

PLANNING COMMITTEE MEETING

Date: Thursday 17 February 2022
Time: 6.00 p.m.
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Brindle, Cox, English, Eves, Harwood, Holmes, Kimmance, Munford, Perry (Vice-Chairman), M Rose, Spooner (Chairman), Trzebinski and Young

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - 24 February 2022
6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
7. Disclosures by Members and Officers
8. Disclosures of lobbying
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
10. Minutes of the meeting held on 20 January 2022 1 - 6
11. Presentation of Petitions (if any)
12. Deferred Items 7 - 8
13. 21/503585/FULL - Land West of Church Road, Otham, Kent 9 - 85

Issued on Wednesday 9 February 2022
Over/:

Continued

Alison Broom

Alison Broom, Chief Executive

14.	21/503538/SUB - Land West of Church Road, Otham, Kent	86 - 96
15.	21/503713/FULL - Land on Site of Former 51 London Road, Maidstone, Kent	97 - 128
16.	21/506690/FULL - Telecommunications Base Station at Junction of Tonbridge Road and Oakwood Road, Maidstone, Kent	129 - 148
17.	21/506322/FULL - Rose Cottage, Bearsted Road, Weaving, Kent	149 - 161
18.	21/503615/FULL - Vinters Park Crematorium, Bearsted Road, Weaving, Maidstone, Kent	162 - 183
19.	21/505932/FULL - Wares Farm, Redwall Lane, Linton, Kent	184 - 198
20.	21/506183/FULL - Pinelodge Cottage, Somerfield Road, Maidstone, Kent	199 - 205
21.	Appeal Decisions	206 - 207

PLEASE NOTE

The order in which items are taken at the meeting may be subject to change.

The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website.

For full details of all papers relevant to the reports on the agenda, please refer to the public access pages on the Maidstone Borough Council website. Background documents are available for inspection; please follow this link: <https://pa.midkent.gov.uk/online-applications/>

PUBLIC SPEAKING AND ALTERNATIVE FORMATS

In order to speak at the meeting in person or by remote means, please call 01622 602899 or email committee@maidstone.gov.uk by 4 p.m. on Wednesday 16 February 2022. You will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated for each application on a first come, first served basis.

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MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 20 JANUARY 2022

Present: Councillor Spooner (Chairman) and Councillors Brindle, Cox, English, Eves, Harwood, Holmes, Kimmance, Munford, Perry, M Rose, Trzebinski and Young

Also Present: Councillors Garten and Harper

190. APOLOGIES FOR ABSENCE

There were no apologies for absence although it was noted that Councillors Eves and Harwood would be late in arriving at the meeting.

191. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

192. NOTIFICATION OF VISITING MEMBERS

Councillor Garten had given notice of his wish to speak on the report of the Head of Planning and Development relating to application 21/505360/FULL (The Cow Shed, West Street, Lenham, Kent), and attended the meeting remotely.

Councillor Harper had given notice of his wish to speak on the report of the Head of Planning and Development relating to application 21/506690/FULL (Telecommunications Base Station at Junction of Tonbridge Road and Oakwood Road, Maidstone, Kent), and attended the meeting remotely.

193. ITEMS WITHDRAWN FROM THE AGENDA

21/506690/FULL - Removal of 1 no. 12.5m street monopole and replacement with 1 no. 20m street monopole supporting 3 no. antennas. Removal of 1 no. cabinet and 1 no. meter cabinet and replacement with 1 no. new meter cabinet, and ancillary works thereto - Telecommunications Base Station at Junction of Tonbridge Road and Oakwood Road, Maidstone, Kent

The Committee considered the urgent update report of the Head of Planning and Development.

The Development Manager advised the Committee that since the site notice would not expire until 28 January 2022, it was recommended that

the application be withdrawn from the agenda to await the expiry of the publicity period and any further representations that might be received. The application would then be reported to the next scheduled meeting of the Planning Committee.

RESOLVED: That agreement be given to the withdrawal of application 21/506690/FULL from the agenda to await the expiry of the publicity period.

194. URGENT ITEMS

The Chairman said that he intended to take the update reports of the Head of Planning and Development and the verbal updates in the Officer presentations as urgent items as they contained further information relating to the applications to be considered at the meeting.

195. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Young said that, with regard to the report of the Head of Planning and Development relating to application 21/505458/REM (Land Rear of Redic House, Warmlake Road, Sutton Valence, Kent), she had met one of the objectors because she wanted to visit the site and he had let her in. She had not discussed the application with him and intended to speak and vote when it was considered.

Note: Councillor Eves joined the meeting during consideration of this item (6.10 p.m.). He said that he had no disclosures of interest.

196. DISCLOSURES OF LOBBYING

The following disclosures of lobbying were noted:

14.	21/505360/FULL – The Cow Shed, West Street, Lenham, Kent	Councillors Brindle, Cox, English, Eves, Holmes, Kimmance, Munford, Spooner and Young
15.	21/505458/REM - Land Rear of Redic House, Warmlake Road, Sutton Valence, Kent	Councillors Holmes and Perry
16.	21/504652/FULL - Broadlands, North Pole Road, Barming, Maidstone, Kent	Councillors English, Eves, Munford and Young
17.	21/506258/FULL – 6 Beckworth Place, St Andrew's Road, Maidstone, Kent	Councillors Brindle, Cox, English, Eves, Holmes, Kimmance, Perry, Spooners, Trzebinski and Young
18.	21/506690/FULL - Telecommunications Base Station at Junction of Tonbridge Road and Oakwood Road, Maidstone, Kent	Councillors Cox and Kimmance

See Minute 203 below

197. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed.

198. MINUTES OF THE MEETING HELD ON 16 DECEMBER 2021

RESOLVED: That the Minutes of the meeting held on 16 December 2021 be approved as a correct record and signed.

199. PRESENTATION OF PETITIONS

There were no petitions.

