

APPLICATION: MA/11/1965 Date: 14 November 2011 Received: 17 November 2011

APPLICANT: Ms R. Taylor, Ward Homes Ltd.

LOCATION: LAND AT, PENHURST CLOSE, GROVE GREEN, KENT

PARISH: Boxley

PROPOSAL: Erection of seven dwellings, comprising three 3 bed dwellings and four 2 bed houses with 11 car parking spaces (including 1 visitor) as shown on drawing numbers 111102-WARD-01, 111102-WARD-02, 111102-WARD-03, 111102/WARD/E1, 111102/WARD/E2, 111102-WARD-P1, 111102-WARD-P2 and 111102-WARD-P3, supported by a Design and Access Statement dated 4th November 2011, Updated Ecological Walkover Survey dated 28th October 2011, Reptile Report dated May 2010 and Planning Statement dated November 2011, all received 14th November 2011.

AGENDA DATE: 26th January 2012

CASE OFFICER: Catherine Slade

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

- Councillor Mrs Parvin has called the application in on the grounds set out in the report.
- it is contrary to views expressed by Boxley Parish Council.
- it is a departure from the Development Plan.

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV24, T13, CF1, CF3
- South East Plan 2009: SP2, SP3, CC1, CC4, CC6, H1, H4, H5, T4, NRM1, NRM10, BE1, S6, AOSR6, AOSR7
- Village Design Statement: Not applicable
- Government Policy: PPS1 Delivering Sustainable Development, PPS3 Housing, PPS9 Biodiversity and Geological Conservation, PPG13 Transport, PPG24 Planning and Noise

## **2. HISTORY**

2.1.1 The site has an extensive and complicated site history, the relevant parts of which are summarised below.

- MA/10/1028 - Erection of 4 no. 3 bedroom houses, 7 no. 2 bedroom flats and 3 no. 1 bedroom flats with associated parking and landscaping – REFUSED (NON DETERMINED), DISMISSED AT APPEAL
- MA/04/0440 - Renewal of planning permission MA/01/0069, being an outline application for the erection of a building to be used for a mixed use for assembly and leisure purposes (D2) and for library facilities (D1) with all matters reserved for future consideration, by variation of condition 1 (outline time condition) – APPROVED WITH CONDITIONS
- MA/01/0069 - Renewal of planning permission MA/97/1370N, being an outline application for the erection of a building to be used for a mixed use for assembly and leisure purposes (use class D2) and for library facilities (use class D1), with all matters reserved for future consideration, by variation of condition 01 (outline time condition) - APPROVED WITH CONDITIONS
- MA/97/1370 - An outline application for the erection of a building to be used for a mixed use for assembly and leisure purposes (use class D2) and for library facilities (use class D1) with all matters reserved for future consideration - APPROVED WITH CONDITIONS
- MA/97/1024 - Erection of four 3 bed houses - REFUSED
- MA/96/0856 - Erection of 4No. detached three bedroom houses with attached single garages – REFUSED, DISMISSED AT APPEAL
- MA/90/1558 - Erection of two storey detached building to provide a dental centre together with ancillary parking - APPROVED WITH CONDITIONS

### **3. CONSULTATIONS**

3.1 **Boxley Parish Council:** Wish to see refused (and reported to the Planning Committee) on the following grounds:

- Loss of designated open space.
- No identified housing need.
- This is a Greenfield site which, contrary to the ecological report, does have reptiles living on it.
- The height of the proposed development would be detrimental to the street scene.
- Failure to supply adequate off street car parking (there is only one visitor car parking space for 7 dwellings would result in on street car parking which would be a safety issue for pedestrians.

