plan (top) and proposed ground floor plan (bottom) showing a reduced footprint in the rear section and new walls in orange.



- 1.15 At the rear of the studio building is a walled garden that is thought to formally have been a functional space linked to the main Hollingbourne House. The wall to

the south west of this space that runs parallel to the studio building is thought to have enclosed an animal yard linked to the use of a building used for stabling. The brickwork in the walled garden shows that the walls have been significantly altered and reconstructed in the past and are currently in poor condition and in at some points in danger of collapse. Whilst now separated from the main listed building by the studio building, these walls are listed as a result of their age and the location in the curtilage of the grade II Hollingbourne House.

- 1.16 At the northern (rear) end of the walled garden are two derelict sunken glasshouses. The submitted information states that one of the structures that is built with imperial red brick dates from the late 1800's and is curtilage listed and the other from the 1950's.

Figure 6: Comparison between the existing rear elevation and the rear elevation currently proposed.



2. PROPOSAL

- 2.01 The submitted proposal involves the demolition and reconstruction of the timber clad rear part of the existing studio building. The applicant has said that the reasons for demolishing and replacing the rear building include the significant improvements to the levels of thermal efficiency that will be achievable in the completed building.
- 2.02 The applicant seeks to re-development of the entire site as shown on Figures 1 and 2 above, such that the proposed redevelopment would utilise the existing driveway as access and the existing walled garden would be sub-divided (principally by a native hedge), to provide residential amenity areas for each new dwelling.
- 2.03 The new rear section of building will have a slightly smaller footprint when compared to the existing structure. The new rear section of the building has the same roof height and same roof form and will have black timber cladding to match the existing building (see figure 6 above).
- 2.04 The existing bulls eye window to the north west (side) elevation will be replaced with a window similar to the existing window to the south east (side) building elevation. New glazing to the side elevation will provide natural light to a double

height entrance lobby that also provides legibility to this front entrance to one of the two proposed dwellings.

- 2.05 The external alterations to the retained front section of the building include the replacement of the triangular dormer to the front elevation with more functional roof lights. Glazing will be installed in the existing blocked up openings at ground floor level to the front and side of the building to match the existing adjacent openings on the front elevation.
- 2.06 The proposal includes 2 roof additions. The roof additions are set back by over 5 metres from north west elevation and 4 metres from the south east elevation and behind the front and rear roof slopes. These extensions provide head room for internal staircases located in the two proposed residential units. The proposal also involves the creation of an internal covered courtyard in the centre of the building; the courtyard provides the entrance to the second of the two dwellings and direct access from the courtyard through to the rear walled garden.
- 2.07 The 2 dwellings will be formed from the replacement floor space to the rear of the building, the retained converted business floorspace in the front part of the building and relocation of existing floor space in the roof.
- 2.08 In terms of materials, the rear section will be timber weatherboarding to match the existing building and the front section the existing retained facing brick. The roof will be of slate; and the fenestration of dark aluminium frames.
- 2.09 The proposal includes formalised parking for the occupiers of the existing accommodation to the south west (Wells Cottage and Mulberry Cottage) and the new dwellings in the courtyard area, including in front of the cottages.
- 2.10 The proposal includes the demolition of the existing garden wall to the rear of the existing studio building and its reconstruction in its existing position. The wall will be at a reduced height of 1.2 metres over part of its length with 2 additional openings.
- 2.11 Repairs and restoration works are proposed to other walls within the rear garden. The proposal includes the restoration of a period sunken glasshouses close to the rear boundary of the site with Garden Cottage and the removal of the more recent second glasshouse. The rear garden areas will be separated by a hedge.
- 2.12 Following the earlier advice from the Council's conservation officer and the reasons for the refusal of the earlier planning permission (application 18/500228/FULL) the proposal has been significantly altered and improved.
- 2.13 These changes include a much simplified design for the rear section of the building that more closely reflects the form and scale of the existing building. The alterations to the front part of the building now reflecting the functional building appearance. The submitted revised proposal is supported by the Council's conservation officer.

3. BACKGROUND

- 3.01 The Council issued a planning decision notice on the 29 March 2019 for the application under reference 18/506662/FULL, with the decision notice granting conditional planning permission.
- 3.02 On behalf of the occupier of Hollingbourne House, the Council were informed on the 7 May 2019 (Pre-Action Protocol letter) of the intention to submit a judicial review against the decision to grant planning permission on four separate grounds.

- 3.03 The Council indicated in a response letter dated 16 May 2019 that it accepted that *"there has been a failure to clearly identify what the setting to the listed building is in order to then set out how any impact, if any, to the setting of the Listed Building is mitigated by the proposed development"*. The Council accepted that for this reason it would not contest the claim which should succeed under Claimant's grounds 2 and 3.
- 3.04 A High Court Consent Order dated 8 July 2019 quashed the decision made by the Council to grant planning permission on the 29 March 2019.
- 3.05 This application, together with a Listed Building Consent application for the *Demolition of existing derelict and unstable (north-east facing) garden wall, reconstruction on existing line at reduced height with 2 additional openings, repairs, restoration of other garden walls and restoration of 1 sunken glasshouse..* were subsequently reported to Planning Committee on 17th December 2020 to reconsider the decision on this application and determine the Listed Building Consent submission. Members resolved to grant planning permission for the development specified in Section 1.0 above and Listed Building Consent under application 19/506031/LBC.
- 3.06 The decisions were issued on 21st January 2021.
- 3.07 A case to Judicially Review the decision was subsequently brought forward by the immediate neighbour in relation to both the grant of full planning permission (18/506662/FULL) and Listed Building Consent (19/506031/LBC). This was initially refused permission to proceed by Mr Tim Mould QC, decision dated 5 May 2021. A renewed oral hearing by Lang J granted permission to bring forward substantive judicial review proceedings on four grounds. These being as follows :
- (i) MBC erred in its interpretation of the Local Plan policy DM5 "Development on brownfield land";
 - (ii) MBC was inconsistent in the approach it took to the assessment of the contribution to the setting of the listed building made by the existing studio buildings;
 - (iii) MBC was flawed in the approach taken to the assessment of heritage impact and in doing so acted in breach of its statutory duties pursuant to the provisions of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990;
 - (iv) MBC failed to take into account a material consideration, namely the potential for a sensitive conversion of the front studio building for the purpose of providing a dwelling.
- 3.08 The High Court in a ruling dated 14 July 2022 rejected all 4 grounds stating, in summary, the following :
- Ground 1 fails as there was no misinterpretation of policy DM5 of the Local Plan, there was no proposal to develop existing residential garden; Ground 2 fails as there was no material misdirection contained within the OR; Ground 3 fails as it amounts to an attack upon the planning officer's assessment and evaluation of the impacts of the proposed development as set out in the OR; Ground 4 also fails as it is an attack upon a planning judgment, the alternative proposal having been considered but only briefly.***

3.09 Permission was granted by the Court of Appeal to appeal against the High Court's decision on 2 grounds these in summary being :

1. The proper interpretation of, Policy DM5, in the Maidstone Borough Local Plan and the meaning of 'site'; in particular whether this means the whole of the site the subject of the application, including the garden to the rear of the main application building, or whether 'site' in the context of DM5 excluded the garden to the rear.
2. Whether the respondent failed to have regard to earlier views of the conservation officer which were said to be a material consideration

In its decision dated 22 February 2023 the Court of Appeal found that the Council had misinterpreted policy DM5, stating that :

The respondent failed properly to interpret Policy DM5 in that it failed to consider whether the application site as a whole had environmental value. Rather it only considered whether part of the application site, that is, the existing studio building, had a high environmental value. For that reason, I would quash the planning permission and the listed building consent and remit the matter to the respondent. It will have to decide whether or not the application site, comprising the studio building, the walled garden and the land connecting with the road, has high environmental value and whether the other criteria in DM5 are satisfied.

3.10 The second ground of appeal was rejected by the Court of Appeal.

3.11 All four decisions referred to above are attached for information as appendices to this report as described below :

Appendix A : Copy of Timothy Mould QC decision on the papers dated 5 May 2021

Appendix B : Copy of High Court Judgement dated 14 July 2022

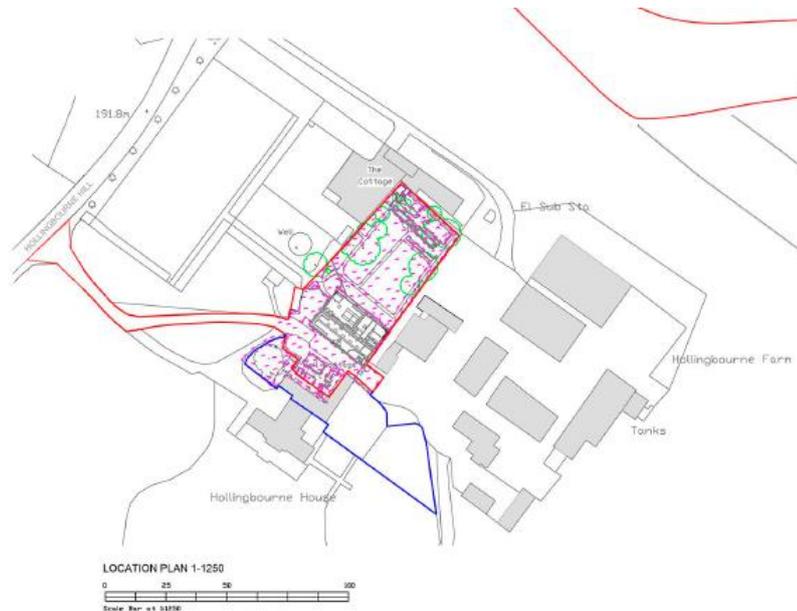
Appendix C : Copy of Court of Appeal Judgement dated 22 February 2023

Appendix D : Copy of Order to Consent dated 8 July 2019

3.12 As set out in the High Court ruling, it was considered common ground that both decisions referred to (19/506031/LBC and 18/506662/FULL) *stand or fall together*. As such both the decisions made by members on the Listed Building Consent and Planning Permission have been quashed and both applications are now put back before members for due consideration and decision in light of the Court of Appeal's judgment about the proper interpretation of policy DM5.

4. KEY JUDGEMENT SUMMARY

4.01 The Court of Appeal found that the Council's earlier determination of what constitutes 'the site' in this case for the purposes of applying Policy DM5 was erroneous. , The December 2020 committee report solely considered the building itself in relation to its environmental value, rather than the entire site outlined in red (see map area identified as being within the red line (extract below)



4.02 The point which was made by the Appellant and which was accepted by the Court of Appeal is that in order to make a proper planning judgment in the application of DM5 about whether or not the site is of high environmental value and whether the proposed development will result in significant environmental improvement, it is necessary to consider the site in its entirety, including the main application building but also the walled garden to its rear and the access route to the highway. The judgement highlights what should be considered as 'the site', which is *the existing building, the walled gardens and the land connecting with the road* (paragraph 25 of Appendix C.)

4.03 Paragraphs 25 and 26 continue by setting out the key considerations the Council will need reconsider, now that the court of Appeal has quashed the Council's decision. In summary being :

- The respondent will need to determine whether or not the application site as a whole is of high environmental value
- The respondent will also have to assess whether the other criteria (of Policy DM5) are met including whether the proposed redevelopment will result in a significant environmental benefit

5. MATERIAL CHANGES SINCE EARLIER DECISION

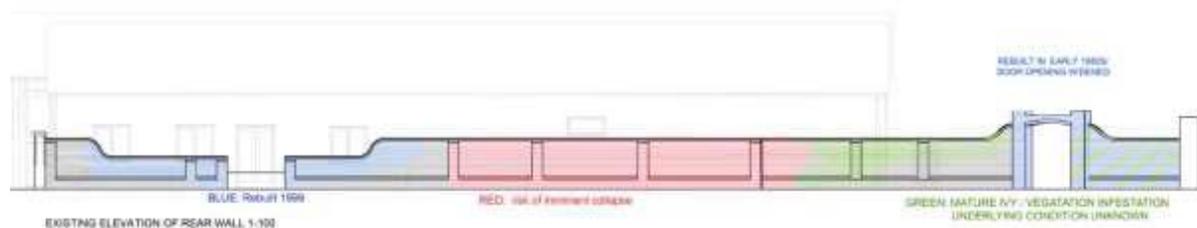
5.01 The Maidstone Borough Council – Local Plan Review Regulation 22 Submission has been made and Local Plan Hearings are ongoing. The regulation 22 submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is a material consideration, and some weight must be attached to the document because of the stage it has reached. The weight is however limited, as it has yet to be the subject of a full examination in public.

5.02 The National Planning Policy Framework (NPPF) was revised on 20 July 2021.

5.03 Due to health and safety concerns, a section of the north-east facing garden wall has been removed/lowered and the bricks stored securely behind the remaining wall.



- 5.04 The existing elevations of the wall submitted with the application (see plan below), therefore now differ from the 'on the ground' situation. Areas highlighted in green have now been removed and those in red lowered.



- 5.05 The applicant is aware that the works carried out are without the benefit of a current consent. Amended plans are not required as the existing plan indicates the lawful height and position of the wall.

6. POLICY AND OTHER CONSIDERATIONS

- 6.01 The status of the development plan is confirmed by Section 38 (6) of the Planning and Compulsory Purchase Act, 2004 which states: "... *determination must be made in accordance with the plan unless material considerations indicate otherwise*

The supplementary planning guidance and national policy and guidance are material consideration in the determination of planning applications.

Development Plan

- Maidstone Borough Local Plan 2017 SS1, SP17, SP18, SP19, SP21 DM1, DM3, DM4, DM5, DM6, DM8, DM23 DM30, DM31 and Appendix B.

