

APPLICATION: MA/10/1232 Date: 14 July 2010 Received: 15 July 2010

APPLICANT: Maidstone Borough Council

LOCATION: 13, TONBRIDGE ROAD, MAIDSTONE, KENT, ME16 8HG

PARISH: Maidstone

PROPOSAL: Outline application for the erection of up to 23 residential units with all matters reserved for future consideration in accordance with illustrative plans, design and access statement, marketing report and planning statement submitted on 14 July 2010, and additional supporting information submitted on 5 August 2010 and 24 August 2010.

AGENDA DATE: 2<sup>nd</sup> September 2010

CASE OFFICER: Chris Hawkins

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

- The proposal is a departure from the Development Plan
- The Council is the applicant

## **1.0 POLICIES**

Maidstone Borough-Wide Local Plan 2000: ED2(xxiii), T13, ENV6, CF1, CF2  
Local Development Framework Affordable Housing DPD (2006)  
Local Development Framework Open Space DPD (2006)  
Government Policy: PPS1, PPS3, PPS4, PPS5, PPG13, PPS23, PPG24  
Circulars: 11/95

## **2.0 HISTORY**

MA/05/2276 13 Tonbridge Road. Outline application for residential development with all matters reserved for future consideration. Withdrawn.

There is significant planning history to this application site. However, the above application is the only relevant planning history to this application.

## **3.0 CONSULTATIONS**

**3.1 KCC Archaeology** were consulted (on 21 July 2010) and raised no objection to the proposal subject to the imposition of a suitable condition requiring the

applicants, or successors in title, to undertake a watching brief. This is on the basis that the site is close to (or found on) a Roman cemetery in the mid 19<sup>th</sup> Century.

- 3.2 KCC Highway Services** were consulted (on 21 July 2010) and raised no objections to this proposal subject to the imposition of suitable safeguarding conditions and informatives. These are set out at the end of the report.
- 3.3 KCC (Mouchel)** were consulted (on 21 July 2010) and raise no objections to this development subject to the provision of contributions towards libraries, adult education and youth and community facilities. Details of the precise contributions are discussed within the main body of the report.
- 3.4 Southern Water Services** were consulted (on 21 July 2010) and raised no objections to this proposal.
- 3.5 West Kent Primary Care Trust** were consulted (on 21 July 2010) and raised no objections to this proposal subject to the receipt of contributions towards health care provision within the locality. Following this response, on 16 August 2010, I requested information as to where this money would be spent, and am awaiting confirmation on this matter. I will address this matter within an urgent update report.
- 3.6 Maidstone Borough Council Environmental Health Officer** was consulted (on 21 July 2010) and has raised no objections to this proposal.
- 3.7 Maidstone Borough Council Economic Development Officer** was consulted (on 21 July 2010) and made no comment on this application.
- 3.8 Maidstone Borough Council Property Services** were consulted (on 21 July 2010) and made no comment on this application.

**\*Officer Comment:** - Whilst no comment has been formally received from the Property Services Section, they have submitted the planning applications, and as such raise no objections to these proposals. The applications are submitted in order to put these applications forward for sale at auction, should permission be granted.

- 3.9 Maidstone Borough Councils Parks and Open Space Officer** was consulted (on 21 July 2010) and has made no formal response to this application.

**\*Officer Comment:** - I have spoken to the Parks and Open Space Officer and he has informed me that he would expect contributions. No formal response has been received to identify how much, or where it would be spent. I have

requested that the Parks and Open Space Officer confirm exactly where the money would be spent, in order for this request to meet the statutory tests.

**3.10 Maidstone Borough Council Spatial Policy Officer** made the following comments on the emerging Policy Framework: -

'A Town Centre Study has been completed which will provide evidence for the Core Strategy and subsequent LDF documents. On 1<sup>st</sup> April 2010 the Council's Cabinet Member for Regeneration agreed a number of matters arising from this Study. These matters were agreed only as the basis for progressing the Core Strategy policy for the town centre and therefore they, and the Study itself, do not have policy status and simply give an indication of an approach that could emerge. The application site falls beyond the town centre boundary that was agreed.'

#### **4.0 REPRESENTATIONS**

**4.1 Neighbouring properties** were notified and no letters of objection have been received.

**4.2 CPRE Maidstone** have made comments upon this application. The points raised are summarised below: -

- The heights of the buildings should not exceed three storeys from ground level;
- There should be an exploration of the possibility of underground car parking;
- The employment possibilities should be taken into account;
- CPRE does not support this application, as they do not consider that there is a requirement for new dwellings within the locality;
- Employment opportunities would be limited within the development;
- There are too many flats already within the locality – the proposal is flawed.