200. DEFERRED ITEMS

20/505611/SUB - SUBMISSION OF DETAILS TO DISCHARGE CONDITION 18 - FOUL AND SURFACE WATER SEWERAGE DISPOSAL SUBJECT TO 14/502010/OUT - DICKENS GATE, MARDEN ROAD, STAPLEHURST, TONBRIDGE, KENT

The Development Manager said that an external consultant was currently reviewing the application. It was expected that the application would be reported back to the Committee soon.

21/505452/LBC - LISTED BUILDING CONSENT FOR WORKS TO RE-POSITION/RE-BUILD A SECTION OF RAGSTONE WALL (TO FACILITATE THE A20 ASHFORD ROAD AND WILLINGTON STREET JUNCTION CAPACITY IMPROVEMENT SCHEME - MOTE PARK, A20 ASHFORD ROAD JUNCTION WITH WILLINGTON STREET, MAIDSTONE, KENT

The Development Manager said that discussions were ongoing. The application would be reported back to the Committee at the earliest opportunity.

201. APPOINTMENT OF MAIDSTONE GROUP AND LABOUR GROUP POLITICAL GROUP SPOKESPERSONS

RESOLVED: That the following Members be appointed as Spokespersons for their respective Political Groups for the remainder of the Municipal Year 2021/22:

Councillor Cox – Maidstone Group
Councillor M Rose – Labour Group

202. 21/505360/FULL - CHANGE OF USE OF COW SHED TO 1 NO. HOLIDAY LET WITH WIDENED ACCESS FOR FRONTAGE CAR PARKING - THE COW SHED, WEST STREET, LENHAM, KENT

The Committee considered the report and the urgent update report of the Head of Planning and Development.

Mr McKay, an objector, addressed the meeting in person.

Councillor Britt of Lenham Parish Council and Councillor Garten, Visiting Member, addressed the meeting remotely.

RESOLVED: That permission be granted subject to the conditions set out in the report.

Voting: 12 – For 0 – Against 0 – Abstentions

203. 21/505458/REM - APPROVAL OF RESERVED MATTERS FOR THE ERECTION OF 3 NO. DETACHED DWELLINGS WITH ASSOCIATED PARKING (APPEARANCE, LANDSCAPING, LAYOUT, SCALE BEING SOUGHT) PURSUANT OF 20/504370/OUT (OUTLINE APPLICATION FOR ERECTION OF 3 NO. DETACHED DWELLINGS WITH MATTERS OF ACCESS AND LAYOUT BEING SOUGHT, APPEARANCE, LANDSCAPING AND SCALE ARE RESERVED MATTERS FOR FUTURE CONSIDERATION) - LAND REAR OF REDIC HOUSE, WARMLAKE ROAD, SUTTON VALENCE, KENT

The Committee considered the report of the Head of Planning and Development.

In introducing the application, the Senior Planning Officer advised the Committee that she wished to add a further condition to ensure that the solar panels associated with the individual dwellings are installed and operational prior to the first occupation of the relevant dwelling.

Mr Golding, an objector, addressed the meeting remotely.

The Chairman read out a statement on behalf of Sutton Valence Parish Council which had requested that the application be determined by the Planning Committee but was unable to send a representative to the meeting as it had a pre-arranged meeting to set its budget and precept.

RESOLVED:

1. That permission be granted subject to the conditions and informative set out in the report and the additional condition referred to by the Senior Planning Officer when introducing the application (to ensure that the solar panels associated with the individual dwellings are installed and operational prior to the first occupation of the relevant dwelling).

2. That the Head of Planning and Development be given delegated powers to finalise the wording of the additional condition and to amend any other conditions as a consequence.

Voting: 9 – For 2 – Against 1 – Abstention

Note: Councillor Harwood joined the meeting after consideration of this application (7.15 p.m.). He said that he had been lobbied on agenda items 14, 16 and 17.

204. 21/506258/FULL - CONVERSION OF EXISTING DETACHED GARAGE INTO GRANNY ANNEXE ANCILLARY TO THE MAIN DWELLING - 6 BECKWORTH PLACE, ST ANDREW'S ROAD, MAIDSTONE, KENT

The Committee considered the report and the urgent update report of the Head of Planning and Development.

Ms Kemp, an objector, addressed the meeting in person.

In the absence of a representative of a residents' association/amenity group, Mr Lindley, another objector, addressed the meeting with the Chairman's discretion in person.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, Members considered that:

The proposed development by the addition of the window and door to the front would be a jarring addition to the character of the street scene and would upset the rhythm and the style of the street scene and result in a proliferation of cars to the front of the dwelling harming its character contrary to Policy DM1 of the Maidstone Borough Local Plan 2017.

RESOLVED: That permission be refused and that the Head of Planning and Development be given delegated powers to finalise the reasons for refusal to include the key issues cited above.

Voting: 11 – For 1 – Against 0 – Abstentions

Note: Councillor M Rose did not participate in the voting as she had not been present for all of the discussion on the application.

205. 21/504652/FULL - ERECTION OF A TWO STOREY FRONT/REAR EXTENSION AND A SINGLE STOREY SIDE/REAR EXTENSION. PROPOSED GARAGE CONVERSION INTO STORE/HABITABLE SPACE WITH INSERTION OF DORMER TO FRONT ELEVATION - BROADLANDS, NORTH POLE ROAD, BARMING, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

Councillor Manser of Barming Parish Council addressed the meeting remotely.

RESOLVED:

1. That permission be granted subject to the conditions set out in the report, with:

An additional condition requiring the installation of renewables on the extension(s); and

An additional condition requiring a native species landscape scheme for the front and rear of the site, to include tree planting.

2. That the Head of Planning and Development be given delegated powers to finalise the wording of the additional conditions and to add/amend any other conditions as a consequence.