The Parish Council also raised the following concern:

*"The provision of the small green area planted with crab apple trees would have no benefit to the community as the site is fenced in."*

3.2 Councillor Mrs Hinder made the following comments on the application:

*"I wish to strongly object to this application for the following reasons.*

*1 One of the reasons for the Inspectors Decision for dismissing the precious application was there is no current need for development on open space land or Green Field as Maidstone already has a five years supply of Brownfield sites. Because Grove Green already has green spaces and recreational areas does not mean that this land should be built on when there is not a current need. This land should be retained as an open space for future generations.*

*2 It is against the wishes of local residents who have raised the following points:*

- (a) Although the number of dwelling has been reduced, this is still a three storey building with the height only being marginally reduced.*
- (a) This is not in keeping with other buildings in the area.*
- (b) Side dwellings facing South West would overlook properties.*
- (c) Not two parking spaces per dwelling therefore has the potential to encourage on street parking*

*I would request that these reasons for refusal are taken into consideration when making your decision.*

*I understand that Boxley Parish Council has already asked that this be reported to the Planning Committee, and I support that request."*

3.3 **Kent County Council Communities (Libraries):** Confirmed by letter dated 11 November 2010 and email dated 28<sup>th</sup> December 2011 that KCC do not require a library on this site as described in the s52 Legal Agreement completed in 1982, and are seeking to have the agreement deleted.

3.4 **KCC Kent Highway Services:** No objections subject to conditions/informatives securing areas shown as vehicle parking spaces or garaging space for those purposes and requiring the provision of adequate precautions to guard against the deposit of mud and similar substances on the public highway, including wheel, chassis and bodywork washing facilities.

3.5 **KCC Biodiversity Services:** Raise no objections to the proposal subject to the imposition of a condition requiring the implementation of a reptile mitigation briefing for contractors (as set out in paragraph 4.2 of the Reptile Report) and

an informative requiring removal of scrub and trees to be undertaken outside of the bird nesting season, unless preceded by an ecological inspection for active bird nests.

- 3.6 **Southern Water:** Wish to see a condition imposed on any planning consent requiring details of surface water drainage to be submitted, together with an informative regarding the need to formally apply for a connection to the public sewerage system. They note that there is no public surface water sewer in the vicinity of the site and that therefore another appropriate means of surface water disposal should be considered, which should not involve disposal to a foul water sewer.
- 3.7 **Southern Gas Networks:** Have provided a plan showing that a low pressure gas main passes along the frontage of the site to Penhurst Close.
- 3.8 **UK Power Networks:** Raise no objections to the proposal.
- 3.9 **MBC Environmental Health:** Raise no objection, and make the following detailed comments:

*'The site is in a mixed residential area and traffic noise is not a problem. However, the site is adjacent to a superstore plus a pub and with regard to the previous application for this site, MA/10/1028, my colleague recommended an acoustic assessment in order to determine how disturbing night time activities in the area might be in particular. [This earlier application was refused on the grounds of scale and density plus the fact that it would result in the loss of a public space.]*

*The site is within the Maidstone Town Air Quality Management Area but is not close to a known air quality hotspot, and I do not consider the scale of this development and/or its site position warrant an air quality assessment. Any demolition or construction activities will definitely have an impact on local residents and so the usual informatives should apply in this respect.*

*There is no indication of land contamination based on information from the Maidstone Borough Council's contaminated land database and historic maps databases, and no indication from the latest British Geological Survey maps that there is a significant chance of high radon concentrations.*

*The Clean Neighbourhoods and Environment Act 2005 requires the developer to produce a site waste management plan for any development which is over £300,000. The plan must be held on site and be freely available for view by the local Authority at any time.'*

No objections are raised subject to a condition requiring an acoustic assessment and informatives governing conduct and hours of operation on site during construction and storage of waste.

