

REFERENCE NO – 22/505188/FULL		
APPLICATION PROPOSAL Change of use of land from agricultural land to residential to facilitate the installation of a proposed swimming pool and erection of an outbuilding pool house.		
ADDRESS Cam Hill, South Lees Lane, South Green, Sittingbourne, Kent, ME9 7RY		
RECOMMENDATION GRANT PLANNING PERMISSION subject to conditions subject to the planning conditions in Section 8 of this report		
SUMMARY OF REASONS FOR RECOMMENDATION The level of harm to the character and appearance of the countryside is acceptable for the following reasons: <ul style="list-style-type: none"> • The use of the land around the main house for domestic purposes has been present for a considerable period and the current application seeks to formalise this use (in practice no loss of agricultural land). • The proposed building is single storey, small in scale and without excessive volume. • The proposed building is of a design and constructed in materials that will be in keeping with the main house. • The site is screened from most public viewpoints by established boundary vegetation. • The building and swimming pool will be seen in the context of the larger existing building. <p>The proposal is found to be in overall accordance with the Local Plan, as the harm to character and appearance is minimised for the reasons outlined above and the proposal is in accordance with policies DM32 and DM33. A recommendation of approval of the application is therefore made on this basis.</p>		
REASON FOR REFERRAL TO COMMITTEE Call in from Stockbury Parish Council for reasons given in section 4 of this report.		
WARD North Downs	PARISH COUNCIL Stockbury	APPLICANT Mrs Saloni Barnardo AGENT LJM Drafting & Design
CASE OFFICER: Tony Ryan	VALIDATION DATE: 17/11/22	DECISION DUE DATE: 01/09/23 (EOT)
ADVERTISED AS A DEPARTURE: No		

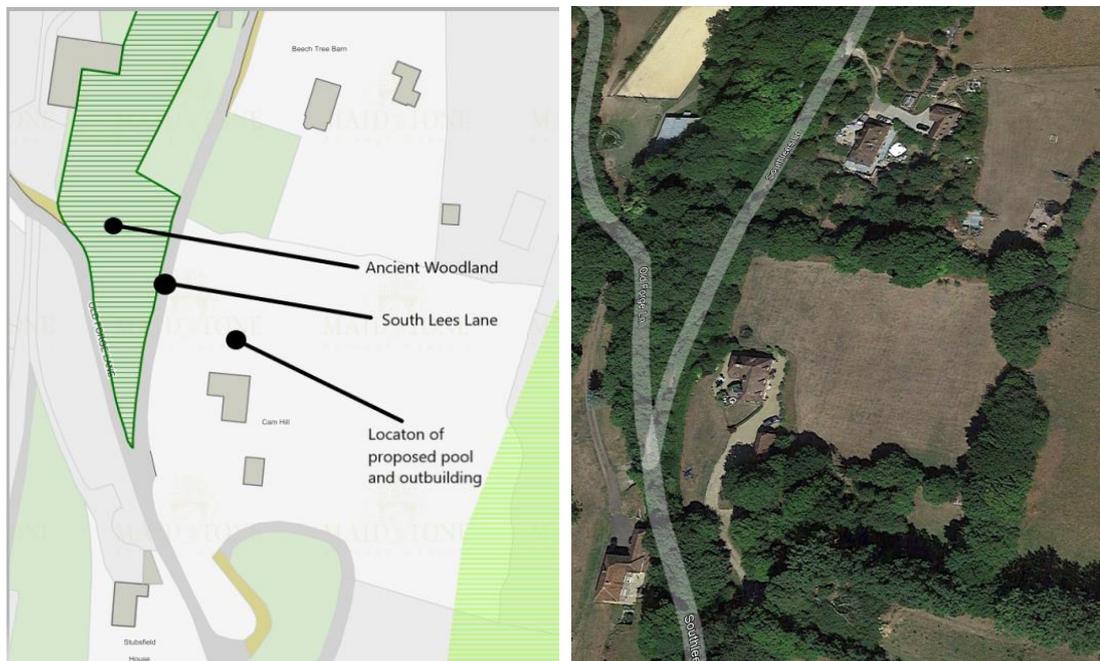
View looking south across the location of the swimming pool.