Voting: 13 – For 0 – Against 0 – Abstentions

206. 21/506690/FULL - REMOVAL OF 1 NO. 12.5M STREET MONOPOLE, AND REPLACEMENT WITH 1 NO. 20M STREET MONOPOLE SUPPORTING 3 NO. ANTENNAS. REMOVAL OF 1 NO. CABINET AND 1 NO. METER CABINET AND REPLACEMENT WITH 1 NO. NEW METER CABINET, AND ANCILLARY WORKS THERETO - TELECOMMUNICATIONS BASE STATION AT JUNCTION OF TONBRIDGE ROAD AND OAKWOOD ROAD, MAIDSTONE, KENT

See Minute 193 above

207. APPEAL DECISIONS

The Committee considered the report of the Head of Planning and Development setting out details of appeal decisions received since the last meeting. In response to a question, the Development Manager confirmed that the Council currently had a 74% success rate at appeal. On behalf of the Committee, the Chairman thanked the Planning and Legal Officers for their work on appeals.

RESOLVED: That the report be noted.

208. DURATION OF MEETING

6.00 p.m. to 8.40 p.m.

MAIDSTONE BOROUGH COUNCIL
PLANNING COMMITTEE
17 FEBRUARY 2022

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

DEFERRED ITEMS

The following applications stand deferred from previous meetings of the Planning Committee. The Head of Planning and Development will report orally at the meeting on the latest situation.

APPLICATION	DATE DEFERRED
<p><u>20/505611/SUB - SUBMISSION OF DETAILS TO DISCHARGE CONDITION 18 - FOUL AND SURFACE WATER SEWERAGE DISPOSAL SUBJECT TO 14/502010/OUT - DICKENS GATE, MARDEN ROAD, STAPLEHURST, TONBRIDGE, KENT</u></p> <p>Deferred:</p> <p>(1) To ask the applicant to provide further information to clarify:</p> <p style="padding-left: 40px;">(a) The foul drainage flows from the site; and</p> <p style="padding-left: 40px;">(b) The volume of capacity being provided (by the holding tank) and how it will be maintained to ensure that it retains such capacity.</p> <p>(2) For the additional information to be reviewed by an independent expert drainage consultant.</p> <p>This is to satisfy the Committee that the volume of flows will be accommodated by the proposed works.</p>	22 July 2021
<p><u>21/505452/LBC - LISTED BUILDING CONSENT FOR WORKS TO RE-POSITION/RE-BUILD A SECTION OF RAGSTONE WALL (TO FACILITATE THE A20 ASHFORD ROAD AND WILLINGTON STREET JUNCTION CAPACITY IMPROVEMENT SCHEME) - MOTE PARK, A20 ASHFORD ROAD JUNCTION WITH WILLINGTON STREET, MAIDSTONE, KENT</u></p> <p>Deferred to:</p> <p>Seek clarification on why the listed wall needs to be re-positioned to accommodate the junction works;</p>	16 December 2021

Request a KCC Highways Officer to attend Planning Committee to clarify the predicted capacity improvements; and	
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Clarify further the public benefits of the proposal.	
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21/503585/FULL Land west of Church Road, Otham, Kent, ME15 8SB

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REFERENCE NO - 21/503585/FULL			
APPLICATION PROPOSAL			
Section 73 - Application for Variation of condition 30 (to vary the trigger point for the delivery of the Willington Street/Deringwood Drive improvements, to prior to occupation of 100 units, rather than prior to commencement above floor slab level) pursuant to application 19/506182/FULL (Residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping, allowed on appeal)			
ADDRESS Land West of Church Road, Otham, ME15 8SB			
RECOMMENDATION – APPROVE WITH CONDITIONS			
SUMMARY OF REASONS FOR RECOMMENDATION			
<ul style="list-style-type: none"> • It has been demonstrated the traffic associated with 100 houses/units and construction vehicles would not result in a severe traffic or safety impact and so can be accommodated at the existing Deringwood Drive/Willington Street junction, and no objections have been raised by the Highways Authority. • It is therefore acceptable to move the trigger for the implementation of the junction improvement to the occupation of 100 units or 31st December 2023 (whichever is the sooner). 			
REASON FOR REFERRAL TO COMMITTEE			
<ul style="list-style-type: none"> • Otham Parish Council strongly objects to the proposals for the reasons outlined in the report. • Councillor Newton has requested the application is considered by the Planning Committee. 			
WARD Downswood & Otham	PARISH COUNCIL Otham	APPLICANT Bellway Homes Ltd AGENT None	
DECISION DUE DATE: 25/02/22	PUBLICITY EXPIRY DATE: 15/11/22	SITE VISIT DATE: Various in 2021/2022	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
19/506182	Residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping.	REFUSED & ALLOWED AT APPEAL	07/01/21
19/501600	Outline application for up to 440 residential dwellings, with associated access, infrastructure, drainage, landscaping and open space (Access being sought with all other matters reserved for future consideration)	REFUSED & ALLOWED AT APPEAL	07/01/21

1.0 DESCRIPTION OF SITE

1.01 The application relates to the 'Land West of Church Road' housing allocation site (H1(8)) where full and outline permission was allowed at appeal in January 2021 subject to conditions. The site is to the southeast of Maidstone and is between substantial residential areas to the north, west and southwest. To the east are open agricultural fields and immediately to the south/southeast are a number of detached residential properties at The Rectory (Grade II listed) and Squerryes Oast. St Nicholas's Church (Grade I listed) and Church House (Grade II listed) are to the north of the site.

2.0 PROPOSAL

2.01 This a 'section 73' application to vary condition 30 of the appeal decision.

Condition 30 states as follows:

The development shall not commence above floor slab level until the following off-site highways works have been provided in full:

- a) *Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 within the 'Iceni Transport Note – July 2019' or any alternative scheme agreed in writing with the local planning authority;*
- b) *Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 14915-H01 Rev 5, or any alternative scheme agreed in writing with the local planning authority;*
- c) *Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2 within the 'Iceni Transport Note – July 2019'.*

2.02 The applicant is proposing to change the trigger point for providing the improvements (signalisation) to the Deringwood Drive/Willington Street (DD/WS) junction listed under part (b) from 'slab level' to the occupation of 100 houses/units. The trigger for the delivery of parts (a) and (c) would not change.