- 3.10 **MBC Spatial Policy:** raise no objection to the proposal, and make the following detailed comments:

*"This proposal has been made following dismissal of the appeal numbered APP/U2235/A/11/2149108, relating to the previous application 10/1028 (for 14 dwellings).*

*The primary reason for the dismissal of the appeal was that the proposal, if it had been permitted, would have resulted in the overdevelopment of the site and would have been harmful to the overall character and appearance of the area.*

*The council's view that the site should contribute to public open space was not agreed with on the basis of:*

- *The site's smaller scale (in relation to the overall need for natural/semi-natural)*
- *The proximity of amenity green space (and other natural/semi-natural green space)*
- *The previous permitted use for the site, which was for a library/assembly and leisure, and not open space.*

**Comments**

*The physical and visual impact of this proposal would be less than of that resulting from application 10/1028 had it been permitted. In relation to the inspector's comments regarding public open space in the decision notice for APP/U2235/A/11/2149108, Spatial Policy has nothing further to add."*

- 3.11 **MBC Parks & Leisure:** Have confirmed that the scale of the development is such that it falls below the threshold number of dwellings that makes a development eligible for an off-site contribution, and therefore that no contribution will be requested from the developer.

**4. REPRESENTATIONS**

- 4.1 One representation was received from a local community group, which raised the following concerns:

- The site was reserved for a community facility, being a public library, by way of a legal agreement entered into in 1982, and although Kent County Council consider that such a facility is no longer appropriate, the land should be retained

for community uses, in accordance with the "Big Society" ethos at central government level.

- Need for a church in the vicinity.
- The development would be contrary to Local Plan policy CF3 which seeks to prevent the loss of community facilities.
- Housing represents an inappropriate use of the site.

4.2 One representation was received from a neighbouring resident, which raised the following concerns:

- The scale of the proposed dwellings, in particular in relation to the height and massing
- The level of on site parking provision.
- Harm to residential amenity in regard to loss of privacy and overlooking of the properties to the south west of the site.
- Inadequacy of the submitted landscaping plan.
- Support for the concept of the development of land for the provision of a religious facility.

## **5. CONSIDERATIONS**

### **5.1 Background**

5.1.1 As set out above, the proposal site has an extensive planning history. Of particular note is MA/10/1028, which was for the erection of fourteen residential units (four 3 bedroom houses, seven 2 bedroom flats and three 3 bedroom flats) arranged in a inverted L shape block which would project forward of the established building line and leave little scope for the softening of the development through the landscaping.

5.1.2 An appeal against non-determination of MA/10/1028 was dismissed on the grounds that the scale, form, layout and extent of the development proposed represented overdevelopment of the site. The Inspector's decision is a material consideration in the determination of the current application, and a copy of the Inspector's decision is attached as Appendix A.

5.1.3 The current application has been submitted following extensive pre-application discussions between the applicant and the Local Planning Authority, and is designed in order to overcome the reason of the dismissal of the previous scheme at appeal, as set out in the design and access statement.

5.1.4 The key differences between the dismissed scheme and the current application are set out in section 5.3 (Proposal) below.

## **5.2 Site Description**

5.2.1 The proposal site comprises an irregularly shaped parcel of land with an area of approximately 0.14Ha designated as public open space in the Maidstone Borough-Wide Local Plan 2000 in the Grove Green area of Maidstone. The site comprises an undeveloped plot of land enclosed by fencing which at the time of the site visit was overgrown with rough grassland, brambles and silver birch saplings. The site is roughly level, however the adjacent land levels fall towards the south.

5.2.2 The site is located within the defined urban area of Maidstone in the parish of Boxley, and comprises the northern part of a larger parcel of land which is allocated in the Local Plan for public open space under policy ENV24 (ii). The land to the south of the site is included in this designation, and has been landscaped to provide an enclosed children's play area and pedestrian access from Penhurst Close to Weaving Street.

5.2.3 The site is located on the western side of the apex of Penhurst Close, an unclassified highway extending southwards from Grovewood Drive. The site is approximately 60m to the south of the junction of the two highways.