#### **5.0 CONSIDERATIONS**

##### **5.1 Site Description**

5.1.1 The application site is the former Maidstone Borough Council offices on the southern side of the A26, Tonbridge Road. The 2-3 storey buildings (which included a mezzanine floor) previously at the site were recently demolished and the site has been cleared. The site has a road frontage width of 44m and depth of some 95m with an existing access off Tonbridge Road roughly in the centre of the frontage. Tonbridge Road is a two lane, one way road in a westward direction at this point. The site slopes gradually to the south from Tonbridge Road. Internally, the site is relatively flat (although there was a 'dip' in the land where the access road run under the offices to the front of the site).

- 5.1.2 The site is located close to the town centre, and also the Maidstone West railway station. It is also within a short walk of Maidstone East railway station. This area has a mix of residential, retail and business uses. The site itself is surrounded by buildings with nos. 5-9 Tonbridge Road to the east being single and two storey retail units. The Corbens Business Centre is to the rear of these properties and extends from the east edge of the site around the south. This centre has a mix of single and two storey buildings with a range of uses including a building plant hire and repair company and warehousing. To the southwest of the site are terraced houses at Rowland Close and to the west fronting Tonbridge Road is the large 3 storey Westree Court building which provides student accommodation. Opposite the site are two storey semi-detached houses and a car parking area.
- 5.1.3 The site and land to the south and east extending to the railway line is designated under policy ED2 of the Local Plan for economic use for class B1 (office and light industry) uses. Land opposite on the north side of Tonbridge Road is also designated for such use.
- 5.1.4 It is noted that the area has become more residential in character over the life span of the Local Plan, with residential conversions allowed on the northern side of Tonbridge Road, as well as on the southern side (in Bower Terrace).

## **5.2 Proposal**

- 5.2.1 This application is for outline planning permission for the erection of up to 23 residential units. At this stage, all matters are reserved for future consideration, and as such, in determining this application, one has to assess whether the principle of developing the site for residential development is acceptable.
- 5.2.2 At present, the design of the properties is not for consideration, however, the Design & Access Statement indicates that the apartments would be 3 storeys and the houses 2.5 storeys (with rooms within the roof).
- 5.2.3 Illustrative plans have been submitted showing apartments at the front of the site within five blocks with the access running underneath (through the ground floor) near to the centre of the frontage. Behind these apartments is a parking and turning area for 14 cars, one of which is shown to be a disabled parking bay.
- 5.2.4 At the rear of the site 9 houses are arranged around a T-shaped roadway on the west side. Two pairs of semi-detached houses are shown fronting the road facing eastwards, with another pair and a terrace row of three houses facing northwards at the rear of the site. Each house is shown with one off-street parking space and a private rear garden.
- 5.2.5 Space for landscaping is provided along the site frontage, parts of the east side of the site in addition to private gardens, and parts of the west side. Private

gardens of houses adjoin the south boundary. Space for landscaping is also provided to the front of the houses adjacent to parking areas. This is shown as illustrative only, however I have addressed the matter of landscaping provision within the remainder of the report.

5.2.7 The Design & Access Statement indicates that 40% (9) of the units would be allocated as affordable housing.

### **5.3 Principle of Development**

5.3.1 The application site is within an area designated for employment purposes (B1) under Policy ED2 of the Maidstone Borough Wide Local Plan (2000). This is a saved policy. The Policy states: -

*'Planning permission will not be granted to redevelop or use vacant business, industrial, storage or distributions sites or premises for non-employment purposes unless the retention of the site or premises for employment use has been explored fully without success.'*

Due to this designation, the applicant has been asked to demonstrate that the retention of the site for employment purposes has been fully examined, without success.

5.3.2 The applicant has therefore submitted supporting information which demonstrates that a public decision was made to sell the land in October 2006. Following this agreement, the land was marketed through a combination of the property press and the Kent Messenger over a five week period. This included advertising within the 'Estates Gazette' (national) and within a local newspaper in June 2007. Two further advertisements were placed within 'Property Week' (national) following this initial marketing. In addition to this, the applicant mailed the particulars of the site to parties that had previously shown an interest in the application site. Because an offer was received at this point, the site was taken off the market.

5.3.3 Of the bids submitted, none were for solely B1 use on the site (nor on 26 Tonbridge Road), but rather for a mix of B1/B8 storage on the site. At the time of the offer, advice was given to the applicant that the proposal would need to incorporate a suitable proportion of B1 use. However, no planning application was forthcoming, and the bid was then subsequently withdrawn.