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP3, SP23, H1, H1(8), DM1, DM21
- Otham Neighbourhood Plan (2021): ST1, ST2
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- MBC Air Quality Guidance

4.0 LOCAL REPRESENTATIONS

4.01 **Otham Parish Council:** Strongly object to the application for the following (summarised) reasons:

- Delay to the Willington Street/Deringwood Drive improvements is unacceptable.

- The Planning Inspector clearly stated the mitigation should be in place prior to occupation and that the junction cannot remain to operate within its existing arrangement over the next few years with the various committed development schemes in southeast Maidstone.
- The Inspector was very clear that the safety of pedestrians needs to be addressed at this already busy junction and this should be by signalling prior to construction above slab level.
- Concern that there has been no counting of pedestrian or cyclists who cross at the junction as it is already extremely difficult for them to cross and this will only be exacerbated with more traffic.
- Do not agree that the impacts of the construction period will not materially impact the junction and would like to see evidence.
- Safety of pedestrians and cyclists is paramount.
- Provided a video of a HGV turning in the junction and delaying traffic.

4.02 Bearsted Parish Council (neighbouring): Raises objections in the strongest possible terms due to it conflicting with the restrictions put in place by the Planning Inspectorate and KCC.

4.03 Bearsted & Thurnham Society: Raises objections for the following (summarised) reasons:

- Appears to be a well-practiced approach by developers to delay off-site works until they have started to accumulate profits from the sale of properties.
- Developers have little regard to their own customers, let alone existing residents.
- Developer is only concentrating on traffic and ignoring cyclist and pedestrians that will be catered for in the signalised junction.
- New residents will establish travel plans before the toucan crossing is in place.
- Delays to infrastructure while developers continue to add traffic problems is unacceptable.

4.04 Chapman Avenue Area Residents Association: Raises the following (summarised) points:

- Strong objection.
- The trigger point was a clearly thought through issue by the Inspector for various reasons.
- Development up to slab level will result in an increase in HGV traffic for construction and greater pressure on the already over congested Willington Street, especially at the Deringwood Drive junction.
- Existing residents considerably obstructed by new HGV traffic and increased danger.
- Danger to pedestrians and cyclists at junction.
- Ignoring HGV construction traffic.
- Any delay to the sale of houses is no justification.
- Junction improvement should not be seen in isolation.
- Do not consider evidence is accurate.

- An approval would fly in the face of the careful conditions laid down by the Inspector in deciding to grant permission and in contravention of the Council's own position.
- Whilst fitting in the road improvement may cause a slowdown of the development, safety and convenience of Maidstone residents and road users must take priority.
- Construction traffic has not been assessed.
- Disingenuous to make a point that the approved Construction Management Plan will mitigate arrival times of construction and deliveries to the site.
- Why didn't applicant make these points at the appeal.
- Additional traffic volume data that was not available to the Inspector.

4.05 **Local Residents:** 45 representations received raising the following (summarised) points:

- Improvement must be carried out as per the Inspector's requirement in full and on time, and not delayed.
- An approval would fly in the face of the Planning Inspector's requirement.
- The Planning Inspector continues to require compliance with the condition.
- Applicant should manage dependencies with 3rd parties such as KCC.
- Applicant should honour the terms of the agreed permission.
- The applicant accepted the condition at the appeal.
- Delay will cause inconvenience to local residents and delay improvements to the national cycle route.
- The improvement is required to mitigate construction traffic and other committed developments, not just the traffic of new residents.
- Policy DM21 requires mitigation measures ahead of development being occupied.
- The junction improvement is required for the safety of pedestrians and cyclists including from construction traffic.
- There has been no counting of pedestrians or cyclist who currently use the junction or evidence that construction traffic will not materially impact the junction.
- Selling houses is not a justification to delay the junction works.
- If the improvement could have been delayed the Inspector would have said so.
- Junction is already over capacity and 100 houses will cause further delay.
- There will be substantial queuing with construction traffic.
- Construction traffic has not been assessed.
- Works are key to maintaining safety.
- Signalisation should be cancelled and will not work.
- Not in line with draft Economic Development Strategy.
- Improvement is required for safety.
- If KCC are unable to fulfil their provision of a 'street works permit' in the required time, this should have been taken into consideration.
- The delay will only benefit the applicant.
- Pollution.

4.06 **Borough Councillor Newton** requests the application is considered by the Planning Committee and raises the following (summarised) points:

- Refers to the video of a HGV turning in the junction and delaying traffic.

- Has seen a HGV lorry that could not get up the Willington Street hill from a standing start and delayed traffic.
- When snow and ice arrives there will be chaos in Willington Street.

4.07 **Borough Councillor Springett:** Strongly objects and raises the following (summarised) points:

- The impact of the development on this junction is already a concern.
- To delay the junction improvements will be a safety hazard.
- Large construction vehicles will be needed to bring the materials to build the 99 properties and will be slow moving at this turn and combined with the addition vehicle movements caused by the vehicles from the occupied houses will create a danger to road users.
- Application should be rejected on the grounds of safety.

4.08 **Maidstone Cycle Campaign Forum:** Raise the following (summarised points):

- The junction carries national cycle route 177 and a condition of the development was to upgrade this to improve options for pedestrian and cyclists in the area. This is part of the mitigation of the harm and the improvements need to be provided in line with the timescales set out by the Inspector.

5.0 CONSULTATIONS

Only consultee responses relevant to the proposals are set out below (those relating to highways):

5.01 **Highways England: No objections.**

5.02 **KCC Highways: No objections.**

Traffic Impacts

"KCC Highways has some concerns over the additional local congestion this development would create. The National Planning Policy Framework (NPPF) states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. That can only be judged on a case by case basis, taking account of all material factors.

KCC Highways has considered the traffic assessment and the current and likely future conditions on the local highway network. This shows that the situation is likely to be worsened, but KCC Highways are not able to conclude that it will result in conditions that could be described as a severe impact on congestion or safety. However, your Members should be made aware that the residual impact of this development is likely to be characterised by additional local traffic generation and some consequent increase in congestion, which the applicant cannot fully mitigate.

On this basis it is concluded that an objection to the proposed occupation of 100 dwellings prior to the provision of the Deringwood Drive junction improvement cannot not be justified in this instance.”