5.2.4 Penhurst Close is characterised by residential development along its eastern side comprising two storey blocks of flats arranged around a parking area accessed from Penhurst Close. To the west of Penhurst Close, immediately north of the proposal site, is a single storey detached building used as an orthodontic surgery. To the north of this building, on the junction with Grovewood Drive, is a larger detached building which serves as a community hall. Both these buildings are set back from the highway by approximately 12m from the public highway, with off road parking provided to the front of both establishments. Immediately adjacent to the rear (west) of the site is a large supermarket and associated infrastructure including car parking and a petrol station, which is designated in the Local Plan as being a district retail centre under the provisions of policy R10 (vi), and two detached dwellings granted planning permission in the late 1980's which face the site.

## **5.3 Proposal**

5.3.1 The development currently under consideration is the erection of seven dwellings, comprising four 2 bedroom properties with accommodation arranged over two floors and three 3 bedroom dwellings with living accommodation arranged over three floors, including within the roof space, together with

associated off road car parking provision and landscaping. The proposal previously dismissed at appeal was for fourteen residential units; the current application therefore represents a reduction of 50% in terms of the number of units proposed.

- 5.3.2 The application documentation shows the dwellings to be arranged in a symmetrical two storey block arranged in an H shaped footprint. The building would be formed of a central terrace of three 3 bedroom town houses terminated with north and south wings located at either end of the central terrace. These wings would present gable ends to both front and rear aspects. Each of these wings would be formed of two 2 bedroom dwellings. The use of the roof space for additional accommodation would be facilitated by the incorporation of pitched roof dormers on the front elevations and roof lights to the rear elevations of the central terrace. The building would have a width of 24m, and a depth of 9m (the central townhouses) and 11.4m (the north and south wings). The form of the central terrace would take a dual pitch with a flat roof between, which would have a maximum height of 8.7m. The form of the end wings would be a more conventional multipitched arrangement with a similar maximum height. The eaves heights of all parts of the building would be 5.2m.
- 5.3.3 The scale of the proposed dwellings has been significantly reduced in comparison with the dismissed scheme. Although the proposed buildings would remain as two storey dwellings with additional living accommodation in the roof space, the maximum heights of the buildings would be 8.7m, and the eaves heights 5.2m, in comparison with the heights of 10m and 5.3m which were proposed for the previous housing block. The flatted accommodation proposed in the previous scheme would have been larger still, with maximum ridge heights of 11.4m and maximum eaves heights of 6.5m. The building currently proposed is therefore clearly substantially lesser in terms of both height and overall bulk in relation to the scheme which was previously refused.
- 5.3.4 The layout of the current application would have the main building to be arranged along a north east south west axis, set back from the highway by approximately 18m, in line with the existing building line to the west of Penhurst Close. Private amenity space would be located to the rear of the properties, whilst the land to the front of the building would be utilised for 10 off road car parking spaces and shared landscaped areas, including a crab apple orchard in the south corner of the site. A hedge is proposed to the south west boundary of the site.
- 5.3.5 In comparison, the previous scheme would have taken the form of an inverted 'L'-shaped block, with the main part of the building housing the flats located along the northern boundary of the site adjacent to the orthodontic centre with the four houses returning southwards backing onto the western site boundary. The apartment block element of the development would have projected forward



of the existing building line established by the dental centre and village hall by 11m. Much of the remainder of the site would have provided 16 car parking spaces, which would have primarily been provided in the southern corner of the site.