Relevant planning history

- 03/0362- The demolition of the existing single storey dwelling and erection of replacement dwelling and garage and change of use of part woodland to provide access via existing farm access – Approved 24th April 2003.
- 03/1707 - The demolition of the existing single storey dwelling and erection of replacement. Approved 23rd October 2003
- 21/503127/FULL - Erection of single storey side extension to dwelling, conversion of first floor of garage, into habitable space – Approved.
- 22/504128/PAPL Pre-Application Letter - Proposed pool with an outbuilding used for storage and maintenance of the pool, along with under cover storage of the pump and filters etc. The land has been used as garden for more than ten years and my client can provide proof – Closed.

Site context and aerial photograph

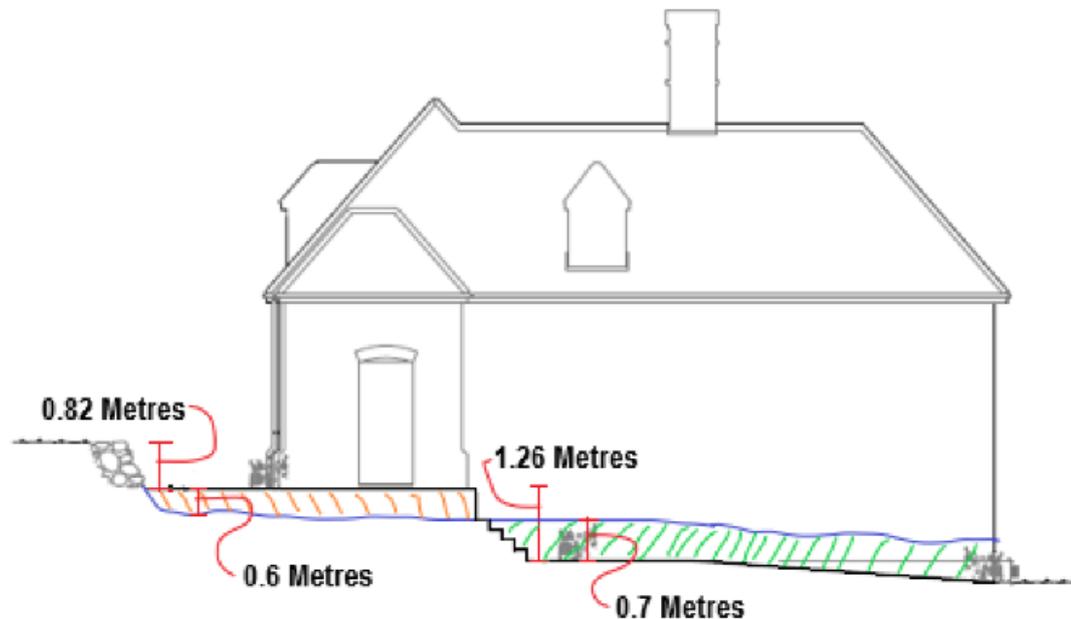


MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site (0.86 hectares) is in the countryside, outside of any Local Plan designated settlement and in the Kent Downs Area of Outstanding Natural Beauty. The surrounding area has established agricultural uses and sporadic residential development with Beech Tree Farm to the north and Stubfield House to the south.
- 1.02 The application site is on the east of South Lees Lane just to the north of the junction with Old Forge Lane. An area of Ancient Woodland is on the west side of the South Lees Lane
- 1.03 The application site is occupied by a detached dwelling and surrounding land which is currently maintained as domestic garden land. Site ground levels slope down, east to west towards South Lees Lane. The land surrounding the dwelling is defined by mature (mostly dense) landscaping on all the site boundaries including with South Lees Lane.

Proposed 'cut (orange hatching) and fill (green hatching)' works with new ground level in blue.