5.3.4 Following the withdrawal of this offer, and (at that point) no further bids on the land, the applicant decided to withdraw the site from the market, and submit planning applications in order that they be taken to auction and sold with outline planning consent. The applicant has subsequently placed applications in with the Local Planning Authority for a care home (Use Class C2), a B1/B8 storage use,

and a pure residential use (Use Class C3) for determination. Since the submission of these planning applications, an unconditional offer was placed with the Council by a care home operator. However, this operator was unable to raise sufficient funds to purchase this land, and as such, withdrew their offer. The application submitted for the provision of a care home is unconnected to this offer. Whilst there are applications for employment purposes submitted alongside this application, I do not consider that this demonstrates that these are viable, (indeed the recent problems by a care home operator in obtaining funds is an indication of this) rather that the applicant is seeking to maximise their opportunity to sell the land.

- 5.3.5 As set out above, the proposal to erect residential properties would be a departure from the Development Plan – being a C3 use. However, since the formulation (and adoption) of the Local Plan over 10 years ago, it is acknowledged that there has been a significant shift in the requirements for office accommodation within the town centre of Maidstone. This sets out that there is an over-provision of office space within the town centre, with most being of a relatively poor quality. The question therefore needs to be asked; does this land still need to be retained for B1 employment provision?
- 5.3.6 As part of this planning application, and in order to overcome the Policy objection to residential use within this designated employment site, a viability assessment has been submitted that includes a survey of office space currently available within the Maidstone Area. This research confirms that there are a significant number of suites or buildings currently available on the market and extending to a provision of in excess of 200,000 sq ft.
- 5.3.7 This survey identifies that the supply of offices in Maidstone is very fragmented in terms of the quality of space available and through factors of location, accessibility and amenities. This then identifies that the majority of available accommodation falls within the tertiary market, with relatively low yields. Many of these spaces have remained vacant for a number of years. Notwithstanding the difficult market conditions, agents have reported that they have been receiving occasional enquiries from national companies considering Maidstone as an option for location, and who have expressed interest only in prime units such as County Gate or Eclipse Park. These sites having been identified by virtue of their high spec buildings, excellent parking provision, notwithstanding their lack of profile. Similarly, Turkey Mill continues to have a good level of demand (and Members are aware of the recent planning application to provide an additional 1632metres<sup>2</sup> of new office space that has been granted), due to the high quality of most of the refurbished units, and again, because of the level of parking provision, and its attractive setting.
- 5.3.8 In addition to the existing supply of accommodation, there are a number of outstanding planning permissions that would expand the provision within the

town. One of these, at Springfield, has the potential for three purpose built blocks totalling some 13,090metres<sup>2</sup>. This plan has been mothballed due to the economic conditions, but the renovated Mansion remains in the market.

5.3.9 I consider that this information demonstrates that there is a clear over-supply of lower quality accommodation, and that those interested in re-locating to/expanding within the town are seeking the more high spec office space.

5.3.10 The report then refers to the suitability of Tonbridge Road for future office development. From the experience of the author, and from the enquiries that they have made land to the west of the River Medway is not favoured for offices, by virtue of its poor accessibility, lack of local staff amenities, the mixed use environment and the lack of parking provision. Because of this there has been a trend in recent years for the move away from offices toward residential in the area. An indication of this is the granting of part of Bower Terrace (itself designated as B1 employment under policy ED2) for student and housing accommodation under planning permission MA/05/1251 despite the employment designation.

5.3.11 Furthermore, it is identified that the adjacent and nearby retail showrooms, modern industrial buildings, and older Victorian buildings detract from the attractiveness of the locality as an office destination, as does the constant noise from the adjacent Tonbridge Road. It is considered that these factors have a negative factor on the suitability of 13 Tonbridge Road as an office location, such that the author does not consider that it would be consequently viewed as a suitable located by developers. The Author concludes that *'we do not consider that 13 Tonbridge Road presents a suitable site for office development, particularly given the fact that good quality secondary space within the town centre at Kestrel House and Link House has not been found suitable despite lengthy marketing campaigns.'* They then state that due to the nature of the economic climate, and the over-provision of supply *'any employment provision must meet market expectations in order to find suitable occupiers and to this extent the issues of environment, accessibility and parking will be paramount. In our submission these attributes cannot be achieved in Tonbridge Road and hence the site at 13 Tonbridge Road would not be suitable for office accommodation.'*

5.3.12 It is therefore clear from this viability assessment that the site is no longer considered suitable for office accommodation, and as such, I consider that the requirement of Policy ENV28 of ensuring that this use be fully explored without success, has been satisfied.