- 5.3.6 The footprint of the building as currently proposed has been significantly modified in comparison to that previously considered, and all parts of the proposed building are now sited in such a way as to respect the strong building line established by the existing buildings to the north west of Penhurst Close. In itself, this amendment to the scheme substantially reduces the visual impact of the development by distancing it from the public highway, and increasing the land available for soft landscaping within the site, thereby softening the appearance of the development in the streetscene and providing a visual link to the built development to the north east and the open space to the south. The removal from the scheme of elements forward of the building line would also significantly reduce the visibility of the development when viewed from Grove Green Road.
- 5.3.7 The application shows the materials to be utilised to include red brick to the front and rear elevations, with the projecting gables to the north and south wings and the side elevations to be faced with white timber horizontal weatherboarding with a red brick plinth. The roofing materials are specified as natural grey slate. The materials proposed, and the overall design of the proposed development is traditional in form and appearance, and reflects both the local Kentish vernacular and the surrounding pattern and form of development in the Grove Green area.
- 5.3.8 The detail of the scheme is intended to provide articulation and elevational interest and, in addition to the variety of traditional materials proposed to the external surfaces and the projecting gables to the front and rear elevations, includes the incorporation of design details including exposed rafters, white soffits and timber porch canopies, and the use of narrow sash windows recessed from the front façade by 100mm, and arched headers and timber frames to the fenestration, as detailed in the Design and Access Statement.

## **5.4 Site History and Principle of Development**

- 5.4.1 As set out above, the proposal site has an extensive planning history. Of particular note is MA/10/1028, which was for the erection of fourteen residential units, which was dismissed at appeal on the grounds that the development would "be in stark contrast to ... (the) overall characteristic of the form and scale of existing development", and that the "intensity of the development would not respond to its context". The Inspector also found that the scale of built development on the site was such that "there would be limited opportunity for adequate soft landscaping on the appeal site, uncharacteristic of the amount of landscaping generally within the estate".

- 5.4.2 For these reasons the Inspector concluded that “the proposal would appear as an overdevelopment of the site and be harmful to the overall character and appearance of the area” and “would not result in any improvement to the built environment”, and on these grounds found that the proposal was unacceptable.
- 5.4.3 In determining the appeal, the Inspector took the view that, although the site was designated as public open space in the Local Plan, it’s relationship to the adjacent Penhurst Close Play Area adjacent to the site which shares the open space designation in the Local Plan, the limited size of the site, the role that the space currently plays in providing open space, the fact of its long term enclosure, the absence of any identified deficiency in public amenity green space and the previous history of the site which included permissions for the development of the land under MA/97/1370N, and subsequent renewals under MA/01/0069 and MA/04/0440, were material considerations. The Inspector concluded that a grant of planning permission would cause “limited harm if any from the conflict with Local Plan policy ENV24(vii)”. In reaching this conclusion, the decision chimed with that of the Inspector’s decision pertaining to MA/96/0856.
- 5.4.4 It is noted that a legal agreement exists securing the land for the provision of a public library, however this agreement predates the adoption of the Local Plan, and in any case Kent County Council have confirmed by letter dated 11 November 2010 and email dated 28<sup>th</sup> December 2011 that KCC do not require a library on this site as described in the S52 Legal Agreement completed in 1982, and are seeking to have the agreement deleted. It is therefore considered that the legal agreement is of limited weight in the determination of the current application.
- 5.4.5 The site is considered to constitute Greenfield land, however the development control history of the site, which includes a planning permission for the development of the site for leisure and community facilities, which was subsequently renewed on two occasions, is a material consideration in the assessment of the current application. Furthermore, the Inspector noted the Greenfield status of the site, but this was not cited as a reason for the refusal of the scheme, indeed the Inspector stated in the decision that “the appeal site is in a sustainable location both in terms of facilities and accessibility” and concluded that this would weigh in favour of the development.
- 5.4.6 For these reasons it is considered that, notwithstanding the absence of an identified housing need and the clear conflict with Local Plan policy ENV24(vii), in accordance with the recent appeal decision, the principle of the development of the land for residential purposes is acceptable and would not result in significant harm as a result of the loss of the designated space or development of a Greenfield site.