2. PROPOSAL

- 2.01 The proposal seeks planning permission for:
- a) The use of the land surrounding the application site as domestic garden land (retrospective).
 - b) Proposed construction of a swimming pool (12 metres by 4 metres by 1.6 metres deep) to the north of the existing dwelling.
 - c) Proposed construction of an outbuilding pool house (7 metres by 5.2 metres by 2.8 metres high to roof ridge) to the north of the swimming pool providing a garden room, plant room and store.
- 2.02 A sales brochure submitted with the submitted application and historic photographs indicate that the land that the current application seeks to formalise as domestic garden land has been used as domestic garden land for some time. Notwithstanding the current application, in this context the domestic use of the land that is the subject of the current application is likely to be lawful.
- 2.03 The proposal would involve 'cut and fill' works to level the ground level in the location of swimming pool and outbuilding and excavation of the swimming pool. Whilst the top of the existing retaining wall (0.82 metres high) will remain at the same height, with the reduced ground level in this location the bottom of the retaining wall will extend downwards by 0.6 metres. The applicant has submitted a topographic survey in support of the application.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017:

- SS1 Spatial Strategy
- SP17 Countryside
- DM1 Principles of good design
- DM3 Natural environment
- DM8 External lighting
- DM30 Design Principles in the countryside
- DM32 Rebuilding and extending dwellings in the countryside.
- DM33 Change of use of agricultural land to domestic garden land.

Supplementary Planning Documents:
Maidstone Landscape Character Assessment
Kent Downs Management Plan

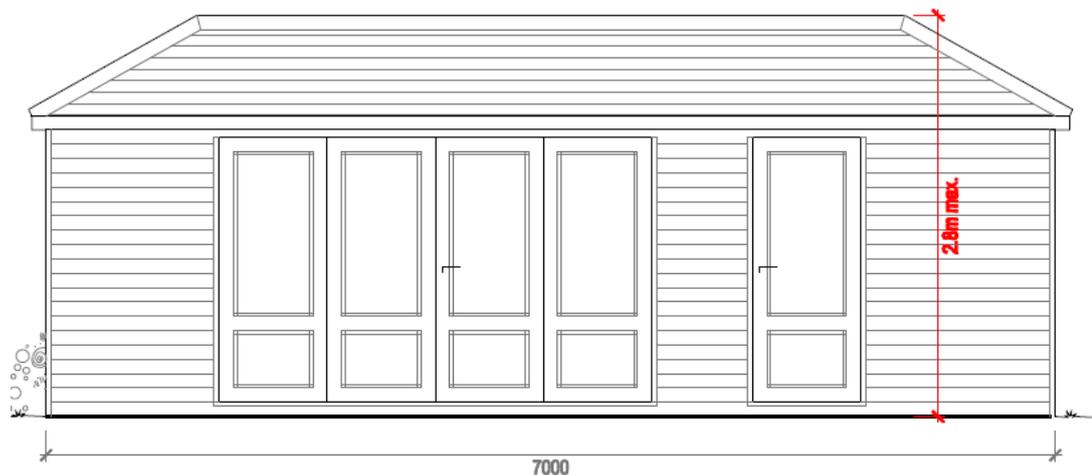
Maidstone Borough Council – Local Plan Review

The Regulation 22 draft is a material consideration however weight is currently limited, as it is the subject of an examination in public that commenced on the 6 September 2022 (Stage 2 concluded on the 9 June 2023).

LPRSS1 Spatial Strategy
LPRSP9 Development in the Countryside
LPRSP14(A) - Natural environment
LPRQ&D2 - External lighting
LPRSP15 Design
LPRQ&D 4 Design principles in the countryside
LPRHOU11 Rebuilding, extending and subdivision of dwellings in the countryside.
LPRENV 2 Change of use of agricultural land to domestic garden land.

The National Planning Policy Framework (NPPF):
National Planning Practice Guidance (NPPG):

Proposed outbuilding.