Highway Safety

“I can confirm that KCC Highways have assessed the impact of the proposals in safety, as well as capacity terms.

The existing junction arrangement is designed to a high standard. This is characterised by extensive carriageway widths, junction widths, wide junction radii and the provision of a ghost right turn lane (GRTL) on Wellington Street itself. In addition, as highlighted within KCC Highways final consultation response and the applicant’s further Transport Technical Notes Deringwood drive is a bus route. Consequently, large vehicles already use the junction without adversely impacting upon overall levels of highway safety.

I have checked the personal injury collision (PIC) record at the junction in question and can confirm that in the last 5-year period up to September 2021 3 collisions have been recorded. All 3 collisions were slight in severity, with driver error a contributory factor in all the recorded collisions. The layout or geometry of the junction is not a contributory factor in any of the collisions. The good PIC record at the junction, coupled with the fact that the junction is already used by large vehicles demonstrates that there is no evidence to indicate that construction traffic would adversely impact upon overall levels of highway safety.”

6.0 APPRAISAL

6.01 Planning permission has already been granted for the development and this application proposes to make changes to part of condition 30 only. In line with section 73 of the Town and Country Planning Act 1990, the local planning authority can only consider the consequences of the proposed changes to the condition and cannot re-visit the principle of the development or any other matters relating to the permission.

6.02 Whilst not a factor in making a decision and for information purposes, the applicant has stated they are applying to change the condition because through their discussions with the Highways Authority, they do not consider it will be possible to gain the necessary ‘street works permit’ or ‘road space’ to enable the works to proceed prior to development commencing above slab level. They want to commence the development following discharge of all pre-commencement conditions, which is potentially imminent as the final conditions are on this same committee Agenda. In terms of timescales the applicant states that, “*assuming we get a positive decision at the 17th February committee for the last 2 prestart conditions, we will be keen to commence as soon as practicable after that. We will then be at slab level for the first units around 3 months later, mid-May time. The 100th occupation based on a site start mid-February will be around Oct/Nov 2023.*”

- 6.03 I have asked KCC Highways for their view and estimate of when they anticipate the works can be programmed and they have advised that discussions on the availability of 'road space' will not take place until after the technical approval process for the highway works (section 278 agreement) is signed. This has not taken place yet but is expected to be soon.
- 6.04 Many representations consider that the developer should wait for 'road space' to be available, however, any applicant is entitled to make an application to change a condition and the local planning authority must assess the implications of the proposed change and reach a decision based on the information/evidence provided.

Planning Inspector's Reasons for Condition

- 6.05 Planning Inspector's do not put specific reasons for conditions as is the case for planning authorities but discussion of the DD/WS junction can be found at paragraphs 36-58 of the Appeal Decision (attached at **Appendix 1**). At paragraphs 175 and 185 it states the off-site junction and highway improvement works are necessary in the interest of 'highway safety and flow of traffic'.
- 6.06 The main justification for the junction improvement itself was to mitigate the traffic impact of the development but the Inspector acknowledged that it would also introduce an improved crossing for pedestrians and cyclists at paragraph 42.
- 6.07 In terms of the trigger for delivery of the junction works, this is usually set at 'prior to occupation' because applicants are only required to assess the impact of the 'development' traffic itself (i.e. the new houses) and occupation is when this additional traffic will occur. In this case, the Inspector set it at 'slab level' but no explanation is provided in the written decision. I have therefore asked the Inspector and he has stated as follows:

"The only comment I can make is that my decision states the following at paragraph 185:

Also in the interests of highway safety, conditions are necessary requiring the provision of the site accesses, off-site highway improvements, measures to maintain the access visibility splays and the provision of parking/turning areas for each building (conditions Nos. 7, 29, 30 and 32). However, I have amended the suggested condition relating access to ensure that the access points are provided prior to the commencement of any development above slab level.

The reason for the condition is in the interest of highway safety. This was discussed in the 'round table session' on conditions. It was my view that the off-site traffic management measures should be completed as soon as possible before substantive deliveries of materials and construction works occurred. This was not an amenity issue but a highway safety matter given the nature of the surrounding highway network and the relative matters discussed in the Inquiry."

6.08 So whilst not explicit in the appeal decision, the Inspector has advised that the earlier trigger was based on highway safety to limit the amount of construction traffic before the junction works take place. So, it is appropriate to consider the highway safety implications of additional 'construction' traffic beyond slab level in addition to the traffic associated with 100 houses as part of this assessment.

Traffic Impact of 100 Houses

6.09 The applicant has provided an assessment of the impact of up to 100 houses at the WS/DD junction and provided all further information requested by KCC Highways. The assessment has been modelled in 2023 when the occupation of 100 houses is predicted at the end of that year. The applicant has been asked to provide further justification as this is now less than 2 years away and has stated as follows:

"With regards to the occupation of the 100th unit, I have spoken to both the site manager and to the Managing Director at Bellway to get a definitive view. They have confirmed that their projections put the 100th unit occupation at Oct/Nov 2023. This would be around 20 months. After a short period of site set up as soon as the pre-start conditions are through (hopefully on 17th Feb) they will be into delivery straight away. The HA units are some of the first phase and these are a mixture of flats and 2/3 beds and are all transferred on construction for occupation.

As a comparison, I understand the Bicknor Wood site took circa 22 months to occupy the 100th unit. This started in Oct 2018 and achieved the 100th unit in August 2020. Whilst very similar in timing this was at a different period of the general market and crucially a lot of the first 100 were detached larger units which take longer to construct and sell. The delivery has significantly increased since then due to some smaller units coming forward and the market being strong. They have currently occupied 229 units. The first 100 of the Church Rd site are mostly HA and mostly of a smaller nature of flats, semi-detached and terraces so will be quicker and there is a very strong market for the private units at present too. We are therefore very confident that the delivery rate set out above is realistic and will be delivered. This also factors in the highways and junction works to Church Rd."