- Emerging Policies – Maidstone Borough Council – Local Plan Review Regulation 22 Submission

The regulation 22 submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and proposed main modifications. It is a material consideration, and some weight must be attached to the document because of the stage it has reached. The weight is limited, as it has yet to be the subject of a full examination in public

Supplementary Planning Guidance

- Kent Downs AONB Management Plan 2014-2019 (2nd Revision) SD2, SD9, HCH1 and HCH4
- Maidstone Borough Landscape Character Guidelines SPD
- Supplementary Planning Guidance SPG4 'Kent Vehicle Parking Standards' of the

Kent and Medway Structure Plan (July 2006)

National policy and guidance

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Historic England Managing Significance in Decision Taking in the Historic Environment (2015).
- Historic England The Setting of Heritage Assets (2017).

7. LOCAL REPRESENTATIONS (these are original representations, no re-consultation has taken place following the Court of Appeal decision.)

Local Residents:

- 7.01 Two representations (including one representation from a planning consultant acting on behalf of a neighbour) have been received from local residents objecting to the proposal for the following summarised reasons
- The development is contrary to policy DM5 as it will not result in a significant environmental improvement.
 - Policy DM31 is not applicable to this development as the works do not constitute a conversion but amount to major reconstruction. It is overdevelopment and domestication very close to a working farm.
 - With the site location in the countryside and the AONB the proposal is contrary to policies SS1, SP17(1) and the NPPF. The site does not represent a sustainable location where new build dwellings would normally be acceptable
 - The proposal is 'inconsistent' with policy SP21 vii) which prioritises the commercial re-use of existing rural buildings in the countryside over conversion to residential use.
 - A comparison between the introduction of the Heritage Report (the domestication the building and the reconstruction of the wall will cause harm on the significance of the heritage assets) and paragraph 4.3 of the same report (alterations would not result in any impact to the significance of Hollingbourne House) 'is confusing'.
 - The suburban design (flat box roof and extensive glazing) is out of keeping with the prevailing character of the site, will detract from the agricultural character of the building and from the overall aesthetic of the estate and competing with the architectural features of Hollingbourne House.
 - The side elevation windows will be visible when entering the site and from the listed walled gardens and will 'draw the eye' and 'significantly alter the experience of the historical surroundings of Hollingbourne House'.
 - The proposal is dominating and overbearing, it is not subservient to adjacent Grade II listed building, and fails to conserve or enhance its significance.
 - The demolition and rebuilding of a curtilage listed wall will lead to harm and the loss of historic fabric with significant alterations to the 'dimension of the wall' along with the creation of new openings. This is considered contrary to paragraphs 193 and 194 of the NPPF.
 - If a financial argument is being made in relation to paragraph 79 of the NPPF, this decision needs to be informed by 'the appropriate calculations and conservation deficit figures'.
 - Following a 'design exercise' carried out by the neighbour's consultant, it is considered that an alternative scheme to convert the existing barn into one large 4-bed house is entirely achievable and is possible with less harmful impact.
 - The submitted application is lacking supporting information in relation to marketing, construction and structural information, independent valuation, and biodiversity protected species.
 - It is considered that the changes made to the application description are "...incredibly confusing for everyone!".
 - The advertisement of the planning application in the local press is questioned.

- It is questioned as to why the local highways authority have not been consulted.
- The comments received from the conservation officer dated December 2019 are misleading.
- I was not sent notice informing me of the application. (*NB: Consultation letter was sent on the 3 January 2019 to Hollingbourne Farm Hollingbourne Hill Hollingbourne*)
- I object to a listed wall being demolished. It is an important feature of the setting of Hollingbourne House that the four walled gardens remain intact. The Dixon's have not maintained the listed walls and allowed them to fall into disrepair. The walls form part of the historic fabric of the original farm and estate and are listed to protect them from such development.
- No Listed Building Consent has been applied for (*NB: A linked listed building consent application has been submitted and is considered as part of a separate report*)
- The design of the houses is not in keeping with the rural setting. It has too much glazing and is a poor overly modern and urban design (*NB: The building design has been subsequently amended with a reduction in the quantity of glazing*).
- It is not an appropriate design for an attractive historic location in an Area of Outstanding Natural Beauty.
- It looks to be predominantly a new build and therefore this surely must need to be a new build application and be scrutinised as such.

Assessment by Heritage Collective on behalf of a neighbour

(Comments on earlier proposal with relocation of the curtilage listed wall)

- 7.02 A neighbour has commissioned an independent heritage assessment carried out by Heritage Collective in summary the submission makes the following points that relate to the current application
- 7.03 Hollingbourne House is an asset of high quality and any application affecting its setting needs to take into consideration the effect on its heritage significance.
- 7.04 It has clear architectural and historical interest as a late 18th century mansion with associated grounds and individually listed features (Donkey Wheel and Gazebo, both separately listed grade II).
- 7.05 The heritage value of Hollingbourne House is experienced within a rural setting, with views toward and from the house defined by a country estate character with ancillary, agricultural and ornamental buildings evident in most views.
- 7.06 The substantial walls encircling the four walled gardens contribute to the historical interest of the house by indicating its former grounds, the use of walled gardens for various crops and the varying function of different spaces within an estate of this size.
- 7.07 Any scheme should recognize that the grounds of Hollingbourne House are relatively intact and thus sensitive to change which does not take account of significance.
- 7.08 The proposed development would cause less than substantial harm to the grade II listed building through alteration and relocation of a curtilage listed wall and harm to the historical significance of the building through inappropriate change within the setting of the building. As identified above the survival of no less than four separate walled gardens within the grounds of Hollingbourne House is unusual and worthy of preservation.
- 7.09 In relation to local policy this development would not preserve or enhance the distinctiveness and quality of the area's heritage assets as required by Policy SP18, nor does it conform to the requirements of Policy DM1 in relation to good design. By introducing alien roof extensions and excessive glazing to the two buildings the proposal would not respond positively to its local area or the historic character of the surrounding buildings, nor would it 'provide a high-quality design which responds to areas of heritage and townscape' .
- 7.10 Policy DM4 requires heritage assets to be conserved and where possible enhanced.

This will not be the case if this proposal is permitted.

- 7.11 Regarding Policy DM31.1 the proposal would fall foul of point (c) as the alterations proposed would not be in keeping with the landscape and building character in terms of materials used, design and form. It would also contravene point (e) relating to walls and fences through the introduction of new boundaries that would harm the landscape character of the walled garden. The application should be refused.

Councillor Patrik Garten

- 7.12 The policy determining conversion of rural buildings, Policy DM31 permits residential use only where every reasonable attempt has been made to secure a business re-use of the building. Evidence setting out why the business re use is not appropriate for the buildings needs to be provided and ought to be scrutinised by committee
- 7.13 Neighbours allege that the proposed works are unsympathetic, overly domesticated and fail to respect the character and appearance of the setting of the Grade II listed Hollingbourne House. As this is partially a subjective assessment, it should be considered by a committee.
- 7.14 As my previous reasons explains, the reason for call-in is mainly to secure public confidence in the planning process, which was previously thwarted and required a judicial review. While I welcome the amended details, they do not overcome the unfortunate history of this case.

Hollingbourne Parish Council

- 7.15 Do not wish to comment or object.

8.0 CONSULTATIONS (these are original consultation responses, no re-consultation has taken place following the Court of Appeal decision.)

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

Historic England

- 8.01 No comment. On the basis of the information provided, we do not consider that it is necessary for this application to be notified to Historic England under the relevant statutory provisions.

Conservation Officer (MBC)

- 8.02 I support the application and raise no objections from a conservation point of view. The works are wholly in line with our discussions on site and the submission is clear and of good quality
- 8.03 The initial proposal relating to the historic wall adjacent to the development site was that it would be demolished and relocated. I took the view that this would cause harm to a heritage asset and for no clear benefit.
- 8.04 The solution agreed with the applicant was to keep the wall in its historic location but it would be taken down and rebuilt using the viable bricks from the surviving wall supplemented by some bricks salvaged from earlier work. This will deal with the serious problems affecting the wall particularly its dangerous lean and the general decay of the masonry caused by invasive vegetation.
- 8.05 It is unlikely that enough bricks will be salvaged to rebuild the wall to its present height and accordingly it was agreed that the wall could be rebuilt at a lower height. It was also considered as acceptable that the applicant could make some new openings in the wall to suit the needs of the redeveloped adjacent building. The result will be a wall which retains the historic boundary line of the

walled area and one which is stable and generally clear of other agents of decay. This seems to me to be a significant gain for the historic asset where there is currently a high risk of collapse and loss.

- 8.06 The works to the remainder of the boundary wall are measured and proportionate. Repairs and alterations have been carried out over the years and this is a continuation of that process which will enhance the appearance and condition of the boundary wall. The line of the boundary will be maintained
- 8.07 There is a historic glass house within the walled area. The structure is partly below ground and this part survives. All the above ground construction has been lost and there are no records of the form of the glass house. The applicant has proposed to build a lightweight structure on the historic base which will bring the building back into use as a glass house. The new construction will sit on top of the historic fabric but none of that original material will be removed or damaged by the new work. This work will protect the historic fabric from further decay.
- 8.08 The conversion of the existing studio building will bring about some alterations to the external appearance but this is minor and it is not considered that it will cause damage to the setting of the listed building. There is some upward extension of the building which will affect the roof line but this work is contained within the valley of the existing roof and will not be visible from Mulberry and Well Cottages. There is also a proposal to replace some of the infill panels on the southwest elevation with glazing instead of solid panels. This, in heritage terms, is simply a change in material and will not impact on the setting of the listed building.

Local Highways Authority (KCC)

- 8.09 No comment, the development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns. Recommend standard informative on any highway approvals that may be necessary.
(NB: in light of the nature of these comments and no new potential related issues the highways authority was not consulted on revisions to the proposal)

APPRAISAL

- 9.01 The key issue for consideration relates to

Consideration of the proposal in relation to Policy DM5 (Development of Brownfield land)

The Court of Appeal found, in summary, that the earlier decision was flawed because the Council in applying DM 5 had failed to take into consideration the entire site and had focused only on the existing building. The judgement therefore concluded that the following matters needed re-consideration:

- The respondent will need to determine whether or not the application site as a whole is of high environmental value
- The respondent will also have to assess whether the other criteria (of Policy DM5) are met including whether the proposed redevelopment will result in a significant environmental benefit

Other issues for consideration are as follows, the consideration of those matters mirrors the earlier Committee Report, with the appraisal updated as necessary in relation to those points raised in 5.0 above.

- Loss of the existing commercial floor space and the provision of a residential use
- Design, appearance, the countryside and the Kent Downs AONB
- Heritage
- Residential amenity.
- Standard of proposed residential accommodation.
- Transport and traffic, access and servicing, car and cycle parking
- Ecology and biodiversity, trees and landscape

Development of Brownfield land (Policy DM5)

9.02 As summarised above, the previous decision was quashed because the Council had wrongly interpreted Policy DM5 of the Local Plan. The Court of Appeal found, in summary, that the decision was flawed because the Council in applying DM 5 had failed to take into consideration the entire site and had focused only on the existing building. The judgement therefore concluded that the following matters needed re-consideration:

- The respondent will need to determine whether or not the application site as a whole is of high environmental value
- The respondent will also have to assess whether the other criteria (of Policy DM5) are met including whether the proposed redevelopment will result in a significant environmental benefit

9.03 Policy DM5 is in these terms:

Development on brownfield land

1. Proposals for development on previously developed land (brownfield land) in Maidstone urban area, rural service centres and larger villages that make effective and efficient use of land and which meet the following criteria will be permitted:

- i. The site is not of high environmental value; and
- ii. If the proposal is for residential development, the density of new housing proposals reflects the character and appearance of individual localities, and is consistent with policy DM12 unless there are justifiable planning reasons for a change in density.

2. Exceptionally, the residential redevelopment of brownfield sites in the countryside which are not residential gardens and which meet the above criteria will be permitted provided the redevelopment will also result in a significant environmental improvement and the site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village.

9.04 The policy therefore allows for residential development of brownfield sites in the countryside which are not of high environmental value; the proposed housing is of a density which reflects the character and appearance of the individual locality and is consistent with DM12 unless there are justifiable planning reasons for a change in density; that the proposed redevelopment results in a significant environmental improvement and the site is or can reasonably be made accessible to Maidstone, a rural service centre or larger village.

9.05 Above all, however, the Court of Appeal decision means that when determining whether the site is of high environmental value and whether the redevelopment results in a significant environmental improvement, the site as a whole, within

the red line, including the walled garden to the rear of the existing studio building and the access road must be taken into consideration.

- 9.06 The Court of Appeal was explicit (paragraph 27) that assessing the environmental improvement must be made in this way:

That latter consideration is not tied to any particular geographic area. The local authority will have to consider the proposed redevelopment as a whole (and here the proposed redevelopment includes the changes to the existing studio building and the changes to the wall forming part of the walled garden). The significant environmental improvement may be to the whole of the application site, part of the application site (e.g. the repair of the historic wall) or to areas outside the application site, or a combination.

- 9.07 To assist in the interpretation of policy DM5 the supporting text in the Local Plan (paragraph 6.37) sets out six 'key considerations' to be used in assessing the redevelopment of brownfield sites in the countryside. These considerations are as follows:

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

- 9.08 Policy DM5 requires that for permission to be granted the site is not of high environmental value (1 (i)). The Local Plan does not define what is considered as high environmental value. The environmental value is a planning judgement. The pre-ambule to the policy at paragraph 6.35 states (authors emphasis in bold) :

*'in order to reduce the need for greenfield land, which is a finite resource and **often of higher quality in terms of landscape and biodiversity**'*

The Government's Guidance on Natural Environment does set out the following, but this is guidance and does not form part of the policy itself.

'Some previously developed or 'brownfield' land is of high environmental value, providing habitats for protected or priority species and other environmental and amenity benefits'

- 9.09 Considering the above the site is situated within the AONB, the site is within the setting of Well Cottage, Mulberry Cottage and Hollingbourne House all of which are Listed in their own right and other building/structures within the site or setting of the site are either listed in their own right or considered curtilage listed and part of the site is undeveloped. Ecological reports have not identified impact on protected species and the site is not within a Local Wildlife site, SSSI or Ancient Woodland, nor any other site designated for biodiversity importance. (The nearest designated sites lie to the south-west, south and north-east of the site over 150m away). The existing building on the site has low environmental value in itself with its existing use as a commercial building being a detractor from the site. In the absence of a clear definition of environmental value it is for the decision maker to draw a conclusion based on planning judgment..