4. LOCAL REPRESENTATIONS

Local residents

4.01 No comments received.

Stockbury Parish Council

4.02 Object for the following reasons:

- Detrimental urbanising impact on the intrinsic character of the countryside consisting of an open rural landscape.
- Unsustainable location where future occupiers would be heavily reliant on the private motor vehicle to travel for their day-to-day needs.

5. CONSULTATIONS

(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)

Natural England

5.01 Do not object.

Forestry Commission

5.02 Do not object.

KCC Ecology

- 5.03 No objection subject to a planning condition to ensure that external lighting does not have an adverse impact on bats.

6. APPRAISAL

Main issues

- 6.01 The key issues are:
- Countryside location (SP17).
 - Extending dwellings in the countryside (DM32)
 - Change of use of agricultural land to domestic garden land (DM33)
 - Residential amenity
 - Biodiversity
 - Natural Environment

Countryside location

- 6.02 The starting point for assessment of all applications in the countryside is Local Plan Policy SP17. Policy SP17 states that development proposals in the countryside will only be permitted where:
- a) there is no harm to local character and appearance, and
- b) they accord with other Local Plan policies
- 6.03 Policy SP17 does not specify an acceptable level of harm to local character and appearance and all proposals in the countryside are likely to result in some harm. In this context all development outside the designated settlements does not accord with this part of SP17.
- 6.04 Other Local Plan policies permit development in the countryside in certain circumstances (equestrian, rural worker dwelling etc) and subject to listed criteria. If development accords with one of these other Local Plan policies, this compliance generally outweighs the harm caused to character and appearance with a proposal found in accordance with policy SP17 overall.
- 6.05 The current proposal will result in harm to the character and appearance of the countryside, however Local Plan policy DM32 permits the extension of dwellings in the countryside buildings subject to a list of defined criteria and policy DM33 permits the change of use of agricultural land to domestic garden land again subject to a list of defined criteria. This list of criteria are considered below.

Extending dwellings in the countryside (DM32)

- 6.06 Local Plan policy DM32 is relevant to this application and states that the "Proposals to extend dwellings in the countryside..." which meet listed criteria will be permitted. These criteria are considered below:
- i. The proposal is well designed and is sympathetically related to the existing dwelling without overwhelming or destroying the original form of the existing dwelling.
- 6.07 As set out above the outbuilding is well designed and is of a scale that is subservient to the main dwelling. The outbuilding will not overwhelm or destroy the form of the existing dwelling.
- ii. The proposal would result in a development which individually or cumulatively is visually acceptable in the countryside.
- 6.08 The proposed outbuilding would be visually acceptable in the countryside. In addition, the existing boundary landscaping (with a planning condition to infill any

gaps) and the main application building will provide screening of the proposed outbuilding and the swimming pool.

iii. The proposal would not create a separate dwelling or one of a scale or type of accommodation that is capable of being used as a separate dwelling.

6.09 The proposal does not create an additional dwelling. Access to the swimming pool and outbuilding is shared with the existing access for the existing main house.

iv. Proposals for the construction of new or replacement outbuildings ...should be subservient in scale, location and design to the host dwelling and cumulatively with the existing dwelling remain visually acceptable in the countryside.

6.10 As set out above the outbuilding is subservient to the main dwelling (including in terms of scale, location, and design). The outbuilding will not overwhelm or destroy the form of the existing dwelling and will be visually acceptable in the countryside.

Change of use of agricultural land to domestic garden land (DM33)

6.11 DM33 advises "Planning permission will be granted for the change of use of agricultural land to domestic garden if there would be no harm to the character and appearance of the countryside and/or the loss of the best and most versatile agricultural land".

6.12 As has been outlined above, the application site is surrounded by existing mature landscaping which provides screening of the site. The application will not cause harm to the character and appearance of the countryside.

6.13 The land which is the subject of the current application to change to domestic garden land surrounds the existing dwelling, with the larger part of the land located to the east. The land is surrounded by mature landscaping on all boundaries with no demarcation between the dwelling and this adjacent land. Historic aerial photos show that the current situation has existed going back to at least the 1960's.