6.10 Based on the rate of build/occupation at the Bicknor Wood site it is considered reasonable that with commencement at the beginning of March 2022, 100 occupations could be reached by the end of 2023 (20/21 months). This is however quite a tight timescale so it would be appropriate to put a time limit on providing the WS/DD junction works (end of 2023) in addition to 100 occupations, or whichever is the sooner, in any approval.

6.11 The modelling of the WS/DD junction considers the cumulative effect of background traffic growth, wider committed development, and 100 houses at the Church Road site, and forecasts that the WS/DD will operate well within its design capacity. The maximum impact is the DD arm being at 81.9% capacity in the AM peak, otherwise the impact is in the 50% range.

6.12 Although not directly relevant to this application, the evidence also assesses the WS/Madginford Road and the A20/WS junctions due to the potential

knock-on effects and predicts an increased delay of approximately 6 seconds will occur when travelling across the three junctions.

- 6.13 KCC Highways have reviewed the evidence and raise no objections. They point out that local traffic levels will be worsened with increases in congestion but do not conclude it will result in conditions that could be described as a severe impact on congestion or safety.
- 6.14 Policy DM21 of the Local Plan states that the development proposals must, *"Demonstrate that the impacts of trips generated to and from the development are accommodated, remedied or mitigated to prevent severe residual impacts, including where necessary an exploration of delivering mitigation measures ahead of the development being occupied."*
- 6.15 For the above reasons, the applicant has demonstrated the trips generated from up to 100 houses can be accommodated and so it is considered acceptable to vary the trigger for delivery of the WS/DD junction to 100 houses or by 31st December 2023 (whichever is the sooner). Delivery at this point would then sufficiently mitigate the traffic impact of this amount of development (100 houses) and so it would not contravene policies SP23 or DM21 of the Local Plan or the NPPF.

Highway Safety

- 6.16 KCC Highways have confirmed they have no objections from a safety point of view with use of the existing WS/DD junction by up to 100 houses from the development and construction vehicles. This is understandable as the existing junction accommodates all modes of traffic and is used by cars, buses, and refuse vehicles. They state,

"The existing junction arrangement is designed to a high standard. This is characterised by extensive carriageway widths, junction widths, wide junction radii and the provision of a ghost right turn lane on Willington Street itself. In addition, as highlighted within KCC Highways final consultation response and the applicant's further Transport Technical Notes, Deringwood drive is a bus route. Consequently, large vehicles already use the junction without adversely impacting upon overall levels of highway safety."

I have checked the personal injury collision (PIC) record at the junction in question and can confirm that in the last 5-year period up to September 2021, 3 collisions have been recorded. All 3 collisions were slight in severity, with driver error a contributory factor in all the recorded collisions. The layout or geometry of the junction is not a contributory factor in any of the collisions. The good PIC record at the junction, coupled with the fact that the junction is already used by large vehicles demonstrates that there is no evidence to indicate that construction traffic would adversely impact upon overall levels of highway safety."

- 6.17 In addition, the approved Construction Management Plan (ref. 21/502372/SUB), requires that construction/delivery vehicles are timed to arrive and depart outside the network peak hours (8am-9/5pm-6) where there would be more traffic and likely to be more pedestrians and cyclists.

6.18 So whilst the Inspector's reason for the earlier trigger for the junction improvement was highway safety relating to construction vehicles, there is no evidence to demonstrate the existing junction is not capable of safely accommodating construction traffic, and the Highways Authority raises no objections to the later trigger. Therefore, it is considered acceptable to vary the trigger for delivery of the WS/DD junction to 100 houses as there would be no highway safety issues to warrant refusal in accordance with policy DM1 of the Local Plan and the NPPF.

Walking & Cycling

6.19 The new junction would provide controlled crossing facilities for pedestrians and cyclists and so help to promote walking and cycling through to Mote Park. As pointed out in some representations, these crossings would not be in place despite up to 100 houses being occupied and such improvements are usually required prior to occupation to influence travel behaviour from the outset. However, this is not considered a sufficient reason to refuse permission and also bearing in mind the primary reason for the junction improvement was to mitigate traffic congestion.

Representations

6.20 Representations in general relate to traffic congestion, highway safety, and pedestrian/cycle use of the junction, which has been considered above.

6.21 Some representations consider the WS/DD junction is already over capacity and refer to the Appeal Decision and the Inspector's comments between paragraphs 38 and 41 where he states,

"38.The submitted information identifies that, on completion of local committed developments, the junction will experience capacity issues, specifically on the Deringwood Drive arm, with drivers unable to exit this arm due to the increasingly heavy traffic volumes on Willington Street. This issue would be exacerbated by the implementation of the proposed development."

"41. Therefore, irrespective of whether the appeal schemes are allowed, the submitted Transport Assessment suggests that the WS/DD junction cannot remain to operate within its existing arrangement over the next few years with the various committed development schemes currently completed or under construction in south-east Maidstone."

6.22 The Inspector did not state the WS/DS junction was over capacity at the time of the Appeal and was referring to the 'next few years' or 'on completion of local committed developments'. However, it is noted at paragraph 40 he refers to the 'Iceni Transport Note' (September 2019), which forecasted the DD arm of the junction would be at 138% in 2019. I have asked the applicant for an explanation as to why their forecast in 2023 is much lower and they state,

"Paragraph 40 of the appeal decision refers to the assessment undertaken by Iceni which included a significant over-estimate of the build-out of wider committed developments and background traffic growth in their 2019 horizon test."

You may recall that in my Rebuttal Statement to the Inquiry, I explained that we had refined our approach to the inclusion of committed developments and background traffic growth to address this issue.

Our more recent work for the S.73 application has also factored in MBC's latest housing trajectory and known build-out positions on local sites, which are behind what was anticipated pre-Covid."

6.23 The latest evidence has been accepted by the Highways Authority and does not include 6 developments that were in the original 'Iceni' evidence because they will either not come forward by 2023 (permissions have lapsed) or have been completed and so are already on the network. It also shows that the Iceni forecasts did not occur. Ultimately it shows the WS/DD junction will not be over capacity with 100 houses in 2023 and this has been accepted by the Highways Authority.