- 9.10 There is no bar or scale to interpret what a site's environmental value should be and this could differ between sites, principally because no two sites are the same.

In this case factors such as the site's location within the AONB and the heritage assets, weigh in favour of a higher environmental value of the site. On the ground the site includes an access drive, whose environmental value derives from where it is leading to and contribution as part of the setting of the Listed Buildings rather than being of high value in itself. Parking areas and hardsurfacing, which have limited to no environmental value, the Listed Wall does have a higher environmental value, however it is currently in disrepair in places and as such this lowers the value. The walled garden is a positive feature rather than having a high environmental value, it is currently underutilised and does not have a 'purpose'. It is disjointed from the properties it serves, which also benefit from alternative amenity space immediately adjacent to them. Features within the walled garden such as planting are generally overgrown and the maintenance of the walled garden has been generally limited to mowing, and other elements such as the former sunken greenhouses need TLC. The existing studio building has some character, but has previously been considered not to have high environmental value, and there is no reason to depart from that earlier conclusion.. Ecological reports have not identified impact on protected species and the site is not within a Local Wildlife site, SSSI or Ancient Woodland, nor any other site designated for biodiversity importance. (the nearest designated sites lie to the south-west, south and north-east of the site over 150m away).

9.11 The site as a whole, is not considered to be of high environmental value. Notwithstanding this conclusion, the site does have some value and due consideration relating to any redevelopment would need to be considered carefully in line with other policy considerations discussed within this report.

9.12 Turning to (1(ii)) of DM5, this requires that the density of the development would reflect the character and appearance of the locality and be consistent with Policy DM12 of the Local Plan unless there are justifiable planning reasons for a change in density.

Policy DM12 advises "All new housing will be developed at a density that is consistent with achieving good design and does not compromise the distinctive character of the area in which it is situated. Development proposals that fail to make efficient use of land for housing, having regard to the character and location of the area, will be refused permission".

9.13 The submitted proposal, includes a reduction in the building footprint, and the use of the site for the provision of 2 family residential units of a good standard.

9.14 The provision of two residential units will make efficient use of this site whilst respecting the local area that includes both the substantially larger main Hollingbourne House and also the smaller cottages adjacent to the application site boundary. The density of the proposal is acceptable in this location, it reflects the character and appearance of the locality and is consistent with DM12.

9.15 (2) of DM5 **exceptionally**, allows for the residential redevelopment of brownfield sites **which are not residential gardens and which meet the above criteria** (relating to environmental value and density).

9.16 The application site is wholly in the countryside,. As described above, the site includes the existing walled gardens and although the policy seeks to exclude residential gardens the Court of Appeal have made clear that the whole of the site (including the walled garden) must be assessed against the policy. In this case no change of use would result to facilitate the new gardens. The existing garden would just serve the two new dwellings rather than those existing. As such given the nature of the proposal, it is considered that the site as a whole complies with the policy.

- 9.17 The redevelopment then needs to result in significant environmental improvement and the site is, or can be reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village.
- 9.18 Firstly considering the significant environmental improvement, this again is not defined and it is for the decision maker to determine as a planning judgment what those environmental improvements would be and attribute weight to them so as to determine whether they can be considered significant.
- 9.19 Again taking into account the pre-amble of DM5 paragraph 6.35 refers to landscape and biodiversity and paragraph 6.37 continues by identifying, the level of harm to the character and appearance of an area and the impact of proposals on the landscape and environment as key considerations.
- 9.20 As discussed elsewhere in this report the submitted proposal will improve the environmental value attributed to the character and appearance of the area (a key consideration set out in Paragraph 6.37 of DM5) in a number of ways. These include the reduction in the footprint of the building, the introduction of glazing and landscaping to the front of the building that will restore the rhythm across the long building frontage and improve the building setting.
- 9.21 The removal of the existing commercial use and the resulting activity, traffic and disturbance will have a positive impact on residential amenity for nearby occupiers and the wider area (by removing traffic from the surrounding rural country road). The walled garden is currently rarely used, the proposal will re-purpose this area, including works to repair the existing curtilage listed wall and the reinstatement of a former sunken coldframe/greenhouse. Thus resulting in environmental improvement of the site.
- 9.22 Biodiversity enhancements and the use of renewable energy sources also improve the environmental value of this part of the site, both which can be secured by condition. Landscaping improvements could also be secured through condition.
- 9.23 As such it is considered that significant environmental improvement to the site would result from residential development of the site (as a whole).
- 9.24 With regard to the accessibility of the site, it is located 2km from Eyhorne Street (Hollingbourne) which is a designated 'larger village' and a sustainable location in the Local Plan after the Maidstone Urban Area and the designated Rural Service Centres. Paragraph 4.21 of the Local Plan advises that "*The five larger villages ...have fewer services than rural service centres but can still provide for the day-to-day needs of local communities and the wider hinterland*". With this policy wording acknowledging the wider benefits outside the defined larger village settlement boundaries.
- 9.25 Paragraph 4.21 goes on to say "*All villages provide a nursery and primary school; a shop (including a post office); at least one place of worship, public house and community hall as well as open space provision. All have a range of local employment opportunities. The villages are connected by at least four bus journeys/weekday and Hollingbourne and Yalding are served by a train station*".
- 9.26 In applying policy DM5, key considerations are set out at paragraph 6.37 of the Local Plan. These include, what sustainable travel modes are available or could reasonably be provided; what traffic the present or past use has generated; and the number of car movements that would be generated by the new use, and what distances, if there are no more sustainable alternatives.
- 9.27 With the lack of any pedestrian pavement along Hollingbourne Hill and the nature of the road it is likely that walking into Hollingbourne will not be a safe or viable

option for future occupiers. It is however possible to make provision for other sustainable travel modes in the terms of cycling and electric vehicles as part of the development. The submitted plans (3094 – 012F) show the provision of 4 electric charging points linked to the 10 car parking spaces that are provided for existing occupiers, users of the holiday let accommodation and future occupiers.

- 9.28 Each dwelling will have EV charging (a Building Regulations requirement) and cycle storage which can be secured by condition. It is considered that fast EV charging (above 7KWh) for each dwelling are necessary to be secured by condition in this situation due to the relatively poor sustainability of the site (i.e. in excess of normal Building regulations requirements). Planning conditions are recommended to request measures to encourage sustainable travel choices by future occupiers (could be vouchers for cycle purchase, travel vouchers etc) are submitted to and approved in writing by the Local Planning Authority and in place prior to occupation.
- 9.29 The supporting text to policy DM5 (at para 6.37) includes a reference to a comparison between existing and proposed uses in terms of traffic movements and the distance of the actual trips if there are no sustainable alternatives. As set out earlier in this report, whilst the existing building has permission for a general business use (Use Class B1) with the high volume of traffic and activity associated with a B1 use, this permission prevents an office use or B1 a) use (only allowing B1 b) or c)). The vehicle trips associated with the two proposed residential units would be generally less than the trips generated by a B1 use permitted by this condition.
- 9.30 The distance of vehicle or cycle trips from the application site would be relatively short with a public house (The Dirty Habit, although understood to be temporarily closed following a fire, there is a strong likelihood this will reopen) located 1km from the site, Hollingbourne railway station 2.7km away. The nearest bus stop is 1.44km from the site (Church Green outside All Saints Church Hollingbourne no 13 with 9 buses a day into Maidstone Town Centre, Shepway, Otham, Leeds, Langley and around Hollingbourne).
- 9.31 In conclusion, whilst the site is not accessible to Eyhorne Street (Hollingbourne) on foot it is possible to improve the accessibility by sustainable modes with a number of measures. These include ensuring that electric charging points are provided, by ensuring that cycle storage facilities are provided and by putting measures in place through a condition to encourage sustainable travel choices by future occupiers.
- 9.32 The residential use would generate fewer vehicle trips than a general B1 use on the site and less than the studio of this size operating efficiently. The private vehicle trips to local facilities and public transport would be relatively short journeys.
- 9.33 This brownfield site in the countryside is a site that is not of overall high environmental value, and the proposal would result in significant environmental improvement, the density reflects the character and appearance of the area and the site can reasonably be made accessible by sustainable modes to a larger village and has the benefit of removing a use that would have higher trip generation . In light of these considerations the proposal is found to be in accordance with policy DM5 of the adopted Local Plan.

Loss of the existing business use and provision of residential floor space

- 9.34 Policy SP 21 of the adopted Local Plan states that the council is committed to supporting and improving the economy of the borough and providing for the needs of businesses. The policy sets out these aims will be achieved through a

number of measures, with points i), ii), iii) and iv) of SP21 referring to the intensification of uses within the existing designated economic areas, referring to support for existing premises in the urban area and rural service centres and improving these areas and Maidstone Town Centre for business purposes.

- 9.35 A change of use of the application building from the existing low intensity use is likely to amount to a business expansion. Policy SP21 (viii) supports proposals for the expansion of existing economic development premises in the countryside, provided the scale and impact of the development is appropriate for a countryside location in accordance with policy DM37. Policy DM37 states that 'expansion' will be permitted in rural areas where new buildings are small in scale and where floor space would not result in unacceptable traffic levels. Where 'significant adverse impacts on the rural environment and amenity' would occur DM37 again directs expanding business to premises in the urban area or the rural service centres or an economic development area.
- 9.36 The application site is not in an economic development area and is not located in the urban area or a rural service centre. The quantity of business (Use Class B1) floor space that is present (approx. 470 square metres) was only acceptable in this location on the basis that the use of the building was restricted on residential amenity grounds.
- 9.37 These restrictions covered the building use (use class B1 b & c, MA/97/1765) for the reason that "*Unrestricted use of the building or land would cause demonstrable harm to the character, appearance and functioning of the surrounding area and/or the enjoyment of their properties by adjoining residential occupiers*".
- 9.38 The hours of use were also restricted with a condition specifying that no activity in connection with the uses hereby permitted shall be carried out outside the hours of 18:00 and 08:00 and not at any time on Sundays, Bank or Public Holidays. The reason for this restriction was to safeguard the enjoyment of their properties by adjoining residential occupiers. It is also understood that a separate covenant in the title deeds has a similar restriction.
- 9.39 The applicant has provided the background to the general decline of photographic studios with advances in technology (including CGI) and the switch to digital making photography more accessible to the general public. This move to digital has reduced the need for large studio spaces similar to that provided on the application site.
- 9.40 In these circumstances, it is unlikely. given these generally accepted market conditions that an alternative photography business would be found to occupy the application building. Other alternative businesses seeking employment floor space of this size would be directed towards the urban area or the rural service centres or an economic development area by DM37 for the same reasons that the restrictive conditions were imposed on the photography business .
- 9.41 The restrictions placed on the commercial use of the application building as a result of the location and the likelihood of future complaints from adjacent neighbours would make the application building unattractive for alternative for business use.
- 9.42 An alternative more intense business use using the same floor space would represent a business expansion and with the resulting noise, activity and traffic this would be unacceptable in this location. The proposal is in line with policies SP21 (minus vii) that is assessed below) and DM37.

Nature of the submitted proposal, conversion or a new building SP21 and DM31.

- 9.43 The distinction between the 'conversion' of a building and the formation of a 'new building' or rebuild has been considered by the courts under *Hibbitt v Secretary of State for Communities and Local Government*.
- 9.44 The judgement accepted that complete demolition of a building and it being rebuilt could not be a conversion. It was found that works to form a residential unit from a pole barn that involved infilling of three open sides was also not a conversion. In other circumstances the judgment advised that the assessment as to whether development was a conversion, or a new build had to be based on the scale and the nature of the proposed works.

Figure 7 The studio space with blocked up openings visible (right hand side)



- 9.45 With the existing building (front and rear parts) covering 470 square metres, the proposal will involve the demolition of 291 square metres or 62% of the original building. The existing external walls of the building are a total of 94 metres long (including window and doors). The current proposal will demolish a length of 51 metres or 54% of the existing external walls (see walls marked in orange in figure 5).
- 9.46 With this extent of building works and the whole of the rear section of the building being demolished and rebuilt the officer view is that the proposal does not represent a conversion.

Policy SP21 Economic development & DM31 Conversion of rural buildings.

- 9.47 For the reasons outlined above, it is the officer view that the submitted proposal taken as a whole does not involve the conversion of the building and due to the extent of the proposed works the proposal will result in a new building.
- 9.48 Following on from this conclusion, it is the officer view that Local Plan policy SP21 (vii) and policy DM31 do not apply in the consideration of this current planning application. An assessment of the proposal against relevant policies including DM30 is provided later in this report
- 9.49 If members take a different view to officers and consider that the submitted proposal does represent a conversion, an assessment against policy SP21 (vii) and DM31 is provided below.
- 9.50 Policy SP21 (vii) advises that the commercial re-use of existing rural buildings in the countryside will be prioritised over the 'conversion' to residential use, in accordance with policy DM31. Policy DM31 considers the 'conversion' of rural

buildings to other uses including residential stating that "Outside of the settlement boundaries as defined on the policies map, proposals for the re-use and adaptation of existing rural buildings which meet a number of listed criteria will be permitted. These criteria are considered below.

DM31 1 i) The building is of a form, bulk, scale and design which takes account of and reinforces landscape character

- 9.51 Whilst not a heritage asset, the front of the application building constructed of red brick and constructed in the 1980's has a functional broadly symmetrical business appearance. The character of the front part of the building comes from the regular building openings across the front elevation that are separated by brick piers and the double height space with roof lights.
- 9.52 The rear of the building with the black timber cladding from 1992 is more domestic in scale with a lower roof ridge and eaves, roof lights and windows of residential domestic proportions (see figure 8).
- 9.53 Whilst it is accepted that historically there has been an agricultural building in this location, the two parts of the existing building are relatively modern. The front red brick building bears little resemblance to either modern or historical agricultural buildings. The rear building with the recent timber cladding, roof form and the domestic openings has the appearance of a converted agricultural barn (see figure 8).
- 9.54 Overall and taken as a whole the building is not of a form, bulk, scale and design which takes account of and reinforces landscape character and therefore its conversion would be contrary to policy DM31, 1i).