6.14 Evidence of domestic land maintenance would form part of the evidence base to establish whether a change of use (that required full planning permission) was immune from enforcement action/ was now lawful (i.e present for a ten-year period). As part of the current application a letter from a gardener has been submitted. This letter confirms that the gardener was employed between 2012 and 2018 with the gardener confirming that the land was not used or agricultural use at this time. Other evidence would be physical information of the use of the land and a historic aerial photo and the photograph at the start of this report both show children's play equipment on the land.

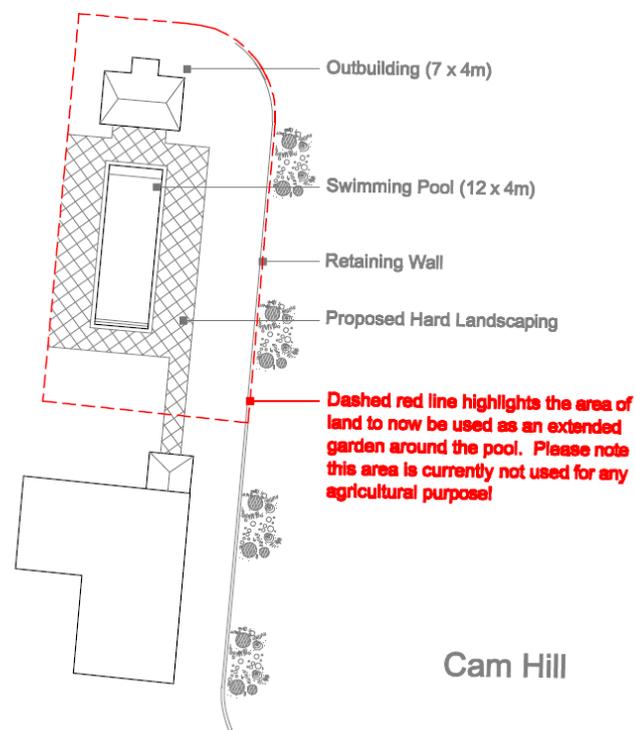
6.15 In the context of the above information, the granting of planning permission would not cause harm to the character and appearance of the countryside and would not result in the loss of the best and most versatile agricultural land. Whilst the current planning application seeks to formalise the domestic use of the land surrounding the existing dwelling, it appears from submitted information and from aerial photographs that the use has been domestic going back to at least the 1960's.

Character and appearance (SP17 a)

6.16 The supporting text to Policy SP17 advises "*The countryside has an intrinsic character and beauty that should be conserved and protected for its own sake*". In this context, even if completely screened from public viewpoints, any development would still result in harm to the intrinsic character of the countryside.

- 6.17 The application site is in the Hucking Dry Valleys character area, within the Maidstone Landscape Character Assessment. The key characteristics of Hucking Dry Valleys include:
- Gently undulating landform of the dry valley landscape
 - Large woodland tracts and blocks, much of which is ancient
 - Chalk grassland pasture
 - Narrow, winding and often deeply set lanes that are often lined with hedgerows or enclosed by taller vegetation.
- 6.18 The summary of actions in the Maidstone Landscape Character Assessment, for the Hucking Dry Valleys character area include:
- Conserve the woodlands and enhance structural diversity, particularly where ancient woodland is present
 - Gap up the hedgerows in the few locations where this is needed
 - Conserve the parkland trees and plant new specimens to succeed ageing examples
 - Conserve the narrow and winding lanes

Proposed site layout.



- 6.19 Policies DM1 and DM30 consider the principles of good design and design principles in the countryside. The swimming pool and outbuilding are located to the rear of the existing dwelling and between the existing dwelling and the residential property called Beech Tree Barn located to the north.
- 6.20 The swimming pool and outbuilding would be generally screened by the existing larger dwelling and behind existing mature boundary vegetation along the South Lees Lane boundary. The applicant has confirmed that the vegetation along the South Lees Lane boundary is deciduous and 6.5 metres in width. A planning condition is recommended to seek the infilling of any gaps in the existing landscaping along the South Lees Lane boundary.
- 6.21 Policy DM1 states that development should provide quality design. Policy DM30 seeks to achieve high quality design in all development in the countryside particularly in AONBs. DM30 emphasises the need within the Kent Downs AONB for sitting, materials and design including mass and scale, to maintain or enhance local

distinctiveness including landscape features. Policy DM30 also requires that the impact of development on the appearance and character of the landscape is appropriately mitigated.