5.3.13 As Policy ED2 was formulated prior to the adoption of the Local Plan in 2000, it is in excess of 10years since the evidence was gained, and policy drafted, and as a result central government guidance and advice has changed in this intervening

period. Also, the way in which businesses operate is also likely to have changed in this period. As such, in determining this application, in addition to the information within the viability assessment, one has to look at the up to date information, existing central government guidance, and assess whether this would result in the overriding of the existing local policy.

5.3.14 In 2009 the Council commissioned GVA Grimley to complete an Employment Land Review, to identify where there was a surplus and shortfall of employment land, and to look at future trends, to help formulate future policy. This document demonstrates that there is an over-provision of office accommodation within the town, and that much of this is of a lower quality than that required by the market. This correlates with the information provided within the viability assessment. This, together with the fact that the site was marketed for office accommodation, with no interest shown, further demonstrates that this use is no longer considered viable at this location. From this evidence base, it has been indicated that this site is unlikely to be retained as an office (B1) employment site within future LDF plans.

5.3.15 With regards to government policy, of particular relevance to employment land allocations, and economic development within sustainable locations, is the recently published (2009) Planning Policy Statement 4: Delivering Sustainable Economic Growth. PPS4 specifically identifies housing development as not being *economic development*. As such, justification is required as to why this is a suitable location for residential development. Within PPS4, Policy EC1 does require emerging Local Policies (forming part of the LDF) to be informed by relevant and up to date information. Part of this wider understanding is to acknowledge where there are deficiencies in supply for all types of development in town centres. It is with this in mind that I refer to the Maidstone Town Centre Study, which was completed in February 2010 (undertaken by consultants, Urban Practitioners on behalf of Maidstone Borough Council). This report forms part of the published evidence base for the production of the Local Development Framework (LDF) documents, and although not part of the Development Plan at present, can be given some weight in the determination of relevant planning applications.

5.3.16 Part of the recommendation of this report includes definition of a town centre boundary. The recommended boundary would run along the railway line at the nearby Maidstone West station and would exclude this site from the town centre area. The site is included in the designated 'Neighbourhood Quarter', the study states its rationale for this quarter in paragraph 11.222:-

*"The potential exists to create a sustainable neighbourhood surrounding Maidstone West Station. This area is partly within the town centre and partly outside of the boundary. It is some distance from the core town centre and is currently dominated by business and residential uses, with the latter becoming*



*more prevalent over recent years. The opportunity exists to support this area as a neighbourhood in its own right through focusing residential development on key sites and ensuring a mix of local retail / A3, community uses and small businesses on key streets."*

- 5.3.17 The assessment of the area continues with paragraph 11.227 stating that the area lacks a clearly defined commercial identity or specialism. The land use strategy for this area (para 11.248) indicates that the principal future land uses for this area would be predominantly residential uses, but including mixed retail and office uses where appropriate. Paragraph 11.250 of the Town Centre Study expands further on this point stating that residential development should be steered towards houses and family accommodation with private outdoor space.
- 5.3.18 As stated, this is not policy, but rather guidance for the formulation of proposed future policy. I do not consider that this in itself is sufficient to warrant a departure from the Development Plan, but it does indicate support for this proposed use.
- 5.3.19 It should be noted that Policy CF2 of the Maidstone Borough Wide Local Plan (2000) refers to the loss of 'publicly owned land.' As this site is owned by the Council, I consider it appropriate to apply this Policy. However, the policy states that the Local Planning Authority need to be satisfied that 'an identified need for community facilities, that could be met on this site, does not exist.' I am satisfied that there is no need on this site for such a facility, and as such, the proposal does comply with this Policy.
- 5.3.20 To conclude, a marketing exercise has been carried out that showed no interest in the provision of office accommodation within the site, offers to purchase the land for alternative employment uses have been submitted, and ultimately withdrawn. This has taken place over a period of two/three years. I am therefore satisfied that suitable attempts have been made to secure employment use on this land, without success. In this time the Council have also undertaken reviews of employment land which identify an over-provision of office accommodation within the town centre, and also direct future Council Policy towards making this a 'neighbourhood quarter.' It is unlikely therefore that this land will be allocated as land suitable only for B1/office use within any future development framework, and I give this considerable weight. I am also conscious of the governments desire to create mixed and sustainable communities, placing both family housing and more affordable units, within town centres in order that travel distances to work, schools etc are reduced. On balance, I am therefore satisfied that it is appropriate to deviate from the Development Plan in this instance, and recommend that residential development be allowed upon this allocated site.

## **5.4 Visual Impact**

5.4.1 This is an outline planning application with the matter of design reserved for future consideration. As such, it is difficult to make a detailed assessment of the impact that the proposal would have upon the character and appearance of the locality. However, clear parameters have been suggested which would see the erection of a block of flats fronting Tonbridge Road, that would be three storeys in height, with two storey dwellings proposed to the rear of the site.