Figure 8 Rear elevation of the building viewed from the rear walled garden



DM31 1 ii). The building is of permanent, substantial and sound construction and is capable of conversion without major or complete reconstruction;

- 9.55 As set out earlier in this report, as the current proposal involves major reconstruction with the demolition of rebuilding of the rear part of the building the submitted proposal would not meet the requirement of policy DM31 1 ii). DM31 1 iii). Any alterations proposed as part of the conversion are in keeping with the landscape and building character in terms of materials used, design and form.

- 9.56 The proposed changes represent an improvement to the building frontage with the removal of the studio use allowing the existing building openings to be unblocked. This work will restore the symmetry and rhythm to the building frontage. In this context the proposal meets the requirement of DM31. 1 iii).

DM 31 1 iv) There is sufficient room in the curtilage of the building to park the vehicles of those who will live there without detriment to the visual amenity of the countryside.

- 9.57 The submitted proposal includes car parking for existing and future residential accommodation in the courtyard to the front of the building. This parking will not cause harm to the visual amenity of the countryside. The proposal meets this requirement of DM31 1 iv).

DM31 1 v). No fences, walls or other structures associated with the use of the building or the definition of its curtilage or any sub-division of it are erected which would harm landscape character.

- 9.58 A new hedge separates the rear amenity areas within the enclosed rear walled garden however due to the location this will not harm landscape character. The proposal meets the requirement of DM31 1 v).

DM31 3 i). Every reasonable attempt has been made to secure a suitable business re-use for the building.

- 9.59 The applicant has set out the nature of the current business on the application site and the context of the general decline in photography studios, similar to the space provided on the application site.

- 9.60 The proximity of the existing residential accommodation to both the front and rear of the application building, the shared courtyard and the nature of vehicle access that is shared with the residential uses in Hollingbourne House, Mulberry Cottage and Wells Cottage makes the application building unattractive for potential commercial occupiers.

- 9.61 The sensitivity of the application building location in relation to residential amenity is shown by the existing restrictions placed on the floor space by planning conditions. These conditions would again restrict the interest in the floor space by alternative business occupiers.

- 9.62 The application submission also includes the following information that draws on the applicant's experience of running the existing holiday let (Wells Cottage adjacent to the application site) and the applicant's agent who has 30 years experience of the local property market.

- 9.63 The comments relate firstly to an alternative use of the building in line with the existing permission (B1 b) '*Research and development of products or processes*' and c) '*Industrial processes*') and secondly consider the conversion of the application building to provide holiday let accommodation.

Alternative B1 b) and c) use

- There is insufficient space on the site for the car parking that would be required for an alternative business use (applicant currently lives and works on site)
- The works to increase car parking to make the site more attractive to potential tenants would harm the setting of the listed building
- The use of the site by HGVs would harm residential amenity
- There is a severe lack of mobile and high speed broadband in the area that is important for B class uses.

Holiday let accommodation

- The profitability of holiday let accommodation is low with falling income and rising costs.
- Holiday accommodation available locally already includes a Days Inn, Mecure, Hilton and Leeds estate properties and greater choice with the expense of Airbnb.
- With the occupancy of holiday lets restricted by the nature of the business (and a requirement of DM31 2 iii), it would be difficult to get finance to cover the initial outlay for the conversion works.
- The realistic income that would be achievable from a completed conversion of the application building to holiday lets would not cover the cost of the finance required.

9.64 Following the above assessment, the submitted proposal meets the requirement of DM31 3 i).

DM31 3 ii). Residential conversion is the only means of providing a suitable re-use for a listed building, an unlisted building of quality and traditional construction which is grouped with one or more listed buildings in such a way as to contribute towards the setting of the listed building(s), or other buildings which contribute to landscape character or which exemplify the historical development of the Kentish landscape.

9.65 Whilst the front part of the application building is of quality construction it is not listed and its impact on the setting of the nearby listed building is a negative one.

9.66 The contribution of the building to landscape character and the historical development of the Kentish landscape is small. The proposal does not meet the requirement of DM31 3ii).

DM31 3 iii). There is sufficient land around the building to provide a reasonable level of outdoor space for the occupants, and the outdoor space provided is in harmony with the character of its setting.

9.67 With the large walled garden to the rear of the site, there is sufficient space for the proposed family accommodation. The proposal includes the repair and restoration of the garden walls and the introduction of the residential use into the building will assist in ensuring the future maintenance of the garden walls. The proposal is in line with policy DM31 3 iii).

9.68 In conclusion, with the proximity of nearby residential occupiers, the granting of planning permission for the use of the application building for commercial purposes was an exception.

9.69 The commercial use of the building was only acceptable on the basis that the building would be occupied by limited uses including a photography studio as an alternative commercial use *would "...cause demonstrable harm to the character, appearance and functioning of the surrounding area and/or the enjoyment of their properties by adjoining residential occupiers".*

9.70 In addition where there are potential '*...significant adverse impacts on the rural environment and amenity*', including where there is business expansion, adopted local plan policies direct commercial uses to the urban area, the rural service centres or an economic development area.

9.71 As set out in the planning history , the council has previously accepted the loss of a business use in the application building and the conversion of the space to ancillary residential use. Planning permission was granted in April 2004 for the change of use of the building from the photography studio with the approved plans showing a swimming pool and garage in the retained building with the rear garden providing tennis courts.

- 9.72 In this context and for the reasons that have been given, the loss of the existing commercial use and the provision of residential use in this location are acceptable.
- 9.73 Officers have concluded (in agreement with an objection from a neighbour) that due to the extent of works proposed overall, the application does not involve the conversion of the building as a whole.
- 9.74 The description of development correctly refers to one part of the proposal as the conversion of the two areas of the building that are retained from business to residential use. In this context policies DM31 and SP21 (vii) are not relevant to this application. If members consider otherwise, and that these policies do apply, the above assessment has found that the proposal is in line with DM31 1iii), 1iv), 1v), 3i), and 3iii) but contrary to DM31 1i, 1ii) and 3 ii).

Design, appearance, the countryside and the Kent Downs AONB

- 9.75 Policy SP 17 of the Local Plan provides advice on the countryside which is defined as all those parts of the plan area outside the designated settlement boundaries on the policies map. Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area.
- 9.76 Policy SP 17 states that great weight should be given to the conservation and enhancement of the Kent Downs Area of Outstanding Natural Beauty including the management plan. Account should be taken of the Maidstone Borough Landscape Character Guidelines Supplementary Planning Document.
- 9.77 Policy DM 30 (Design principles in the countryside) states that proposals which would create high quality design, satisfy the requirements of other policies in this plan and meet a number of stated criteria will be permitted. These criteria are considered below.

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

- 9.78 The design and appearance of the submitted proposal has sought to respect and enhance the positive aspects in the appearance of the existing commercial building. The reconstructed rear part of the building and the alterations to the front of the building retain and enhance the character of the building (removal of the blocked up openings) whilst seeking to reduce the negative aspect of its bulk and dominance in this location by increasing activity at ground floor level.
- 9.79 The application involves the demolition and rebuilding of the rear part of the building. This rebuilt section of the building will be in the same general location but with a smaller footprint. The rebuilt rear of the building will reflect the scale and character of the original and retained parts of the building with proposed window and door openings in a similar domestic style to the existing building.
- 9.80 The proposal involves the formation of a small 0.9 metre deep inset balcony with access doors to the south east (farm) elevation at first floor. The existing building has a high level window in this location. This balcony is in keeping with the character and appearance of the building. Amenity is discussed separately.
- 9.81 The design of the proposal and the other building changes are discussed in the heritage section of this report. The alterations and the design of the building have

been considered by the Council's conservation officer and they have confirmed their support for the application.

ii. Impacts on the appearance and character of the landscape would be appropriately mitigated. Suitability and required mitigation will be assessed through the submission of Landscape and Visual Impact Assessments to support development proposals in appropriate circumstances.

9.82 The application site is set some distance from the public highway, to the rear of the large main Hollingbourne House and will be seen in most views in the context of the adjacent larger agricultural buildings in Hollingbourne Farm.

9.83 The proposed building, including the roof extensions, is acceptable in this location, and will not have a negative impact on the landscape and as a result no mitigation is required. In addition, the building will not be highly visible on this enclosed site with screening provided by neighbouring buildings.

iii. Proposals would not result in unacceptable traffic levels on nearby roads; unsympathetic change to the character of a rural lane which is of landscape, amenity, nature conservation, or historic or archaeological importance or the erosion of roadside verges.

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

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

9.85 The submitted proposal retains part of the existing front building and includes a reduction in the footprint of the rebuilt rear building. The proposal complies with this requirement.

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

9.86 The submitted proposal that includes a reduction in the footprint of the rebuilt rear building with similar weatherboarding facing material complies with this requirement.

9.87 The proposed slate roof covering, and aluminium windows are acceptable. The proposed roof extensions set below the two roof ridges and set in by over 5 metres from north west elevation and 4 metres from the south east elevation and behind the front and rear roof slopes are in keeping with the appearance of the building. The proposal complies with this requirement with the proposed roof extensions discussed in the heritage section of this report.

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

9.88 The application site is found within the Kent Downs ANOB. Policy SD2 of the Kent

Downs AONB Management Plan states that the local character, qualities and distinctiveness of the Kent Downs AONB will be conserved and enhanced in the design, scale, setting and materials of new development.

- 9.89 Policy SD9 of the management plan states that the particular historic and locally distinctive character of rural settlements and buildings of the Kent Downs AONB will be maintained and strengthened. The use of locally-derived materials for restoration and conversion work will be encouraged. New developments will be expected to apply appropriate design guidance and to be complementary to local character in form, setting, scale, and choice of materials.
- 9.90 Policy HCH1 states that the protection, conservation and enhancement of the historic character and features of the Kent Downs landscape will be pursued and heritage-led economic activity encouraged. Policy HCH4 advises that opportunities to develop contemporary artistic, historic, cultural and scientific interpretation and celebration of the landscape and people of the Kent Downs will be pursued.
- 9.91 The proposal includes alterations to the front part of the building that are keeping with the building appearance and the rebuilding of the rear part of the building on a slightly smaller footprint. The building alterations will represent an improvement to the AONB in the limited views of the building on this enclosed site
- 9.92 The local character, qualities and distinctiveness of the Kent Downs AONB will be conserved and enhanced by the design, scale, setting and materials of the proposal in accordance with policy SD2 of the Management Plan. The submitted proposal is in accordance with the Kent Downs AONB Management Plan.
- 9.93 The application site is in the Wormshill, Frinsted and Otterden Downs and Dry Valleys character area in the Maidstone Borough Landscape Character Guidelines SPD. The area is described as a series of dry dip slope valleys and ridges to the north east of Maidstone, on the upper plateau of the North Downs within the Kent Downs Area of Outstanding Natural Beauty.
- 9.94 The key characteristics include
- gently undulating landform of dry dip slope valleys and ridges,
 - many large woodland tracts with oak and ash,
 - chalk grassland pasture in dip slope valleys, a
 - arable fields on ridges,
 - a strong network of species rich native hedgerows
 - Estate fencing and flint and red brick walls
 - Scattered villages and farmsteads with buildings featuring flint, chalk, red brick and chequered red and grey brick,
 - Narrow winding lanes which most often are lined by hedgerows (AONB).
- 9.95 The character guidelines conclude that actions should be taken to conserve and reinforce these characteristics. The submitted application that relates to an enclosed site will conserve these characteristics. The application is in accordance with the Kent Downs AONB Management Plan and the Maidstone Borough Landscape Character Guidelines SPD

Heritage

- 9.96 In making decisions on all listed building consent applications, or any planning application for development that affects a listed building, or its setting, a local planning authority must have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest. This obligation, found in section 66 of the Planning (Listed Buildings and

Conservation Areas) Act 1990 (1), applies to all decisions concerning listed buildings.

- 9.97 Historic England advice is that preserving the building or its setting in this context means not harming the interest in the building, as opposed to keeping it utterly unchanged. The Court of Appeal decision in the case of *Barnwell vs East Northamptonshire DC 2014* made it clear that in enacting section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 Parliament's intention was that 'decision makers should give "considerable importance and weight" to the desirability of preserving the setting of listed buildings' when carrying out the balancing exercise'.

Figure 7: View looking west to Wells Cottage before and after improvement works



- 9.98 Policy SP18 of the Local Plan relates to the historic environment advising that the

characteristics, distinctiveness, diversity and quality of heritage assets will be protected and, where possible, enhanced to ensure their continued contribution to the quality of life in the borough. This aim will be achieved by the council encouraging and supporting measures that secure the sensitive restoration, reuse, enjoyment, conservation and/or enhancement of heritage assets, in particular designated assets identified as being at risk, to include securing the sensitive management and design of development which impacts on heritage assets and their settings.

- 9.99 Policy DM4 of the Local Plan relates to development affecting designated and non-designated heritage assets. Applicants will be expected to ensure that new development incorporates measures to conserve, and where possible enhance, the significance of the heritage asset and, where appropriate, its setting. A Heritage Assessment should respond to the value of the historic environment by assessing and taking full account of heritage assets, and their settings, which could reasonably be impacted by the proposals. The assessment should consider the significance of the assets and the scale of the impact of development on the identified significance.
- 9.100 Policy DM4 states that the council will apply the relevant tests and assessment factors specified in the National Planning Policy Framework when determining applications for development which would result in the loss of, or harm to, the significance of a heritage asset and/or its setting.
- 9.101 The National Planning Policy Framework (paragraph 197) states: *"In determining applications, local planning authorities should take account of: a) desirability of sustaining and enhancing the 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"*.
- 9.102 NPPF paragraph 199 advises *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance"*.
- Paragraph 200 adds *"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification...."*
- 9.103 In assessing the level of harm that may occur and the planning balance NPPF paragraph 202 advises *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use"*.
- 9.104 Further guidance on considering the significance of heritage is provided by Historic England (Managing Significance in Decision Taking in the Historic Environment (2015) and The Setting of Heritage Assets (2017)).
- 9.105 Policy DM4 of the Local Plan states that where development is proposed for a site which includes or has the potential to include heritage assets with archaeological interest, applicants must submit an appropriate desk-based assessment and, where necessary, a field evaluation. The application site is not in an area known to have archaeological interest. The buildings on the site are also relatively modern and their construction is likely to have destroyed anything of interest that

was present in the ground. It is for these reasons that no further archaeological information is required to support the current application.