- 6.22 Policy SD2 of the Kent Downs AONB Management Plan states the local character, qualities, distinctiveness and natural resources of the Kent Downs AONB will be conserved and enhanced in the design, scale, siting, landscaping and materials of new development.
- 6.23 The pool outbuilding is single storey and located in a discrete location. The outbuilding does not have 'excessive volume' and is of a scale which is subservient to the main dwelling.
- 6.24 The external walls of the outbuilding will be clad in timber with timber folding doors, the roof of the building will use clay roofing tiles to match the main house. The path and hardstanding access around the pool will be in sandstone to match materials used around the main house. The design and appearance of the outbuilding is in line with the advice in the Council's adopted Supplementary Planning advice on 'Residential Extensions' and adopted policies DM1 and DM30.
- 6.25 Policy SP17 states that development proposals in the countryside will not be permitted unless they accord with other Local Plan policies (SP17 b). Policy SP17 thereby accepts a degree of countryside harm in the specific circumstances set out in other Local Plan policies. Other relevant Local Plan policies are DM32 (Extending dwellings in the countryside) and DM33 (Change of use of agricultural land to domestic garden land) and these policies are assessed below.

Residential amenity

- 6.26 Policy DM1 encourages new development to respect the amenities of neighbouring properties by ensuring that development does not result in excessive noise, vibration, odour, air pollution, activity, or vehicular movements, overlooking or visual intrusion.
- 6.27 In terms of orientation and separation distances the proposed building and swimming pool will not have a harmful impact on residential amenity of neighbours.

Trees, landscaping and biodiversity

- 6.28 Policy DM1 sets out that development should respond to the location of the site and sensitively incorporate natural features such as trees, hedges worthy of retention within the site. Policy DM3 encourages development that responds to the natural environment by ensuring that it protects and enhances it where appropriate.
- 6.29 NPPF paragraph 174 states that planning decisions should contribute to and enhance the natural and local environment providing net gains for biodiversity, and (para 180) opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.30 As can be seen in the photograph on the first page of this report, the location of the proposed swimming pool and outbuilding is currently a managed area of grass. With separation from any trees, the swimming pool and outbuilding will not have an impact on existing trees and landscaping. It is recommended that planning conditions are attached to this permission that require retention of existing trees, new landscape screening and biodiversity enhancement to be undertaken.
- 6.31 Policy SD7 of the Kent Downs AONB Management Plan states that new projects, proposals, and programmes shall conserve and enhance tranquillity and where

possible protect dark night skies. A planning condition is recommended that seeks details of any external lighting that is associated with the swimming pool and outbuilding.

Stockbury Parish Council comments

- 6.32 The Parish Council have objected to the application for two reasons and these reasons are considered below:

Detrimental urbanising impact on the intrinsic character of the countryside consisting of an open rural landscape.

- 6.33 The proposed single storey outbuilding will be on land that is currently managed domestic garden land, with the land enclosed by established landscaping. The site does not consist of an 'open rural landscape'. The application site is on South Lees Lane which has a character typical of that described in the Landscape Character Assessment (paragraph 6.05 of this report) consisting of a "*Narrow, winding and often deeply set lanes that are often lined with hedgerows or enclosed by taller vegetation*".

- 6.34 Whilst it is accepted that all development in the countryside can harm the intrinsic character and appearance of rural locations, in this instance the minimal level of harm is outweighed by the compliance of the proposal with other Local Plan policies that permit development in the countryside. The proposal is in accordance with the recommendations of the Landscape Character Assessment in terms of conserving the narrow and winding lanes and gapping up the hedgerows in the few locations where this is needed.