6.24 There is also a general view that any approval would fly in the face of the conditions laid down by the Inspector and so there should not be any change. Officers can understand this view, however, the applicant is entitled to apply for changes to conditions and has provided additional evidence to demonstrate this is acceptable (which was not before the Inspector), to which no objections have been raised by the Highways Authority, and with which officers agree.

7.0 CONCLUSION

7.01 For the above reasons it is considered acceptable to change the trigger for the WS/DD junction improvements to 100 occupations and the new condition would read as follows:

The development shall not commence above floor slab level until the following off-site highways works have been provided in full:

- a) Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 within the 'Iceni Transport Note – July 2019' or any alternative scheme agreed in writing with the local planning authority;***
- b) Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2 within the 'Iceni Transport Note – July 2019'.***

The following off-site highways works shall be provided no later than the occupation of 100 units or 31st December 2023, whichever is the sooner. The development shall not be occupied beyond this point until these off-site highways works have been provided:

- c) Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 14915-H01 Rev 5, or any alternative scheme agreed in writing with the local planning authority;***

7.02 An approval will create a new planning permission and so all conditions must be re-attached. These are set out below where some refer to details already approved, and some to details under consideration. The section 106 legal agreement relating to the original permission has a clause (8.3) which ties it to any new permission so there is no requirement for a new legal agreement.

8.0 RECOMMENDATION

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

Conditions:

Time limit

- 1) The development hereby permitted shall begin before 7th January 2024.

Details and drawings subject to the permission

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location plan - 16206 S101 Rev A
Existing Site Survey – 16206 S102 Rev B
Site Layout Masterplan – 16206 P101 Rev U
Coloured Site Layout Masterplan – 16206 C101 Rev S
Site Layout (North) – 16206 P102 Rev D
Site Layout (South) – 16206 P103 Rev B
Site Layout (Colour coded by type) – 16206 P104
Site Layout (Hard surfaces) – 16206 P105 Rev A
Proposed Street Scenes A-A & B-B -16206 P110 Rev E
Proposed Street Scenes C-C & D-D – 16206 P111 Rev E
Proposed Street Scenes E-E to G-G – 16206 P112 Rev D
Proposed Street Scenes H-H & J-J – 16206 P113 Rev E
Proposed Street Scenes K-K to M-M – 16206 P114 Rev D
Proposed Street Scenes N-N & P-P – 16206 P115 Rev D
Proposed Street Scenes Q-Q & R-R – 16206 P116 Rev D
Coloured Street Scenes A-A & B-B – 16206 C110 Rev D
Coloured Street Scenes C-C & D-D – 16206 C111 Rev D
Coloured Street Scenes E-E to G-G – 16206 C112 Rev C
Coloured Street Scenes H-H & J-J – 16206 C113 Rev B
Coloured Street Scenes K-K to M-M – 16206 C114 Rev B
Coloured Street Scenes N-N & P-P – 16206 C115 Rev B
Coloured Street Scenes Q-Q & R-R – 16206 C116 Rev B
Affordable House types, 2 Bedroom – 16206 P120
Affordable House types, 3 Bedroom (1 of 2) – 16206 P121
Affordable House types, 3 Bedroom (2 of 2) – 16206 P122
Affordable House types, 4 Bedroom – 16206 P123 Rev A
Private 2 Bed Houses - Type 2A (1 of 2) – 16206 P130 Rev A

Private 2 Bed Houses - Type 2A (2 of 2) - 16206 P131 Rev A
Private 2 Bed Houses - Type 2A & 2B terrace – 16206 P132 Rev A
Private 2 Bed Houses - Type 2B (1 of 3) – 16206 P133 Rev A
Private 2 Bed Houses - Type 2B (2 of 3) – 16206 P134 Rev A
Private 2 Bed Houses - Type 2B (3 of 3) – 16206 P135 Rev A
Private 3 Bed Houses - Type 3A (1 of 2) – 16206 P136
Private 3 Bed Houses - Type 3A (2 of 2) – 16206 P137
Private 3 Bed Houses - Type 3B (1 of 2) – 16206 P138 Rev A
Private 3 Bed Houses - Type 3B (2 of 2) – 16206 P139 Rev B
Private 3 Bed Houses - Type 3C (1 of 2) – 16206 P140 Rev C
Private 3 Bed Houses - Type 3D (1 of 3) – 16206 P141
Private 3 Bed Houses - Type 3D (2 of 3) – 16206 P142
Private 3 Bed Houses - Type 3D (3 of 3) – 16206 P143
Private 3 Bed Houses - Type 3D/3B (1 of 7) – 16206 P144
Private 3 Bed Houses - Type 3D/3B (2 of 7) – 16206 P145 Rev A
Private 3 Bed Houses - Type 3D/3B (3 of 7) – 16206 P146
Private 3 Bed Houses - Type 3D/3B (4 of 7) – 16206 P147
Private 3 Bed Houses - Type 3D/3B (5 of 7) – 16206 P148 Rev A
Private 3 Bed Houses - Type 3D/3B (6 of 7) – 16206 P149 Rev A
Private 3 Bed Houses - Type 3D/3B (7 of 7) – 16206 P150 Rev A
Private 3 Bed Houses - Type 3E – 16206 P151 Rev B
Private 3 Bed Houses - Type 3C (2 of 2) – 16206 P152 Rev A
Private 3 Bed Houses - Type 3C1 – 16206 P153
Private 4 Bed Houses - Type 4A (1 of 2) – 16206 P155
Private 4 Bed Houses - Type 4A (2 of 2) – 16206 P156
Private 4 Bed Houses - Type 4B (1 of 4) – 16206 P157 Rev A
Private 4 Bed Houses - Type 4B (2 of 4) – 16206 P158 Rev A
Private 4 Bed Houses - Type 4B (3 of 4) – 16206 P159 Rev A
Private 4 Bed Houses - Type 4B (4 of 4) – 16206 P160 Rev B
Private 4 Bed Houses - Type 4C – 16206 P161
Private 4 Bed Houses - Type 4D (1 of 4) – 16206 P162
Private 4 Bed Houses - Type 4D (2 of 4) – 16206 P163 Rev B
Private 4 Bed Houses - Type 4D (3 of 4) – 16206 P164 Rev A
Private 4 Bed Houses - Type 4D (4 of 4) – 16206 P165 Rev A
Affordable apartments - Block 1 Plans (1 of 2) – 16206 P170 Rev B
Affordable apartments - Block 1 Plans (2 of 2) – 16206 P171 Rev B
Affordable apartments - Block 1 Elevations – 16206 P172 Rev B
Affordable apartments - Block 2 Plans (1 of 2) – 16206 P173 Rev B
Affordable apartments - Block 2 Plans (2 of 2) – 16206 P174 Rev B
Affordable apartments - Block 2 Elevations – 16206 P175 Rev C
Affordable apartments - Block 3 Plans – 16206 P176 Rev C
Affordable apartments - Block 3 Elevations – 16206 P178 Rev B
Affordable apartments - Block 4 Plans – 16206 P179 Rev B
Affordable apartments - Block 4 Elevations – 16206 P180 Rev B
Affordable apartments - Block 5 Plans – 16206 P181 Rev D
Affordable apartments - Block 5 Elevations – 16206 P182 Rev C
Affordable apartments - Block 6 Plans – 16206 P183 Rev C
Affordable apartments - Block 6 Elevations – 16206 P184 Rev D
Affordable apartments - Block 7 Plans – 16206 P185 Rev D
Affordable apartments - Block 7 Elevations – 16206 P186 Rev C
Affordable apartments - Block 8 Plans – 16206 P187 Rev C
Affordable apartments - Block 8 Elevations – 16206 P188 Rev C