## **5.5 Design and Visual Impact**

- 5.5.1 As detailed above in sections 5.1 and 5.3, the Inspector dismissed the previous appeal on the grounds of scale and design alone, and the resultant character and appearance of the proposed development, and its relationship to the surrounding pattern of development, including the public open space to the south. Therefore the design and visual impact of the current proposal is the key issue in the determination of the application.
- 5.5.2 In terms of the number of units, the current scheme has been reduced by 50% in comparison to the previous proposal. This has a significant impact upon the scale and overall appearance of the proposed development, which is substantially lesser in height and overall bulk in relation to the scheme which was previously refused, as set out in paragraph 5.4.3 above.
- 5.5.3 Although concerns have been raised with regard to the scale, in particular the height, of the proposed development, in my view although the height of the building would be greater than that of the surrounding dwellings, in the context of the surrounding development, which includes a substantial village hall and a supermarket to the rear of the site, this is acceptable in the setting.
- 5.5.4 Furthermore, the footprint of the building has been significantly modified, and all parts of the proposed building now being sited in such a way as to respect the strong building line established by the existing buildings to the north west of Penhurst Close. In itself, this amendment to the scheme substantially reduces the visual impact of the development by distancing it from the public highway, and increasing the land available for soft landscaping within the site, thereby softening the appearance of the development in the streetscene and providing a visual link to the built development to the north east and the open space to the south. The removal from the scheme of elements forward of the building line would also significantly reduce the visibility of the development when viewed from Grove Green Road. The position of the building within the site, being set back by from the highway by approximately 15m and in line with the established building line, is also considered to mitigate against the building appearing dominant and out of keeping with the overall character of the streetscene.
- 5.5.5 In addition, the modification and reduction of the footprint of the building and the arrangement of the development within the site are such that extensive landscaping of the site is possible, as indicated on the landscape plan. The proposed landscaping of the south east boundary of the site is considered to provide a suitable visual buffer between the proposed development, whilst the planting of a crab apple orchard in the south east corner of the site adjacent to the existing open space, which has recently been planted as an orchard, is considered to provide an element of visual continuity between the adjacent land uses. The landscaping scheme submitted is indicative, and as such a condition is

suggested requiring the submission and approval of a detailed landscape scheme which should include orchard planting in the south corner of the site and native hedges to the site boundaries, and implementation of the approved scheme. It is also considered that the reduction in the scale of the proposed development, and its arrangement within the site, resolves the issues of the extent of built development and landscaping within the site, and its relationship to the surroundings.

5.5.6 The detail of the design of the proposed development is considered to be superior of that of the refused scheme. The appearance of the proposed dwellings seeks to reflect local and Kentish vernacular, through both the overall scale and design and the detail of the materials to be use, which includes weatherboarding and brick and details such as porches and soffits, as detailed above. In order to secure the high quality of the proposal it is considered in the circumstances of this case to be necessary to require the submission and written approval of details of materials, joinery and the design details listed above.

5.5.7 For the reasons set out above, it is considered that the scale and layout of the proposed development have been substantially improved when assessed in relation to the previously dismissed scheme, and satisfactorily address the concerns of the Inspector in regard to the form and extent of the development and its relationship to the surrounding pattern of development and open space. The proposal is considered to be acceptable in terms of both the quality of the design of the development, and the visual impact of the proposed development in the context of the streetscene and the adjacent open space.

## **5.6 Other Matters**

5.6.1 Concerns have been raised in respect of the impact of the development on the occupiers of neighbouring dwellings, in particular those to the west of the proposal site. In this case, it is considered that the separation distances between the proposed and existing dwellings are such that it is not considered that any loss of privacy would result from the development. It is not considered that any harm to the residential amenity of neighbouring occupiers would result from the development in regard to loss of light or outlook. The Maidstone Borough Council Environmental Health Officer has raised concern over the residential amenity of future occupiers of the proposed units as a result of the close proximity of the site to the car park of the supermarket located to the rear, as set out in the comments above. In light of the comments it is considered that a condition be attached to the permission requiring the submission of an acoustic assessment prior to the commencement of the development and the implementation of any necessary mitigation measures identified.