Unsustainable location where future occupiers would be heavily reliant on the private motor vehicle to travel for their day-to-day needs.

- 6.35 The swimming pool and outbuilding will be incidental ("parasitic") to the current domestic use of the existing dwelling on the application site. The application does not involve provision of any additional separate living accommodation that would generate additional vehicle movements.

PUBLIC SECTOR EQUALITY DUTY

- 6.36 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.

7. CONCLUSION

- 7.01 The level of harm to the character and appearance of the countryside is acceptable for the following reasons:

- The use of the land around the main house for domestic purposes has been present for a considerable period of time and the current application seeks to formalise this use (in practice no loss of agricultural land).
- The proposed building is single storey, small in scale and without excessive volume.
- The proposed building is of a design and constructed in materials that will be in keeping with the main house.
- The site is screened from most public viewpoints by established boundary vegetation.
- The building and swimming pool will be seen in the context of the larger existing building.

7.02 The proposal is found to be in overall accordance with the Local Plan, as the harm to character and appearance is minimised for the reasons outlined above and the proposal is in accordance with policies DM32 and DM33. A recommendation of approval of the application is therefore made on this basis.

8. RECOMMENDATION GRANT PLANNING PERMISSION subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of the permission. Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - 001.Site Location Plan
 - 01A. Proposed Floor Plan and Elevations
 - 02. Existing Block Plan
 - 03A. Proposed Block Plan
 - 04. Existing and Proposed Retaining Wall
 - Landscape and Visual Impact Assessment
 - Supporting Documents- Sections of Swimming Pool
 - Supporting Documents - Cover Letter (Gardener)Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents.
- 3) The materials to be used in the construction of the external surfaces of the outbuilding and swimming pool hereby permitted shall be as specified on the submitted planning application form. Reason: To ensure a satisfactory appearance to the development.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Classes E shall be carried out without the permission of the Local Planning Authority. Reason: To safeguard the character and appearance of the development and the enjoyment of their properties by existing and prospective occupiers.
- 5) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site. Reason: In the interests of residential amenity.
- 6) The development (swimming pool and outdoor building) hereby permitted shall only be used for purposes incidental to the domestic use of the related dwelling house and for no other purposes or use and the outbuilding shall not be used as a separate residential dwelling. Reason: To prevent the introduction of uses which would cause demonstrable harm to the enjoyment of their properties by adjoining residential occupiers.
- 7) The outbuilding hereby approved shall not commence above slab level until a hard and soft landscape scheme designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012) has been submitted to and approved in writing by the local planning authority. The scheme shall
 - (a) show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed,
 - (b) provide details of on-site planting in a planting specification (species,

quantities, location, spacing and maturity - non-plastic guards shall be used, and no Sycamore trees shall be planted). The landscaping shall include infilling of gaps in the existing landscaping, especially along the South Lees Lane boundary.

(c) provide landscape implementation details and timetable.

(d) provide a [5] year landscape management plan.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 8) In the period of five years starting from the first use of the outbuilding, if any of the existing trees or hedges shown as being retained on site and any trees, hedges or planting in the approved landscaping are removed, die or become, in the opinion of the Local Planning Authority, so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the same location during the next planting season (October to February), with plants of an appropriate species and size to mitigate the impact of the loss as agreed in writing by the Local Planning Authority. Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development
- 9) 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. The submitted details shall be in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2011 (and any subsequent revisions) and follow the recommendations within Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting', and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter. Reason: To safeguard the character and appearance of the countryside and in the interests of residential amenity.
- 10) The outbuilding 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 consist of the enhancement of biodiversity through methods into the building structure by means such as swift bricks, bat tube or bricks to provide wildlife niches and additionally through provision within the site curtilage of measures such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgerow corridors. The development shall be implemented in accordance with the approved details prior to first occupation of the approved building and all features shall be maintained thereafter. Reason: To protect and enhance the ecology and biodiversity on the site in the future.