- 9.106 The relevant heritage considerations as part of the current development include the need to consider the potential impact on:
- The setting and significance of Hollingbourne House (Grade II),
 - The setting and significance of the gazebo building (Grade II),
 - The setting and significance of the donkey wheel (Grade II),
 - The setting and significance of the brick garden walls (curtilage listed Grade II) and the sunken glasshouses (partially curtilage listed).
- 9.107 The NPPF defines 'setting' of a heritage asset as "*The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or ' contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral*".
- 9.108 The NPPF defines setting of a 'significance' of a heritage asset as "*The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting*"
- 9.109 The submitted planning application is supported by a heritage assessment prepared on behalf of the applicant.

The setting and significance of Hollingbourne House (Grade II)

- 9.110 The description of Hollingbourne House provided on the national list of historically important buildings is as follows:
- "House. 1798 by Charles Beazley, with later C19 alterations. White-brick with slate roof. 2 storeys on brick plinth. Ashlar plat band. Projecting eaves with flat boxed soffits, continued across gables. Eaves and verges form pedimented gable ends; central section breaks forward in 2 stages, with slightly higher eaves. Hipped roof to inner break, pedimented gable to outer. Gable end stacks and 4 rear stacks. Small semi-circular window in central pediment gable. Regular 10-window front of recessed sashes: three 12-pane to each side range, two 8-pane to first break, flanking central break which has two 12-pane sashes. Eight 18-pane ground-floor sashes breaking plinth, and with gauged segmental heads. Ground floor of first break has 2 niches with recessed square panels above. All windows except those of first break formerly with Venetian shutters. Large round-arched window to ground floor of right gable end, with Gothic glazing and ogee-headed central panel. Panelled door with rectangular fanlight, in later C19 addition to rear, flanked by fluted Corinthian pilasters and with triangular pediment. Interior: only partly inspected. Geometrical staircase in central rear turret. Central ground-floor room with Soanian ceiling".*
- 9.111 The significance of Hollingbourne House comes mainly from its historic importance as a grand country house but it also has architectural and artistic significance in its neo-classical design. With reference to neighbour comments, other than the individual comments on the gazebo, donkey wheel and house the listing descriptions do not highlight any historical significance or interest in the wider Hollingbourne House grounds or the gardens.
- 9.112 The submitted heritage assessment carried out on behalf of the applicant notes that the original building "*...was complemented by a grand setting, which reflected the landscape ideals of the eighteenth century. Mature trees were used*

to frame the approach to the building along the driveway from Hollingbourne Hill, while the coach house, stabling and ancillary buildings were located to the southeast, obscured from view by the principal house to guests". (RPS Heritage Assessment: paragraph 3.5).

- 9.113 The buildings attached to the rear of Hollingbourne house would originally have been part of the main residence but providing secondary functional service areas to the principal house. With this secondary relationship, the buildings would have been purposefully hidden behind the main house.
- 9.114 In the 1920-1940's with links to the main house maintained, the submitted information sets out that, what is now the ground floor of Wells Cottage was in use as the kitchens and laundry with a housekeepers flat upstairs. What is now Mulberry House was the breakfast room and servants' quarters.
- 9.115 With the subsequent change in ownership and the renovation of the buildings to provide two separate cottages, the 'use' of the rear buildings is no longer associated with the main house. The two cottages are however still physically attached to the rear of Hollingbourne House, they remain part of the listed building and have a historical association.
- 9.116 The land to the rear of the main house (where the detached studio building is currently located) is shown on historic maps (mid 1800's) as previously providing a livestock or horse enclosure with open ground and wide access gates. In the late 1940's the house and estate were all sold together, and the site subsequently included a dairy farm with building on the studio site providing a milking parlour.
- 9.117 The courtyard at the rear of the main building was at that time operating as part of the farm with the courtyard buildings providing a farm office and domestic staff quarters.
- 9.118 In 1975 the garden cottage, the farm and Hollingbourne House were split up and sold separately. In the years between 1975 and 1998 the former front barn on the application site was demolished and replaced with a modern steel framed structure. The owners of an audio manufacturing /touring business lived in the main house and ran the business from offices in the location of Mulberry cottage with other parts of these buildings let out for residential use.

Figure 8: Comparison between the existing and the proposed front elevations





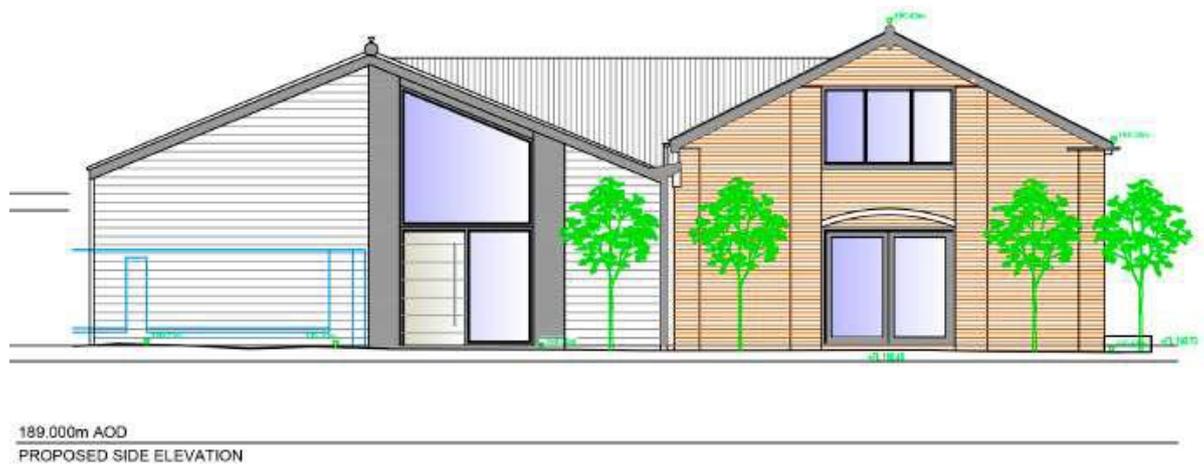
189 000m AOD
PROPOSED FRONT ELEVATION

- 9.119 The studio buildings were in separate commercial use including uses such as wood working, car body spraying, and stage equipment hire. The courtyard area was concreted over to protect underground water tanks from HGV's using this space. The area directly adjacent to the rear of the listed building (in front of Mulberry and Wells Cottages) was a hardstanding parking area (see Figure 7).
- 9.120 In 1998 the buildings that now provide Mulberry and Wells Cottages, were purchased by the applicant together with the detached building at the rear and the garden beyond. Work was carried out to renovate the buildings into the two cottages with the reinstatement of Georgian features and to convert the rear building into a photography studio. The studio building is now in need of expensive work such as heating systems, roofing and windows and this work is not economical given the current low scale use of the building.
- 9.121 The significance of Hollingbourne House is as a large country house, with the buildings and land at the rear largely screened from view. The land occupied by the application site, the garden and the commercial building were originally in domestic residential use linked to, and an important part of the main Hollingbourne House building. Other than the physical attachment and some shared access arrangements there is little that remains of the original relationship between the front and rear buildings of Hollingbourne House.

Figure 9: Comparison between the existing and proposed side elevation



189 000m AOD
Elevation 2



- 9.122 The buildings attached to the rear of Hollingbourne House have had a variety of uses, both residential and commercial. Following renovation by the applicant these buildings have reverted back to the original residential use providing two cottages, Mulberry Cottage and Wells Cottage (see Figure 7). These buildings are not referred to in the official listing description of the property which lists features of special architectural or historic interest in the building.
- 9.123 The large commercial application building to the rear of Hollingbourne House has a timber clad rear section constructed in the 1950's, with the red brick front building dating from the 1980's. This building is a modern addition to the site and is not a heritage asset. At the closest point, the blank narrow north east elevation of the listed building (Mulberry Cottage) is separated by a distance of 6 metres from the commercial building across a hardstanding area. The studio building and hardstanding area are in the setting of the listed building.
- 9.124 The commercial building is of a functional design and appearance. This building and the area of hardstanding in front currently provide shared access and car parking for the residential and commercial uses.
- 9.125 The change of use to residential would introduce a conforming use in this location that also reflects the historic use of this land as residential .
- 9.126 The council have previously accepted the loss of a business use in the application building (ref 14/0201). In the assessment of the application the case officer sets out that the proposed loss of the commercial floor space and introducing residential use
"...would benefit the setting of the listed buildings through the reunification of the site and its reversion to solely residential use, as well as through the removal of commercial vehicles/parking associated with the business use". The same conclusions are relevant and made in relation to the current planning application.
- 9.127 The physical changes to the front elevation of this commercial building involve the provision of glazing to two existing blocked openings. With the shape and location of the seven openings on the front elevation and the separating brick piers at even spacing, the glazing in the building frontage will restore the rhythm of the original design.
- 9.128 The glazing represents a positive change to the building by reducing the existing blank frontage on this prominent part of the building and providing interest and activity upon arrival at the courtyard. The other changes to the front elevation involve replacing the triangular front dormer with three roof lights and two additional roof lights. With roof lights on the existing application building and on nearby farm buildings the addition of roof lights is in keeping with the retained

building.

- 9.129 The appearance of this long building elevation will be further enhanced by the proposed trees and landscaping across the building frontage. This landscaping strip will provide some visual relief from the large area of hardstanding, improving the visual appearance of this area. The residential accommodation has been correctly designed with the living areas at ground floor level to the front of the building, which will provide activity and interest. The landscaping strip will provide some defensible space to these living areas.
- 9.130 On the side elevation of the commercial building there are three existing openings, two large openings at ground floor level (including double doors and a further blocked up original opening) and a high level bulls eye window.
- 9.131 The proposal involves replacing the bulls eye window with a larger window that will serve a bedroom. This first floor window respects the location and appearance of the retained ground floor opening but is of a smaller scale to respect the first floor location. This window is also the same scale and proportion as an existing high level window to the opposite south east (farm) building elevation. The proposal involves unblocking the original ground floor opening and fitting this with glazing.
- 9.132 The double doors will be replaced with a new narrower entrance door with the proposed glazing reflecting the new double height entrance lobby. Whilst it is accepted that glazing is only currently provided in the high bulls eye window, the total area of the proposed openings on the side elevation are similar to the area of the existing openings both covering an area of approximately 14 square metres.
- 9.133 The proposed works will use brickwork and weatherboarding to match the existing building facing materials. The existing cement sheet roof will be replaced with a slate covering. The existing timber doors and windows will be replaced with aluminium doors and windows.
- 9.134 The submitted plans show the relocation of the existing floor space in the roof space to the front part of the building. This space will provide new bedrooms for each of the two new units. The roof space is currently accessed by way of two roof hatches and the proposal involves two new staircases to improve accessibility. To achieve the necessary head height at the top of the stairs to meet building regulations, these staircases require roof extensions across the roof valley between the front and rear parts of the building.
- 9.135 As the extensions are lower than the two roof ridges, they will not be visible from the space at the front of the building that is shared with the listed building or to the rear of the building. In addition, the extensions are set back by over 5 metres from the north west (side) of the building of Unit 1 and at the shortest point 4 metres back from the south east (side) elevation of Unit 2. With the proposed roof eaves heights ranging between 3.2 and 3.8 metres and the set back from the edge of the roof, the existing building will provide some screening of these extensions especially in short to medium range views. Further screening of the extension on the south east side of the building will be provided by the large agricultural buildings on the adjacent site.
- 9.136 As highlighted by the submissions made by the neighbour, it is accepted that one of the extensions would be visible in longer range views from the grounds of Hollingbourne House further to the east (Donkey Garden). The extensions would be at a lower height than the roof ridges and a similar colour. With the scale of the host buildings, and with the extension seen in the context of two large

pitched roofs and the large agricultural buildings of Hollingbourne Farm the roof extension would not appear out of place in these views.

- 9.137 The courtyard between the listed building and the application building as well as access currently provides several areas of hardstanding that provides informal car parking. The submitted plans show the reorganisation of this parking to provide 10 formal spaces. These changes with the introduction of new planting and electric vehicle charging points will improve the appearance of this area.
- 9.138 An objection made on behalf of a neighbour has stated that the proposed works *"...are out of keeping with the prevailing character of the site and will detract from the agricultural character of the building and from the overall aesthetic of the estate"*. After assessing the orientation and access arrangements associated with the existing red brick building it is clear that the building has a closer relationship to the adjacent residential uses in these listed areas. The rear part of the building currently has the appearance of an agricultural barn converted to residential use and this appearance will be retained. Other than being adjacent, there is little relationship with the character and appearance of the agricultural buildings on Hollingbourne Farm or other agricultural buildings.
- 9.139 It is concluded that the current application building has a negative impact on the setting of the grade II listed building Hollingbourne House and the impact of the proposal on the significance of this heritage asset will be less than substantial.