5.6.2 The proposed development includes the provisions of 11 parking spaces (including 1 visitor space) which would be located to the front of the proposed

building in the east corner of the site Concern has been raised in respect of the level of car parking proposed, however given the sustainable location and the availability of alternatives to the private car, it is considered that the proposed level is acceptable. Kent County Council Highway Services have raised no objection to the proposal subject to the imposition of conditions, including the securing of the parking spaces for this purpose, which is considered to be reasonable in the circumstances of this case. For these reasons it is not considered that there is any objection to the proposal on highway grounds.

- 5.6.3 The applicants have submitted a Reptile Survey dated May 2010 which found no reptiles on the site, and an update ecological walkover site survey dated October 2011. The Kent County Council Biodiversity Officer has assessed the documentation submitted, and found it to be valid, and raises no objection to the proposal on ecological grounds, subject to a mitigation briefing for contractors being undertaken in accordance with the recommendations of the report.
- 5.6.4 The scale of the proposed development falls under the relevant thresholds for contributions for social and infrastructure contributions, and therefore none are sought in respect of the current application.
- 5.6.5 The design and access statement states that the development will achieve level 3 of the Code for Sustainable Homes, which is considered to be acceptable. A condition requiring the attainment of the appropriate certification prior to the occupation of the units is considered an appropriate mechanism to secure this.
- 5.6.6 The comments of Southern Water and Southern Gas Networks are noted, and an appropriate condition requiring the submission of details of drainage and the informatives set out above should be attached to the permission.
- 5.6.7 Although objection has been raised on the grounds that the land could be used for alternative community facilities, such as a church, no such development proposals have been put forward, and there is no realistic prospect of any such proposals being submitted. Kent County Council and Maidstone Borough Council have confirmed that there are no plans to develop the land for alternative community purposes, and therefore I consider this objection to be of limited weight. Objection has also been raised in respect of the loss of a community facility, however although planning permission existed for such a use the land was never developed for that purpose. Therefore a community facility cannot be considered to be lost as a result of the current application.

## **6. CONCLUSION**

- 6.1 Whilst the proposed development of the site for residential use does not comply with Local Plan policy ENV24(vii), on the grounds set out above, and constitutes the development of a Greenfield site, I do not consider, in the context of all

material considerations including the site history, this to represent sufficient grounds for the refusal of the application. The amended scheme, which addresses the main reason for the Inspector's dismissal of the previous appeal for residential development on the site, being overdevelopment, and no significant harm would result from the development of this sustainable, accessible and available site as proposed. I therefore recommend permission subject to the following conditions.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

drawing numbers 111102-WARD-01, 111102-WARD-02, 111102-WARD-03, 111102/WARD/E1, 111102/WARD/E2, 111102-WARD-P1, 111102-WARD-P2 and 111102-WARD-P3, supported by a Design and Access Statement dated 4th November 2011 and Planning Statement dated November 2011, all received 14th November 2011;

Reason: To ensure the quality of the development is maintained and in the interests of visual amenity and ensuring a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6 and BE1 of the South East Plan 2009, Kent Design Guide 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development.

2. 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.

3. The development shall not commence until written details and samples of the materials (which shall include multi stock red bricks, natural slate and timber weather boarding) to be used in the construction of the external surfaces of the development and areas of hard surfacing hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development in accordance with policies CC1, CC6 and BE1 of the South East Plan 2009, Kent Design Guide

2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development.

4. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with policies T13 of the Maidstone Borough-Wide Local Plan 2000 and T4 of the South East Plan 2009, and central government planning policy and guidance in PPG13 Transport.

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

Reason: To ensure a satisfactory appearance to the development in accordance with policies CC1, CC6 and BE1 of the South East Plan 2009, Kent Design Guide 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development.

6. The development shall not commence until details in the form of drawings (at a scale of 1:50 or 1:100) of cycle storage areas have been submitted to the Local Planning Authority and approved in writing. The approved details of the cycle storage areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use;

Reason: To ensure a satisfactory appearance to the development and provide alternatives to use of the private motor car in accordance with policies CC1, CC6 and BE1 of the South East Plan 2009, Kent Design Guide 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development and PPG13 Transport.