5.4.2 The application site, whilst located close to the town centre, does border residential properties, and there are also residential properties on the northern side of the road. The character of the locality is varied, with both residential and commercial properties within the vicinity, and as such, I do not consider the introduction of more residential properties to appear incongruous within the street scene, subject to a high quality design. I do consider however, that the southern side of Tonbridge Road does have the potential to be significantly improved, both in terms of the built form, and also in terms of the soft landscaping provision.

5.4.3 The provision of soft landscaping is covered in more detail below, however, I consider it important in this location in respect of improving the character and appearance of the area. In order to provide this, it is important that the residential properties be set back a suitable distance from the highway, and such I am recommending that a condition be imposed requiring any built form to be a minimum of 7metres from the edge of the highway. This set back would reduce the impact of the height of these units, allow for more landscaping, and would also assist in reducing the noise levels within (if only a small amount). Indeed, to address this issue, I consider it appropriate to impose the following conditions upon any planning permission: -

- Landscaping to the front of the site (this is covered in more detail later in the report);
- The height of the buildings to the front should not exceed three storeys in height;
- The buildings should be set back at least 7metres from the front of the application site;
- Any building should be well articulated, and should respect the pattern and rhythm of development within the locality;
- Details of the materials to be submitted prior to the commencement of works on site.

I also propose that the following informatives be applied: -

- The applicant should consider the use of projecting elements, both in terms of the fenestration and the way in which the roof is designed;
- Should any boundary wall be required along the Tonbridge Road frontage, this should be constructed of ragstone.

5.4.4 I do not consider the layout to be shown to be of a particularly high standard, and would not recommend a layout of this nature to be brought forward at the reserved matters stage. However, as this is illustrative only, I am satisfied that the layout does demonstrate that this number of units could be accommodated within the development, whilst still providing adequate parking areas, and areas of soft landscaping (including rear gardens). I also consider it appropriate to have the flatted accommodation fronting on to Tonbridge Road, as the flats can be designed in such a way as to have non-habitable rooms facing the road – this is more difficult with dwelling houses.

## **5.5 Residential Amenity**

5.5.1 There are residential properties to the west of the application site, and also on the opposite side of the Tonbridge Road (number 16 Tonbridge Road). The neighbouring properties to the west have habitable windows facing on to the application site, and as such, overlooking from these properties does occur.

5.5.2 The proposal has been shown in such a way as to ensure that the proposed residential units would not be overlooked by these properties, and likewise, these would not be overlooked by the proposed dwellings/flats. It has been suggested that it would be suitable to provide a landscaped buffer along this western elevation to reduce the inter-relationship between the two sites, in terms of overlooking, and also, to reduce potential noise and disturbance from vehicles accessing properties to the rear. The existing wall is proposed to be retained.

5.5.3 I recommend however, that an informative be placed upon any permission requiring the applicants of any reserved matters application to carefully consider the impact that the proposal would have upon the amenities of the neighbouring occupiers, and to ensure that overlooking, and noise is minimised through the orientation of the buildings, and layout proposed within the detailed design.

5.5.4 Should these matters be addressed, I am satisfied that there would be no adverse impact upon the amenities of the neighbouring occupiers, and as such, consider that the proposal would comply with the requirements of the Development Plan in this respect.

## **5.6 Highways**

5.6.1 Details of access and parking provision are reserved for future consideration, however, the illustrative plans demonstrate that an access can be achieved into the site, with an area of parking for the flats provided, and car parking spaces for each dwelling shown as one space per unit.

- 5.6.2 As stated above, I do not consider this to be a particularly high quality illustrative layout, with too much space given over to hardstanding, and parking areas. I am mindful that this is a site close to the town centre, and as such is relatively sustainable. This, together with the parking restrictions in place along Tonbridge Road suggests that the site would be suitable to provide a relatively low parking ratio, in order that more landscaping can be provided, and future residents are encouraged to utilise public transport, with less reliance upon the private motor car.
- 5.6.3 Due to the sustainable nature of the location – being close to the town centre – I am minded to suggest the imposition of a condition, limiting the amount of car parking within the application site to 1.5spaces per dwelling. I consider that this would ensure that a suitable level of parking provision can be created, without the large levels of hardstanding shown illustratively. This would enable more soft landscaping, whilst also aiming to reduce the reliance upon the private motor car. In suggesting this ratio, I am conscious of the sustainable location of the site, but also of the requirement of PPG13 to let the developer provide the level of parking that they consider appropriate. Clearly should the developer want to provide a lesser amount, this may well be acceptable.
- 5.6.4 Kent Highway Services raise no objections to this proposal, and I am therefore satisfied that, subject to the imposition of the condition set out above, and the creation of a high quality layout, the site could accommodate a suitable level of parking provision. This, together with the parking restrictions in place along Tonbridge Road should ensure that the development has no detrimental impact upon highway safety, and would accord with PPG13.