The setting and significance of the brick garden walls (curtilage listed Grade II) and the sunken glasshouses (1 of 2 curtilage listed)

- 9.140 The submitted heritage assessment considers the significance of the curtilage listed walls and reports the following:
- On the title map of 1840 the walled gardens are in an earlier layout with the area behind the stables (studio) building yet to be fully enclosed by new walls.
 - The 1867 map shows that the gardens were still being developed and the new stable block and yard had yet to be added. The layout of the cottage garden paths was very different from today with no central path and the path close to the stable yard forward of its current position. The entrance to the garden would appear to be sited more in the corner too.
- Much of the garden development of the glasshouses and new walls are believed to date from about 1875 -88 and these appear to be present on the photograph of 1895.
- On the next photograph of 1940 glasshouses and vegetable plots show that the walled garden is largely a functional food production area. There is an access path outside the garden which helps connect the garden to the rear of the house
 - In the 1950's the owner has built new wide concrete tracks to access the gardens with tractor mowers from the main house driveway. The garden is renovated by the head gardener who builds up the right hand sunken bed to match the left hand one and replaces the cold frame with a raised bed.
 - In the rear garden the long raised bed can be seen in the 1960s with a much reduced vegetable crop. The importance of the garden relative to the setting of Hollingbourne House has been greatly impacted and diminished by the development and encroachment of the farm, its activities and its access road through the courtyard.
 - 1975 the sale of the farm and garden cottage resulted in the closing of 4 access points to the cottage garden increasing its isolation and amenity within the overall setting of the estate. The main Hollingbourne House was listed in 1984 without any mention of the walls.
 - With the location of the cottage garden to the rear of the studio building the applicant reports that current access to this residential garden is poor.
 - It is reported that at the time of the applicant's purchase the neighbours boundary wall had collapsed and this has since been rebuilt, the wall behind the

barn has long been collapsing and is currently propped up on timbers (see figure 10).

- 9.141 The heritage assessment after considering the significance of the walls advises *"...the surrounding landscape and arrangement of the walled gardens have been periodically and substantially altered since their construction. They now demonstrate numerous phases of redevelopment, with the garden walls to the west appearing to date from the construction of the previous Hollingbourne House in the seventeenth century. However, many of the walls appear to date from the late eighteenth century, with further nineteenth and twentieth century construction and intervention"* (Paragraph 3.6).
- 9.142 The wall alterations include works granted consent in August 1999 (99/1078) which involved a partial reduction in the height of garden wall to 1.2 metres and formation of new gateway.
- 9.143 Whilst the main Hollingbourne House was listed in 1984 without any mention of the walls, the council considers the walls within the garden area to the rear of the studio building to be statutorily listed due to their location in the curtilage of the grade II listed Hollingbourne House. Although in large parts not in their original form the walls have historical value in their general alignment in marking the boundaries of the walled garden and the retained bricks that the walls are constructed with.
- 9.144 The current application includes works and repairs to all of the garden walls surrounding the rear section of the application site. The applicant has advised that bricks salvaged from the proposed alterations and those retained from the 1999 alterations will be used to replace the blockwork in sealed openings or to carry out general repairs that are needed. The work will be carried out in accordance with the methodology provided at figure 12 which is submitted by the applicant.
- 9.145 The wall that runs mainly parallel to the rear of the studio building demarcated an animal yard from the walled garden and is in three different parts. The middle longer section was built at later date than the other two sections. A number of different parts of the wall have previously been rebuilt and a section lowered in accordance with a permission granted in 1999.
- 9.146 The proposed works to the wall are shown on the drawings below. A section of this wall is currently unstable and propped up as it is close to collapse (see Figure 10), this wall would be dismantled and rebuilt. The majority of the existing wall is 1.8 metres high but with an 8 metre long section (including a 2 metre wide opening) that drops down to a height of 1.2 metres that was previously granted consent. Listed building consent for partial reduction in height of garden wall and formation of new gateway, granted on the 16 August 1999 under reference 99/1078
- 9.147 The current lowered section of wall would be extended by 14 metres with two new openings formed of each 2.5 metres wide. With the many previous alterations, the value of the wall is in its alignment, the bricks used in its construction and the manner in which the original walls were constructed. With these elements protected as part of the current proposal, that will also secure the walls sustainable future, the harm to the wall is less than substantial.
- 9.148 The submitted proposals include the following works to the other garden walls:
- North west wall – likely to have been laid between 1866 and 1888 in imperial bricks with lime mortar. The wall will be repointed as joints have lost their mortar. An angled modern wall is to be removed.

- South west wall – although line of wall appears to match the original layout, the wall appears to have been rebuilt at least twice including in recent times. Laid in imperial bricks with sand and cement the piers to the opening are a modern addition in the 1950s. The propose works are to repair the wall, clear back the ivy, replace the gate with a Yew hedge infill and add caps to the brick piers.
- East garden wall – Wall dating from the early 1800's but has since had a range of different alterations including formation of new openings and a section of wall raised in the 1950's. A blocked up opening in the wall will be re blocked in more suitable bricks with a false door, ivy infestation removed and repointed. A leaning section may require buttressing.
- Northern glasshouse wall – believed to date from between 1800 – 1840 with Georgian bricks in Flemish garden bond with darker bricks in a 'diaper' pattern. The line of the wall appears in 1790. Appears that the upper section of this wall may be a later addition. The works include repointing with lime mortar and replacing blown bricks, loose sections of render from the former glasshouse removed, end of wall tied in. 1950's electrical shed repaired.

Figure 10 South wall curtilage listed showing existing propping (prior to its partial removal)



- 9.149 At the northern (rear) end of the walled garden are two sunken glasshouses. The submitted information reports that the sunken glasshouses are both currently in a highly derelict state.
- 9.150 The left hand glasshouse dates from around 1879 – 1880 and is built of imperial bricks. This earlier glasshouse is curtilage listed due to the location in the original curtilage of the main Hollingbourne House and as it existed on the 1st July 1948. The submitted proposal includes the renovation of this glasshouse include rebuilding above ground in reclaimed red brick and new glazing. The 1950s heating equipment would be removed with the interior rendered. The door frame and door would be reinstated in a design similar to the original four panel door.
- 9.151 It is thought that the right hand glasshouse was originally a sunken frame which was built up in the 1950s using buff bricks and then rendered. This 1950's glasshouse is not curtilage listed and is not a heritage asset. The applicant has

stated that the repair of the later more recent glasshouse is not economically viable so the structure will be recorded and then reduced to ground level and filled with soil. A feature outline in brick at ground level would be retained to mark its position.

9.152 The proposed works to the application building, including the reduction in the building footprint as part of the rebuilding of the rear part of the building. These changes and the proposed residential use of the building is make a positive contribution to the setting of the wall and glasshouse.

9.153 It is concluded that the current application building has a neutral impact on the setting of the curtilage listed walls and the glasshouses and the impact of the proposal on the significance of these heritage assets will be less than substantial.

Figure 11 Works to the wall at the rear of the studio building



The setting and significance of the gazebo building (Grade II),

9.154 The Gazebo is located just to the north of the Hollingbourne Hill entrance to Hollingbourne House. The building is on the national list of historically important buildings (grade II). The Historic England listing is as follows:

"Gazebo. Late C18. Red brick in Flemish bond. Plain tile roof. Rectangular plan. Chamfered brick plinth, on flint base with stone quoins. Pyramidal roof. Rectangular window to south with Gothic panes. Blocked windows to west and north. Interior not inspected".

9.155 The submitted heritage statement sets out *"The Gazebo was constructed as an outbuilding to the principal house and effectively serves as a gate lodge to Hollingbourne House...and marks the principal entrance into the estate. This setting is an integral component of the listed building's significance...". The connection with the principal house is also an important component of its significance with the structure designed to mark the approach to the listed building. Although both structures form part of the estate, they were historically distinct, with the Gazebo constructed to mark the entrance to the estate and be visually conspicuous. In contrast the original stabling within the Site was located to the rear of the principal building, away from public views.*" (paragraphs 3.31 and 3.32).

9.156 With the lack of any meaningful functional relationship between the Gazebo and the application site and the separation distance of 95 metres, the application proposal will not impact on the setting or significance of the Gazebo with less than substantial harm.

The setting and significance of the donkey wheel (Grade II)

- 9.157 The donkey wheel is on the national list of historically important buildings (grade II). The Historic England listing is as follows:

Donkey Wheel. C19. Wooden. Horizontal, spoked, wooden drum on vertical wooden shaft. Brake shaft towards base. Attached by wooden frame to well head about 3 metres to south.

- 9.158 The submitted heritage statement sets out 3.33 "*The Donkey Wheel was constructed in the nineteenth century within the large walled garden, which historically housed the original Hollingbourne House. Although it now appears to be dismantled, its original significance was drawn from its historic interest as a piece of nineteenth-century engineering deigned to help draws water from the well below. It also represents the continued use of animal power in the estate at this time. Its setting is intrinsically linked to the nearby well. The historic use of the structure is no longer apparent due to previous damage and the surrounding vegetation. It is possible that the Site shares some historic association with the Wheel, through its probable historic use as stabling. However, this function has long since ceased, with the structure within the Site having subsequently been reconstructed. As such, any such potential historic link is no longer legible and the Wheel base now serves an Donkey ornamental function within the garden. Its setting is therefore now largely linked to this ornamental role within a domestic setting, while its setting is also visually constrained by the surrounding wall. The Site therefore makes no contribution to the significance of the Donkey Wheel*".

- 9.159 Listed building consent was granted on the 15 June 2000 for the dismantling of a timber built donkey wheel. After considering the relationship the application site makes no contribution to the significance of the Donkey Wheel and the application will not harm its setting with less than substantial harm.

- 9.160 In overall heritage conclusions, with the above assessment it is concluded that the current application building and the application site make no contribution to the significance of the grade II listed Donkey Wheel and the Gazebo and they will not harm their setting with less than substantial harm.

- 9.161 The current application building has a negative impact on the setting of the grade II listed building Hollingbourne House and the impact of the proposal on the significance of this heritage asset will be less than substantial.

- 9.162 Policy SP18 of the Local Plan states that heritage assets will be protected to ensure their continued contribution to the quality of life. This aim will be achieved by the council encouraging and supporting measures that secure the sensitive restoration, reuse, enjoyment, conservation and/or enhancement of heritage assets, in particular designated assets identified as being at risk. NPPF (paragraph 197) states: "*In determining applications, local planning authorities should take account of... the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation...*".

- 9.163 The curtilage listed garden boundary walls have been subject of a wide range of earlier work, including repairs alterations, demolition work and rebuilding. This work has included a new opening in relation to providing a fire escape from the commercial building. The section of the wall to be rebuilt is currently unstable, propped up and in danger of collapse. In these circumstances and with reference to policy SP18 this curtilage listed wall is identified as being at risk.

- 9.164 With the many previous alterations, the value of the walls is in their alignment that marks the boundaries of the walled garden. With further value from the bricks themselves and the manner in which the 'original' walls were constructed.
- 9.165 The current application will retain the walls on their current alignment. The reconstructed walls will be built, and repairs made with bricks that are retained from the earlier work to lower the adjacent wall and the proposed demolition. The walls will be built using a garden wall bond with the spacing of headers and stretchers to match the original wall, with a mortar mix to match the existing wall. The works will be carried out using the methodology set out at figure 12. This restoration work can be controlled through a planning condition.
- 9.166 The garden and boundary walls are now in different ownership to the listed building and separated from the listed building by the large commercial application building. The use of the garden by existing occupiers is currently restricted by this lack of direct access and as the garden walls are currently unsafe.

Figure 12: Methodology for repair and rebuilding the garden walls



- 9.167 The use of the proposed building for residential use will bring the gardens back into full beneficial use. The work to restore and rebuild the walls and the new openings will ensure there is direct access from the two proposed family homes to the rear garden space and that the functional role of the walls as means of enclosure is retained.
- 9.168 With the brick wall less than 500mm away from the rear elevation of the application building the lowered section of wall will enable residential outlook to be provided to the rear windows. The lowered wall will also improve the relationship between the building and the garden space.
- 9.169 The work involving the removal and recording of the later glasshouse from the 1950s and the restoration of the later glasshouse from the 1880s as set out earlier in this report will enhance the existing historical interest in this garden area and will preserve its significance.

- 9.170 The work to the walls and the glasshouses is considered in line with SP18 with the restoration of the walls and glasshouse conserving this heritage asset and allowing the garden space to be enjoyed and used to its full potential. The proposal is in line with NPPF paragraph 197 in terms of putting the site to viable use that is consistent with its conservation. The works to repair and rebuild the curtilage listed structures and to secure their preservation is in line with paragraph 199 of the NPPF that states that great weight should be given to an asset's conservation.
- 9.171 It is concluded that the current application building has a neutral impact on the setting of the curtilage listed walls and the glasshouses and the impact of the proposal on the significance of these heritage assets will be less than substantial.
- 9.172 The harm arising from the proposal relates to the new openings in the curtilage listed wall and the roof extensions to the application building. NPPF paragraph 202 advises "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".
- 9.173 The proposed roof extensions that are set behind and below the front and rear roof slopes and a minimum of 4 metres from the side elevations will be hidden in the majority of views of the application building. Where the roof extensions are visible, they will be seen in the context of the main building roof. The extensions are provided to provide headroom for the staircases with the staircases provision reasonable in terms of making optimum viable use of the site (NPPF, 202).
- 9.174 The curtilage listed wall at the rear of the application building is unstable and in danger of collapse. Whilst it is accepted that the proposed additional openings will result in harm to the heritage value of the wall, the benefits of providing the improved access to the rear garden and the future use of the garden that will result, outweigh this harm.
- 9.175 In addition to the individual benefits from the roof extensions and the changes to the wall the proposal will provide wider public benefits that outweigh the less than substantial harm that has been identified. As set out in this report these include the improvements to the building frontage, improvements to the listed building setting, reduction in the building footprint, new landscaping, restoration of the other walls and the glasshouse, removal of the existing commercial use and securing an optimum viable use providing 2 good quality family dwellings.
- 9.176 After having special regard to the desirability of preserving the relevant heritage assets, their setting and any features of special architectural or historic interest the proposal is in line with policy SP18 and DM4 of the adopted Local Plan and advice in the NPPF.

Neighbour amenity

- 9.177 Local Plan policy DM 1 states that proposals which would create high quality design will be permitted where they respect the amenities of occupiers of neighbouring properties. Development should not result in, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion. Built form should not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.