7. The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping using indigenous species 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 native hedges along the south west and north east boundaries of the site;
  - ii) The provision of a landscaped buffer along the south east frontage of the site to Penhurst Close, which shall be at least 2metres in depth, and should include a hedge, and trees as well as low planting;
  - iii) The provision of suitable tree planting in the car parking areas; and
  - iv) The provision of a crab apple orchard in the southern corner of the site.
- Details of a programme for the scheme's implementation (to include the planting of the boundary landscaping in the first planting season following commencement of the development and the scheme's long term management) 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 and ensuring a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6 and BE1 of the South East Plan 2009, Kent Design Guide 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable 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 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: No such details have been submitted and in the interests of visual amenity and ensuring a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6 and BE1 of the South East Plan 2009, Kent Design Guide 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development.

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



- i) Details of the exposed rafters, white soffits.
- ii) Details of external joinery (to be recessed by 100mm).

The development shall be undertaken in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development in accordance with policies CC1, CC6 and BE1 of the South East Plan 2009, Kent Design Guide 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development.

10. Where habitable rooms will be exposed to noise levels that are in excess of NEC A, mitigation should include a scheme of acoustic protection sufficient to ensure internal noise levels (LAeq,T) no greater than 30 dB in bedrooms and living rooms with windows closed. Where the internal noise levels (LAeq,T) will exceed 35 dB in bedrooms (night-time) and 45dB in living rooms (daytime) with windows open, the scheme of acoustic protection should incorporate appropriate acoustically screened mechanical ventilation.

Within gardens and amenity areas, the daytime 07.00-23.00 hours level of noise should not exceed 55dB (LAeq) free field. This excludes front gardens;

Reason: to protect residential amenity in accordance with policy NRM10 of the South East Plan 2009 and central government planning policy and guidance in PPG24 Planning and Noise.

11. The dwellings shall achieve at least 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 central government planning policy and guidance in PPS1 Delivering Sustainable Development.

12. The recommendations contained in the Reptile Report dated May 2010 undertaken by Keystone Environmental shall be fully implemented and complied with at all times until the completion of the development;

Reason: To ensure that no damage occurs to protected species in accordance with policy NRM5 of the South East Plan 2009 and central government planning policy and guidance in PPS9 Biodiversity and Geological Conservation.

13. Before development commences details of the means of surface water drainage shall be submitted to and approved by the Local Planning Authority;

Reason: No such details have been submitted in accordance with policies CC1,

CC6 and BE1 of the South East Plan 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development.

### **Informatives set out below**

As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

Southern Gas Networks have provided documentation which shows the position of a low pressure gas main to the front (east) of the site. Please see the attached drawing for details.

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside the normal working hours, can not be highly stressed.

Where possible, the developer shall provide the Council and residents with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work, for example scaffolding alarm misfiring late in the night/early hours of the morning, any over-run of any kind.

Attention is drawn to Approved Document E Building Regulations 2003 'Resistance to the Passage of Sound'. It is recommended that the applicant adheres to the standards set out in this document in order to reduce the transmission of excessive airborne and impact noise between the separate units in this development and other dwellings.

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:2009 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 EHM regarding noise control requirements.

Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

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

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager.

The developer may be required to produce a Site Waste Management Plan in accordance with Clean Neighbourhoods and Environment Act 2005 Section 54. This should be available for inspection by the Local Authority at any time prior to and during the development.

Removal of scrub and trees to be undertaken outside of the bird nesting season, unless preceded by an ecological inspection for active bird nests

Please note that there is no public surface water sewer in the vicinity of the site and that therefore another appropriate means of surface water disposal should be considered in relation to the details submitted pursuant to condition 12, which should not involve disposal to a foul water sewer.

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 the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.