## **5.7 Landscaping**

- 5.7.1 Landscaping is a reserved matter with no details submitted. I am however, of the view that a good level of soft landscaping could be provided within the application, with the illustrative plans showing that a soft landscape buffer between the front of the building and the highway.
- 5.7.2 I am of the view that this is an opportunity to enhance the character and appearance of the locality, with at present, many of the existing properties erected close to the footpath, with little or no landscaping. The illustrative plans show the building set back approximately 9metres from the highway, and I consider it appropriate to suggest a condition that requires the building to be set back a suitable distance (7metres) to ensure that soft landscaping can be provided. I also suggest a condition requiring a good level of planting to be provided along the building frontage, which shall include the following: -

- The provision of an area of low level planting of at least 3metres in depth along the frontage of the site (excluding the area immediately abutting the access – to ensure that visibility is maintained);
- The provision of a landscape buffer along the western boundary of the application site – this should be at least 2metres in depth and should include trees as well as low level planting.
- The provision of a landscape buffer along the rear (southern) elevation of the application site – this should be at least 2metres in depth and should include trees as well as low level planting.

5.7.3 In addition, I would suggest that the following informatives be placed upon any planning application: -

- The applicant is advised to consider the provision of a green/living roof on any of the flat roof elements of the proposal;
- The applicant is advised to consider the provision of a living wall on the most exposed elevations of the building, in order to soften the appearance of the development;

5.7.4 Whilst I do not consider that this is *all* the planting that should be provided at the reserved matter stage, I do not consider it appropriate to be more prescriptive at present, as the siting and design of any building should influence the further landscaping provision within the internal layout of the site.

5.7.5 I consider therefore that the proposal demonstrated that there would be scope to provide a good level of soft landscaping within the development, which would have a positive impact upon the character and appearance of the locality, and as such, I the proposal would comply with policy ENV6 of the Maidstone Borough Wide Local Plan (2000) and PPS1.

## **5.8 Contributions/Affordable Housing Provision**

5.8.1 Any request for contributions needs to be scrutinised, in accordance with Regulation 122 of the Act. This has strict criteria that sets out that any obligation must meet the following requirements: -

It is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

5.8.2 The proposal incorporates the provision of a minimum of 40% affordable housing, in accordance with the Councils adopted DPD on affordable housing.

The applicant has agreed that this is appropriate, and as such I recommend that this be included in the completion of any s106 legal agreement. As this is an outline application, details of tenure, and the properties to be put forward for the affordable housing provision have not been identified, however this can be addressed within the s106 to ensure compliance with the Council's adopted Development Plan Document. I am satisfied that there is an identified need for affordable housing provision within the South East, and Maidstone. I am also satisfied that this provision would be directly related to the scale of the development, (and in accordance with our DPD) and is also directly related to the development, and I therefore consider that this requirement meets the tests set out above.

- 5.8.3 Maidstone Borough Council Parks and Open Space Officer has not formally commented on this application, but has informally requested that contributions be sought for improvements to open space within the locality. He has also informally confirmed that the money requested would be spent within a 1 mile radius of the application site. However, no precise details have been given and as such, I do not consider it appropriate to seek these contributions in this instance, as I am not satisfied that all three test (as set out above) have been met.
- 5.8.4 In addition contributions have been sought by the Primary Care Trust, as it is considered that a residential development would be likely to generate additional demand upon the existing health care facilities within the locality. I have requested that the Primary Care Trust confirm where this money be spent, in order that it meet the requirements of Regulation 122 of the Act. They have identified three surgeries that would be improved as a result of the money provided – at Vine Surgery, St Luke's and Marsham Street. They have identified that the additional units would be a further strain upon the existing medical facilities within the locality by virtue of introducing additional residents in place of a work place – i.e. not simply an intensification of the existing use. I am therefore satisfied that this request is required to overcome a potential concern of granting planning permission, and it directly related to the proposal, and is reasonable.
- 5.8.5 Money has also been requested from KCC (Mouchel) for improvements to the library book-stock, which will fund the new library being built within walking distance of the site, improvements to adult education, which again will be located within the new library/history centre, and for youth and community facilities, which will see the creation of a new Infozone, which would only be a quarter of a mile from the application site, and could be used by young people residing within the development. KCC have identified that there is no requirement for school places, nor for adult social services within this locality. I am satisfied that these requests meet the three tests set out above, in that they

are directly linked to the development (all within walking distance), they are specific and they are reasonable.