Noise and disturbance

- 9.178 The operation of the existing commercial use is restricted by planning conditions

due to the proximity of adjacent residential accommodation. This accommodation is The Garden Cottage to the north, to the south Wells Cottage with Mulberry Cottage with Hollingbourne House beyond.

- 9.179 The current proposal will remove the existing commercial use and introduce a residential use that conforms with the use of neighbouring buildings. The activity, noise and disturbance from a residential use including from vehicle movements is likely to be lower than a commercial use in the building.

External lighting

- 9.180 Policy DM 8 states that external lighting will be permitted where it can be demonstrated that the lighting is the minimum amount necessary and that the design and specification of the lighting would minimise glare and light spillage. The lighting scheme should not be visually detrimental to its immediate or wider setting, particularly intrinsically dark landscapes.

- 9.181 The application site is in a group of other buildings including several other residential uses. Whilst visually any new external lighting will be seen in the context of these other buildings and uses, in order to avoid amenity issues a planning is recommended that seeks the submission of details of any lighting to be installed on the site.

Privacy, overlooking, outlook, daylight and sunlight.

- 9.182 The potential impact of the development on the amenities of the adjacent residential occupiers is considered below. These properties are Wells Cottage, Mulberry Cottage, the Garden Cottage and Hollingbourne House.

• *Wells Cottage*

- 9.183 Wells Cottage is in a two storey building that is parallel to and facing the front of the application building.

- 9.184 In terms of the front elevation, the submitted proposal involves new glazing in the front ground floor openings that are currently blocked (serving kitchen/ family room areas) and 5 roof lights on the front roof slope.

- 9.185 The middle three rooflights serve a double height covered accessway, the other two roof lights serve first floor bedrooms. With a separation distance of 22 metres (normal standard of 20 metres between directly opposing upper floor windows) across the shared public courtyard and access the proposed development is acceptable in relation to overlooking and privacy. The separation distance of 17 metres between the rooflights and the amenity space to the side of Mulberry Cottage is acceptable.

- 9.186 The introduction of glazing to the front elevation of the application building will remove the current blank appearance which will improve the appearance of the building and in turn improve the outlook for adjacent occupiers. With no increase in the height of the building that will be visible from the front elevation the proposal is acceptable in relation to daylight and sunlight provision.

• *Mulberry Cottage*

- 9.187 Mulberry Cottage is orientated at an angle of 90 degrees from the frontage of the application property. Whilst a distance of 6 metres separates the side elevation from the application property there are no windows in the side wall of this neighbouring property

- 9.188 With the screening provided by the existing Mulberry Cottage building the proposal is acceptable in relation to privacy and overlooking issues in relation to the rear amenity space of this property. With no increase in the height of the building that will be visible from the front elevation the proposal is acceptable in relation to outlook, daylight and sunlight provision.
- 9.189 The existing application building has a high level window to the south east (farm) elevation. The proposal involves the formation of a small 0.9 metre deep inset balcony in this location that is accessed through the new bedroom. This elevation of the application building is level with the rear elevation of Mulberry Cottage and the balcony that has one open side will be 8 metres from the corner of Mulberry Cottage. With this relationship, the partially enclosed nature of the balcony and the existing window in this location the proposal is acceptable in relation to residential amenity
- *The Garden Cottage*
- 9.190 In terms of the rear elevation, the submitted proposal involves new additional ground floor glazing and 5 roof lights on the rear roof slope. The rooflights serve a double height covered accessway, the windows at ground floor are to bedrooms, lounge and a study.
- 9.191 At the closest point, the rear corner of the application building will be separated from the corner of the Garden Cottage by a distance of 30 metres. With this separation distance this relationship is acceptable in relation to privacy, overlooking daylight and sun light. With the building orientation the potential impact on the amenity space of the Garden Cottage will be minimal. With no increase in the height of the building visible from the rear elevation the proposal is acceptable in relation to outlook, daylight and sunlight provision.
- *Hollingbourne House.*
- 9.192 The main Hollingbourne House is located to the rear of, and attached to, the building that is occupied by Wells Cottage and Mulberry Cottage, and separated from the front elevation of the application property by a distance of 28 metres. With the separation distance and the intervening buildings, the changes to the front elevation of the application building are acceptable in terms of this relationship and privacy, overlooking outlook, daylight and sunlight.
- 9.193 The large grounds of Hollingbourne House extend from the south to the north west side of the application site. The side elevation of the existing building has a bull's eye window at first floor level (to a double height space) and two large openings at ground level. The proposal includes the formation of a new entrance with glazing to an internal double height space to the rear section of this side elevation. To the front section the bulls' eye is replaced with a larger window and the window opening at ground floor level will be unblocked.
- 9.194 The larger opening at first floor level is to a bedroom. A distance of 11 metres separates this first floor window from the site boundary with the boundary marked by the side wall of a single storey detached small smokery building is present to the side, used as storage for bikes building. In the grounds of Hollingbourne House beyond this utility building is a further single storey detached garage with its own driveway.
- 9.195 To the north of these detached outbuildings is a wall marking a formal garden area, with this garden area also the site of the dismantled donkey wheel. An objection has been received from the neighbouring occupier in relation to the

overlooking of this garden from the proposed new glazing. The boundary of this garden is 10 metres from the new first floor window.

- 9.196 Whilst it is accepted that there may be overlooking from this window, with views partially screened by the existing detached building, trees and walls this overlooking is not sufficient to raise an objection. A separation distance of 10 metres between an upstairs window and a directly facing neighbours garden is normally considered acceptable (20 metres between directly facing windows). It is also highlighted that this overlooking impacts a very small area in the larger grounds of Hollingbourne House
- 9.197 In conclusion the submitted proposal is acceptable in relation to maintaining neighbour amenity and is in accordance with policy DM1.

Standard of proposed residential accommodation.

- 9.198 Local Plan policy DM1 and paragraph 130 of the NPPF states that proposals will be permitted where they create high quality design and provide adequate residential amenities for future occupiers of the development by ensuring that development is not exposed to, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion.
- 9.199 The proposed accommodation provides a good standard of residential accommodation with adequate internal space for the intended function of individual rooms and spaces. The submitted plans show that the accommodation is provided with sufficient daylight, sunlight and outlook for future occupiers. The accommodation is provided with an external amenity area to the rear of the site.
- 9.200 In conclusion the submitted proposal is acceptable in relation to the standard of accommodation and is in accordance with Local Plan policy DM1 and paragraph 130 of the NPPF.

Access and servicing transport and traffic

- 9.201 Local Plan policy DM 1 states that proposals which create high quality design will be permitted, where they safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access.
- 9.202 The existing vehicle access to the site is from Hollingbourne Hill and this access is retained as part of the submitted proposal. The existing access is suitable including in relation to its width, driver sight lines and the future servicing of the accommodation. The bin storage is shown on the plan and will be located close to, and accessible for collection. In terms of refuse vehicles, through the commercial use of the site the access has been shown to be suitable for HGV's.
- 9.203 Local Plan DM21 seeks to ensure that the vehicle trips generated by a use can be adequately accommodated on the road network. The vehicle trips associated with the efficient operation of the commercial use on the application site would be more than those associated with the proposed residential accommodation.
- 9.204 It is acknowledged that the site is not in the most sustainable location. A planning condition is recommended requesting the submission of measures to promote sustainable travel choices by future occupiers of the accommodation. This could include information given to new occupiers, including public transport timetables.
- 9.205 In conclusion the submitted proposal is acceptable in relation to access and servicing transport and traffic and is in accordance with Local Plan policies DM1 and DM21.

Car parking

- 9.206 Local Plan policy DM 23 states that the car parking for residential development will take into account the type, size and mix of dwellings and the need for visitor parking. Parking shall secure an efficient and attractive layout of development whilst ensuring the appropriate provision of integrated vehicle parking.

Figure 13 comparison of parking standards against the proposed car parking

Dwelling	Bedrooms	standard	Standard visitor	Standard required total	Provided
Unit 1	4	2	0.2	2.2	3
Unit 2	4	2	0.2	2.2	3
Wells Cottage	5	2	0.2	2.2	2.2*
Mulberry cottage	2	1.5	0.2	1.7	1.7*

* Total parking required for the cottages is 3.9 spaces and 4 spaces are proposed

- 9.207 Car parking standards are set out at Local Plan Appendix B. The local plan advises that new developments should ensure that proposals incorporate electric vehicle charging infrastructure.
- 9.208 Local Plan Appendix B advises that the car parking requirements applying to the application site are set as 'minimum' standards. The guidance states that for units with four or more bedrooms 2 independently accessible spaces are required per unit with 0.2 spaces per unit for visitor spaces. In relation to two bedroom units 1.5 spaces are required with 0.2 spaces per dwelling for visitor parking.
- 9.209 As set out in the table above the proposed parking meets the standards that are required in adopted policy. The proposal also includes 4 electric vehicle charging points. The applicant has advised that "*The possibility of additional 'tandem' parking exists to ensure that the concerns of neighbours in respect of the parking are fully met*".
- 9.210 In conclusion the submitted proposal is acceptable in relation to car parking and is in accordance with Local Plan policy DM 23 and Appendix B.

Cycle parking

- 9.211 Local Plan policy DM 23 states that cycle parking facilities on new developments will be of an appropriate design and sited in a convenient, safe, secure and sheltered location. The layout of the proposed building includes a central open area that could provide secure cycle parking.
- 9.212 Cycle standards are set out in Supplementary Planning Guidance SPG4 'Kent Vehicle Parking Standards' of the Kent and Medway Structure Plan (July 2006). These standards require 2 cycle spaces per unit for two or three bedroom dwellings and the proposal would therefore need to provide 6 spaces. A planning condition is recommended seeking details of cycle parking and for this storage to be in place prior to first occupation.
- 9.213 In conclusion with the recommended condition the submitted proposal is acceptable in relation to cycle parking and is in accordance with Local Plan policy DM 23.

Trees and landscape

- 9.214 Local Plan policy DM1 states that proposals should create high quality design and respect the topography and respond to the location of the site and sensitively incorporate natural features such as trees, hedges and ponds worthy of retention within the site. Policy DM3 states: "To enable Maidstone borough to retain a high quality of living and to be able to respond to the effects of climate change, developers will ensure that new development protects and enhances the natural environment by incorporating measures where appropriate to protect positive landscape character, trees with significant amenity value, and important hedgerows".
- 9.215 An area of Ancient Woodland (Marshall's Shaw) is located 185 metres to the north east, a local wildlife site is located 170 metres to the south west of the site. The roadside verges between the access to the application site to a point just to the north east of the Hollingbourne Hill and Pilgrims Way junction are protected. The application site is located in the Kent Downs Area of Outstanding Natural Beauty. There are group tree preservation orders on the opposite side of the site access in Hollingbourne Hill and the isolated tree in the open field to the north east (30 metres from the application site) is also covered by a tree preservation order
- 9.216 The current application involves the demolition and rebuilding of the existing building and does not involve works that would harm existing trees. Whilst it is highlighted that the provision of some of the new parking involves the loss of a raised bed, this harm is mitigated by new planting along the frontage of the building and the general improvements. The applicant has confirmed that no works to trees are proposed.
- 9.217 In conclusion the submitted proposal is acceptable in relation to trees and landscape and is in accordance with Local Plan policy DM1 and DM3.