To summarise, the contributions sought are: -

- Primary Care Trust: £23,040 toward healthcare improvements;
- Kent County Council: £227 per dwelling towards library improvements, £180 for adult education and £827 (per house) and £206.75 (per flat) for youth and community payments – totalling £19,698.50 for the development;

5.8.2 As set out above, I am satisfied that the requests for contributions met the tests of Regulation 122, and I therefore consider it appropriate ensure that these are provided. I consider that the proposal complies with Policy CF1 of the Maidstone Borough Wide Local Plan (2000).

## **5.9 Other Matters**

5.9.1 No details have been submitted as to how energy efficient the proposed dwellings would be. However, PPS1 requires that any development be well designed, and I consider an important element of 'good design' to be sustainable construction. As such, I consider it appropriate to recommend a condition that the residential units be constructed to be rated at least level 3 of the Code for Sustainable Homes.

5.9.2 I do not consider that the site is likely to house any significant biodiversity, due to the nature of its use, and the fact that the buildings have now been removed. As such, no ecological reports have been completed. However, I do consider it appropriate to suggest an informative that the applicants consider the use of swift bricks, or bat boxes, as well as the placement of cordwood within the site, to actually enhance biodiversity, in accordance with PPS9. I have also suggested informatives requesting that the applicants look at the possibility of providing living/green walls and roofs within the development, to enhance biodiversity and to further soften the appearance of the development, within this urban area.

5.9.3 I have been advised that concern has been raised at the loss of a well used bench to the front of the application site. The applicant has suggested that they would be willing to provide a replacement bench. I therefore recommend that an informative be placed upon any permission granted on this basis.

## **6.0 CONCLUSION**

6.0.1 As can be seen from the above, this proposal is a departure from the Development Plan, in that it is providing housing upon a site allocated for employment purposes. However, the site has been marketed, and has been subject to offers for commercial use that has fallen through in the past three

years. In addition, information has been provided, both by the applicant, and through reports compiled for the Local Planning Authority, that demonstrate that this area is unlikely to be developed for B1 employment purposes. As such, it is appropriate to look at alternative uses, and whilst other applications have been submitted for commercial use at on this site, at the same time, because of the information submitted, I see no reason why these are more likely to be brought forward in the future. Evidence has been submitted to demonstrate that this may be brought forward as a residential quarter, which may influence future policy.

6.0.2 I am satisfied that the applicant has demonstrated that all reasonable efforts have been made to ensure that employment uses are retained on the site, without success, and as such meet the requirements of Policy ED2. It is on this basis that I recommend Members give this application favourable consideration and give delegated powers to grant, subject to a S106 agreement, and the imposition of the conditions set out below.

## **7.0 RECOMMENDATION**

Subject to the receipt of a Section 106 legal agreement which provides for the following: -

- A minimum of 40% of the residential units permitted shall be provided for affordable housing.
- Contributions for the Primary Care Trust. This would consist of a contribution of £14,130 which would be spent at the identified surgeries within the proximity of the site.
- Contributions towards (KCC) of £19,698.50 for improvements to the book stock at the new library, adult education at the new library, and the provision of a new youth facility ¼ mile from the application site.

The Development Manager BE GRANTED DELEGATED POWERS to approve subject to the following conditions: -

1. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

a. Layout b. Scale c. Appearance d. Access e. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;



Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development in accordance with PPS1.

3. The details submitted pursuant to Condition 1 shall show inter alia a building or buildings whose height shall not exceed three storeys from normal ground level to ridge level;

Reason: To ensure conformity with the existing form and character of development in the surrounding area in accordance with PPS1.

4. The development shall not commence until, details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site in accordance with PPS1.

5. The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with PPS1.

6. The development shall not commence until, details of satisfactory facilities for the storage of refuse on the site have been submitted to and approved in writing by the Local Planning Authority and the approved facilities shall be provided before the first occupation of the buildings or land and maintained thereafter;

Reason: No such details have been submitted and in the interest of visual and residential amenity, in accordance with PPS1.

7. The development shall not commence until, details of a scheme for the insulation of the residential units against the transmission of both airborne and impact sound has been submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be completed before any residential unit is first occupied and shall be maintained thereafter;

Reason: To mitigate the effects of potential noise nuisance in accordance with PPS23.

8. The development shall not commence until, details of the parking spaces and/or garages and sufficient turning area to enable vehicles to enter and leave the site in forward gear have been submitted to and approved in writing by the Local Planning Authority;

Reason: Development without adequate parking/garage provision is likely to lead to parking inconvenient to other road users and in the interests of road safety, in accordance with PPG13.

9. The development shall not commence until, details of the means of vehicular access to the site, including the road width, kerb radii, visibility splays and details of finishing materials, have been submitted to and approved in writing by the Local Planning Authority;

Reason: No such details have been submitted and in the interests of highway safety, in accordance with PPG13.

10. A scheme of landscaping using indigenous species as required under Condition 1 above shall include indications of all existing trees and hedgerows on the land, and details of any to be retained. The development shall also include:-

- i) The provision of a minimum of three street trees along the Tonbridge Road frontage (to be of a suitable species);
- ii) The provision of an area of low planting of at least 3metres in depth along the Tonbridge Road frontage;
- iii) The provision of a landscaped buffer along the western boundary of the application site, which shall be at least 2metres in depth, and should include trees as well as low planting;
- iv) The provision of a landscaped buffer along the rear (southern) boundary of the application site, which shall be at least 2metres in depth, and should include trees as well as low planting.

Details of the measures for their protection in the course of development, together with and a programme for the scheme's implementation and long term management shall also be submitted. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and

Landscape Guidelines;

Reason: No such details have been submitted and in the interests of visual amenity in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan (2000) and PPS1.

11. 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 buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan (2000) and PPS1.

12. The developer shall arrange for a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. No works shall start on site until a written programme and specification for the work has been submitted to and approved by the Local Planning Authority;

Reason: To enable the recording of any items of historical or archaeological interest in accordance with PPS5.

13. The details submitted pursuant to Condition 1 shall show inter alia a building or buildings that are set back a minimum of 7 metres from the edge of the pedestrian footpath;

Reason: To ensure conformity with the existing form and character of development in the surrounding area in accordance with PPS1 and to ensure a good level of landscaping provision in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000.

14. The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

Reason: to ensure a sustainable and energy efficient form of development in accordance with Kent Design 2000 and PPS1.

15. There shall be no more than 1.5 spaces per dwelling.

Reason: In the interests of the sustainability of the site, and to ensure a suitable level of soft landscaping within the development, in accordance with PPS1, PPS3 and Policy ENV6 of the Maidstone Borough Wide Local Plan 2000.

16. The details submitted pursuant to Condition 1 shall show inter alia a building or buildings that is set back a minimum of 7 metres from the edge of the footpath of Tonbridge Road.

Reason: To ensure conformity with the existing form and character of development in the surrounding area in accordance with PPS1 and to ensure a good level of landscaping provision in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000.

17. The details submitted pursuant to Condition 1 shall show inter alia a building or buildings that are articulated so as to reflect the pattern and grain of the development within the locality.

Reason: To ensure conformity with the existing form and character of development in the surrounding area in accordance with PPS1 and to ensure a good level of landscaping provision in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000.

### **Informatives set out below**

Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.

No burning shall take place on site.

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from demolition work.

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside of the normal working hours is advisable.

The developer shall implement a scheme for the use of wheel cleaning, dust laying and road sweeping, to ensure that vehicles do not deposit mud and other materials on the public highway in the vicinity of the site or create a dust nuisance.

You are advised to ensure that the appointed contractor(s) is/are registered with the 'Considerate Constructors Scheme' and that the site is thereafter managed in accordance with the Scheme. Further information can be found at [www.considerateconstructorsscheme.org.uk](http://www.considerateconstructorsscheme.org.uk)

Should any future development of the site include the erection of a front boundary wall, this wall should be constructed of Kentish Ragstone.

The applicant is reminded of the sustainable location of the application site, and the need to balance the provision of parking in accordance with sustainable objectives, and highway safety. I therefore recommend that prior to the submission of any reserved matters planning application, discussions are held with the Borough Council Planning Officers, and Kent County Council Highway Services to fully address this matter.

The applicants, or successors in title are advised to seek to improve biodiversity within the application site. It is suggested that any development incorporate the use of bat boxes, swift bricks, and if appropriate the provision of cordwood.

Any buildings proposed within the site should be well articulated, and should respect the pattern of the development within the locality.

The applicant is advised to consider the provision of a green/living roof on any of the flat roof elements of the proposal.

The applicant is advised to consider the provision of a living wall on the most exposed elevations of the building, in order to soften the appearance of the development.

The areas designated for vehicular movements and parking should be kept to a minimum.

The applicant is requested to consider the use of bat boxes and swift bricks within the development hereby permitted.

The applicant is advised that whilst a minimum of level 3 of the Code for Sustainable Homes has been imposed by condition, they should seek to achieve a level 4 rating across the whole site if possible.

The applicant is advised that a bench should be provided to the front of the application site.

The proposal shall be designed in such a way as to minimise the impact upon the residential amenity of the neighbouring occupiers.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.