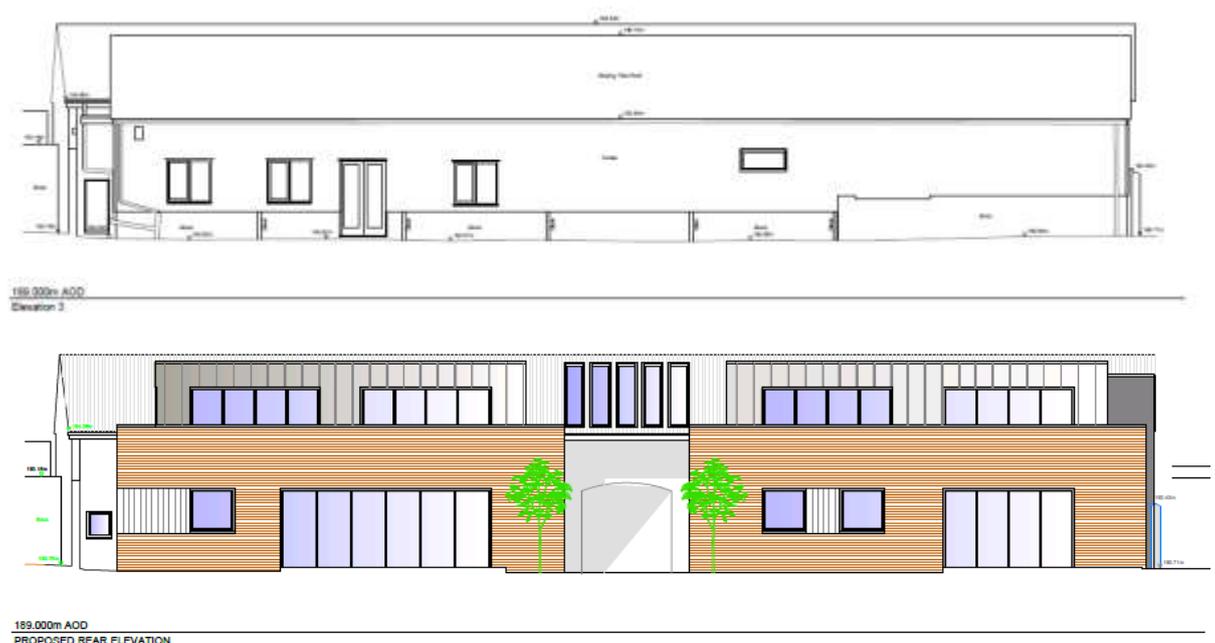
Ecology and biodiversity

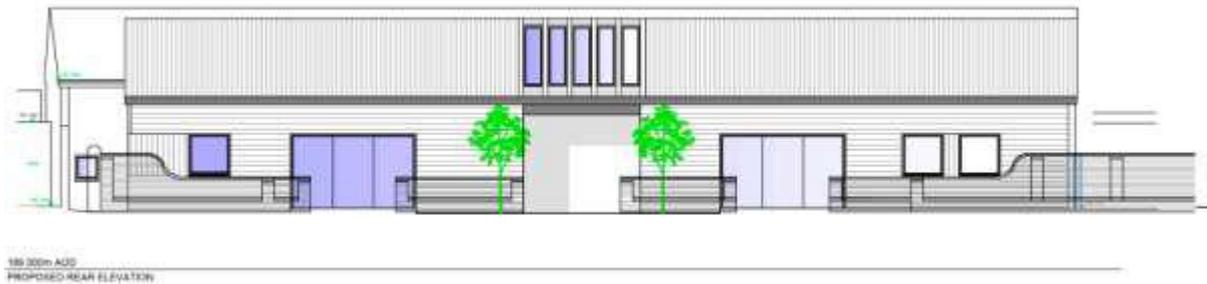
- 9.218 Local Plan policy DM3 states: "*To enable Maidstone borough to retain a high quality of living and to be able to respond to the effects of climate change, developers will ensure that new development protects and enhances the natural environment ...where appropriate development proposals will be expected to appraise the value of the borough's natural environment through the provision of...an ecological evaluation of development sites...to take full account of the biodiversity present, including the potential for the retention and provision of native plant species*".
- 9.219 The potential of the application site to accommodate protected species has been assessed as part of an ecological survey. This ecological survey was first carried out in 2016 and updated in December 2020.
- 9.220 The surveys found no bats or signs of bats during the internal/external inspection of the buildings. The studio buildings were not judged as offering roosting potential for bats. The brick walls around the site were searched for bats and signs of bats but no signs found with four cavities deemed suitable for single roosting bats. The ecologist recommends that the works to the walls should follow a precautionary approach by checking each wall cavity with an endoscope directly before works and that these works should only be undertaken outside the bat hibernation season (November to March).
- 9.221 The smokery building is tiled with felt below and the space between tiles and felt could be used by crevice dwelling bats however this building is being retained as part of the development. Four apple trees present towards the back of the garden offer high suitability for roosting bats as they had cavities with these trees also retained (additional two trees from the first survey). These trees are not impacted by the works. The garden may be used by foraging and commuting bats

although it is unlikely to support many prey animals and therefore is unlikely to be used more than occasionally by bats.

- 9.222 In terms of amphibians, no ponds were present on site or within 250m, the nearest being 300m to the West with only one other pond within 500m, present 480m to the North east. Due to the quality and management of the habitat on site and the distance to the nearest pond, it is judged unlikely that great crested newts would be present on site.
- 9.223 In terms of reptiles, wider local surveys have found a high likelihood of Adders being present and likely presence of the Viviparous Lizard. It is considered that the site has potential to support breeding birds within the trees. No signs of barn owls were found during the survey. It is considered that the site has no potential to support the hazel dormouse due to lack of habitat. No setts or signs of badgers were identified during the survey. It is considered that the site has moderate potential to support hedgehogs.
- 9.224 In order to maintain and enhance the biodiversity potential of the site the survey recommends a series of measures including tree protection during construction works, installation of a mix of open fronted and hole nesting bird boxes, bat roosting spaces within the buildings, provision of owl boxes, planting of climbing plants, and drought resistant wildflower planting.
- 9.225 A planning condition is recommended that seeks an ecological enhancement scheme and this could include a range of bird box types including open fronted and hole fronted nest boxes. A further planning condition recommends a landscape scheme that could include a wildlife-friendly planting scheme that uses native plant species.
- 9.226 In conclusion the submitted proposal is acceptable in relation to ecology and biodiversity and is in accordance with Local Plan policy DM1 and DM3.

Figure 14: Comparison between the existing rear elevation, the earlier refused application (18/500228/FULL) and the rear elevation currently proposed.





CIL

9.227 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 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.

Other Matters

- 9.228 In April 2018 planning permission was refused under delegated powers (18/500228/FULL) for the conversion and adaptation of existing photography studio into 2 dwellings with associated parking and garden area.
- 9.229 The current application involves substantial changes and improvements from the earlier submission that have satisfactorily addressed the earlier grounds for refusal.

PUBLIC SECTOR EQUALITY DUTY

Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

10. CONCLUSIONS and PLANNING BALANCE

SUMMARY OF REASONS FOR RECOMMENDATION:

The Court of Appeal found, in summary, that the earlier decision was flawed because the Council in applying DM 5 had failed to take into consideration the entire site and had focused only on the existing building. The judgement therefore concluded that the following matters needed re-consideration:

- The respondent will need to determine whether or not the application site as a whole is of high environmental value
- The respondent will also have to assess whether the other criteria (of Policy DM5) are met including whether the proposed redevelopment will result in a significant environmental benefit

The proposal has been re-considered with reference to Local Plan guidance on policy DM5 (in particular paragraphs 6.35 and 6.37) and the policy itself, the proposal site as a whole (including everything in the red line) is not considered to be of high environmental value. With the proposed works significant improvement will arise in a number of ways as set out in the report above and including :

- The proposal will remove the existing business use that is operating substantially below capacity and provide two family homes offering a good standard of space and improvements to neighbour amenity.
- The proposal involves the reinstatement of original building openings that will reduce the current blank ground floor appearance and restore the building symmetry.
- The removal of this overly restricted commercial use will remove a non-conforming use in this location with a positive impact on amenity.
- Further improvements will arise from the restoration works to the historic walls with slight modification that will allow the buildings to provide two family units with access to the rear amenity space. These works restoring the residential link to these gardens and ensuring the long term maintenance of the walls and bring the gardens back into use.
- With the substantial historical alterations to the curtilage brick walls (including LBC99/1078) the proposal will retain their significance that comes from their alignment materials, and bond.

The density reflects the character and appearance of the area and the site can reasonably be made accessible by sustainable modes to a larger village and has the benefit of removing a use that would have higher trip generation . The site will be made accessible by sustainable modes by the provision of cycle parking, electric vehicle charging points (for existing and future residents) and by other agreed measures through a condition to encourage sustainable travel options. In light of these considerations the proposal is found to be in accordance with policy DM5 of the adopted Local Plan.

Other matters which weigh in favour of the proposal and a positive recommendation for approval are :

- Large photographic studio spaces, like the one on the application site are in general decline and the current use operates below capacity and inefficiently.
- The proximity of other residential uses means the commercial use was approved as an exception subject to a number of restrictions to prevent harm to amenity. These restrictions and the proximity to residential reduce the potential for long term viable business use without harm to neighbouring residents.
- The council has previously accepted the loss of the business use granting permission for ancillary residential use as a swimming pool with a tennis court in the rear garden.
- The proposal is not a conversion and any more intense business use, due to the adjacent residential uses, would be directed to the economic development areas urban area or the rural service centres.
- The proposal includes car parking in accordance with minimum standards and is acceptable in relation to trip generation, biodiversity and landscape.
- Special regard has been had to the desirability of preserving Hollingbourne House its significance, its setting, and features of special architectural or historic interest including the curtilage listed walls.
- The harm that will result from the proposal to the significance of Hollingbourne House, the curtilage listed walls, the glasshouse, donkey wheel and gazebo will be less than substantial. The less than substantial harm to the significance of these heritage assets will be outweighed by the public benefits of the development. These public benefits include improvements to the front building elevation, heritage benefits arising from repairs to all the garden wall that will ensure their long term survival, the accessibility improvements to the garden space for future occupiers and the restoration works to the sunken glasshouses and securing the optimum viable uses consistent with their conservation.
- The proposed roof extensions facilitate the provision of staircases that allow the efficient use of the building as part of the provision of 2 good quality family homes with the existing roof space assessed by roof hatches.

Overall

The proposal is in accordance with the Maidstone Borough Local Plan (2017) policies SS1, SP17, SP18, SP19, SP21 DM1, DM3, DM4, DM5, DM6, DM8, DM23 DM30, DM31 and Appendix B.

11.0 RECOMMENDATION

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.

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) No development shall take place other than in accordance with the following approved plans:
 - 3094-011Rev F Proposed elevations (May 2020)
 - Appendix 1 to the Heritage Statement (Nov 2019)
 - Design and Access Statement (May 2020)
 - PDL 01 A2 rev 2 Details of construction for remedial works and new openings to existing wall (May 2020)
 - 3094-012 rev F proposed site plan (May 2020) 3094-012 rev F2 proposed site plan (May 2020)
 - 3094-010 rev E Proposals (Proposed floorplans) (May 2020)
 - PDL 01 rev v7 Proposed maintenance work to southern garden wall remaining on existing line. (May 2020)
 - PDL 02 rev v2 Proposed conservation works to northern glasshouse garden wall. (May 2020)
 - PDL 03 rev v5 Proposed maintenance and amendments to east garden wall. (May 2020)
 - PDL 04 rev v6 Proposed maintenance and minor amendments to south western garden wall. (May 2020)
 - PDL 05 rev v5 Proposed maintenance and minor amendments to north west facing garden wall by barn. (May 2020)
 - PDL 07 rev v2 Proposed restoration works to sunken glasshouses. (May 2020)
 - Built Heritage Statement (May 2020)
 - Preliminary Ecological Appraisal Survey (2016)
 - Preliminary Ecological Appraisal Survey update (December 2020)Reason: In the interests of proper planning and to ensure the quality of the development is maintained.
- 3) Prior to the commencement of the development above damp-proof course level, written details and samples of the external materials to be used in the construction of the replacement structure (to include dark stained timber weatherboarding and natural slate roof tiles) shall be submitted to and approved in writing by the Local Planning Authority The development shall be constructed using the approved materials and maintained as such thereafter.
Reason: To ensure a satisfactory appearance to the development.
- 4) Prior to the demolition of the garden wall that lies to the immediate north-east of Courtyard Studios (as shown on drawing reference: 3094-008 Rev A), and restoration works to the remaining garden boundary walls, a schedule of works to

the garden walls and the sunken glasshouses shall be submitted to and approved in writing by the local planning authority.

The schedule of works shall include:

- a) The entire wall to be built from the bricks in the existing wall to be demolished;
- b) A rebuilt wall that shall be a minimum of 1.2m in height at any point;
- c) Full details of how the retained garden walls will be restored.
- d) details of the sunken glasshouse restoration.

The dwellings hereby approved shall not be occupied until the approved works to the garden walls and the glasshouses have been completed, and the walls and the glasshouses shall be maintained as such thereafter.

Reason: To safeguard the value of the curtilage listed garden boundary walls and the glasshouse

- 5) The development hereby approved shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include measures for the enhancement of biodiversity through integrated methods into the design and appearance of the building by means such as swift bricks, bat tube or bricks. The development shall be implemented in accordance with the approved details prior to first occupation and all features permanently maintained thereafter.
Reason: To protect and enhance the ecology and biodiversity on the site in the future.
- 6) Prior to the demolition of the garden wall that lies to the immediate north-east of Courtyard Studios (as shown on drawing reference: 3094-008 Rev A), and restoration works to the remaining garden boundary walls a sample panel of the rebuilt wall (with the reused bricks, mortar mix/pointing details and coping stone to be used) shall be made available for inspection by Council officers with the works proceeding in accordance with this approved panel,
Reason: To safeguard the value of the garden boundary walls.
- 7) Prior to the commencement of the 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, shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principle's established in the Council's adopted Landscape Character Assessment 2012 and shall include details of a new native hedgerow to subdivide the rear gardens. The landscaping of the site shall be carried out in accordance with the approved details.
Reason: To ensure a satisfactory appearance to the development.
- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of a property, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.
Reason: To ensure a satisfactory appearance to the development.
- 9) The vehicle parking spaces shown on the submitted plans shall be provided prior to first occupation of the approved dwellings and permanently retained for parking and shall not be used for any other purpose.
Reason: To ensure adequate parking provision.

- 10) 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 the repositioned rear wall (as shown on drawing reference: 3094-008 Rev A), no extensions to any building, no outbuildings, and no fencing, walling or other hard boundary treatments shall be erected within or around the site.
Reason: To ensure a satisfactory appearance to the development.
- 11) Prior to first occupation of the approved accommodation a bin storage enclosure shall be in place and is in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority and retained for the lifetime of the development.
Reason: To safeguard the appearance of the development and the visual amenities of the area
- 12) Prior to first occupation of the development hereby approved measures to encourage sustainable travel choices by future occupiers shall have been submitted to and approved in writing by the Local Planning Authority, the measures shall be in place prior to first occupation and maintained for the lifetime of the development.
Reason: In the interests of sustainable travel and pollution prevention.
- 13) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors and demonstrate how the lighting meets Bat Conservation Trust guidelines. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.
Reason: In the interest of amenity.
- 14) Prior to first occupation of the accommodation hereby approved details of cycle parking shall be submitted to and approved in writing with the cycle parking in place prior to occupation and maintained for the lifetime of the development.
Reason: To promote sustainable travel choices.
- 15) The works to the garden boundary walls and the sunken glasshouses shall only take place outside the bat hibernation season (November to March) with the works following the precautionary approach with works only proceeding after each wall cavity is checked for bats with an endoscope.
Reason: in the interest of biodiversity and ecology
- 16) The development shall not commence above slab level until details of how decentralised, renewable or low-carbon sources of energy will be incorporated into the development hereby approved have been submitted to and approved by the local planning authority. Measures shall include EV fast charging points (above 7kW) to each dwelling and details of number and location of equipment such as solar array and/or Air Source Heat Pumps. The approved details shall be installed prior to first occupation of the relevant dwelling and maintained thereafter. If any PV panels are installed and are or become defective, they shall be replaced as soon as is reasonably practicable.
Reason: In the interests of sustainable and energy efficient form of development.

INFORMATIVES

- 1) The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25th October 2017 and began charging on all CIL liable applications approved on and from 1st October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

Case Officer: Rachael Elliott

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