Affordable apartments - Block 9 Plans – 16206 P189 Rev B
Affordable apartments - Block 9 Elevations – 16206 P190 Rev B
Private apartments - Block 10 Plans (1 of 2) – 16206 P191 Rev B
Private apartments - Block 10 Plans (2 of 2) – 16206 P192 Rev B
Private apartments - Block 10 Elevations – 16206 P193 Rev B
Private apartments - Block 11 Plans – 16206 P194 Rev B
Private apartments - Block 11 Elevations – 16206 P195 Rev C
2 Bedroom F.O.G - Plans & Elevations (1 of 2) – 16206 P196
2 Bedroom F.O.G - Plans & Elevations (2 of 2) – 16206 P197 Rev A
2 Bedroom Gate House - Plans & Elevations – 16206 P198 Rev A
Ancillary Buildings (Garages & substation) – 16206 P199 Rev B

OSP drawings listed within the drawing issue sheet dated 5/09/2020 (CD132)
(all drawings in CD1, CD50-CD130, and CD133-137)

Materials Distribution Diagram - 16206 - SK55D
Landscape Strategy Plan – 6703.LSP.ASP5 Rev L
Proposed Access Arrangement - Drawing 16-T114 06 Rev F
Proposed Amendments to Church Road Northern Section (Junction with Deringwood Drive) - 16-T114 34.1
Proposed Amendments to Church Road Section Immediately Outside Site Area - Drawing 16-T114 34.2
Proposed Off Site Highway Improvements (1 of 4) - 14590-H-01 P1
Proposed Off Site Highway Improvements (2 of 4) - 14590-H-02 P1
Proposed Off Site Highway Improvements (3 of 4) - 14590-H-03 P2
Proposed Off Site Highway Improvements (4 of 4) - 14590-H-04 P2
Willington Street/Deringwood Drive Junction – Proposed Traffic Signals - 14195-H-01 P5
Spot Lane Junction Potential Adjustments - 14195-H-02 P2

Compliance

- 3) The development shall be carried out in accordance with the boundary treatments as shown on drawing nos. 16206 P101 Rev U and 16206/SK55D and shall be retained and maintained thereafter.
- 4) The development shall be carried out in accordance with the hard surfaces as shown on drawing no. 16206 P105 Rev A and maintained thereafter.
- 5) All planting, seeding and turfing specified in the approved landscape details shall be carried out either before or in the first planting season (October to February) following the occupation of the building(s) or the completion of the development to which phase they relate, whichever is the sooner; and any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

- 6) Excluding the area in the southeast corner of the site adjacent to ancient woodland, the areas of open space as shown on pages 58 and 59 of the Design & Access Statement shall be maintained as publicly accessible open space in perpetuity.
- 7) The approved details of the parking/turning areas for each building shall be completed before the commencement of the use of the land or buildings to which they relate and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on parking/turning areas for each building or in such a position as to preclude vehicular access to them.

Pre-Commencement

- 8) The development shall be carried out in accordance with the Construction Environment Management Plan (CEMP) approved under application 21/502372/SUB.
- 9) Unless approved under application 21/503538/SUB (which if approved the details shall be provided before any of the dwellings hereby permitted are first occupied and retained as such thereafter), before any part of the development hereby permitted is first commenced, details of a ramp to provide accessibility for all users including disabled persons, wheelchairs, pushchairs and cycles at the steps to the north west of the site along PROW KM86 shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.
- 10) The development shall not commence above slab level until the car park for St Nicholas Church approved under application 21/502372/SUB has been constructed and is available for use in accordance with the details approved. Once implemented the car park shall only be used in connection with use of the Church for parking purposes.
- 11) Unless approved under application 21/503538/SUB (which if approved the details shall be provided before any of the dwellings hereby permitted are first occupied and retained as such thereafter), before any part of the development hereby permitted is first commenced, a plan and construction design specification shall be submitted to and approved by the local planning authority, which shows:
 - a) all pedestrian/cycle routes and design details, including links to the national cycle network and road network at the north east and south cycle/pedestrian access points;
 - b) measures to ensure that cyclists can gain cycle access to 'The Beams' and the Play area to the north west of the site from the cycle routes. Such design specification shall ensure that the cycle routes provided are no less than 3m wide.

The approved pedestrian/cycle routes shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.

- 12) The development shall be carried out in accordance with the Phasing Plan for the development approved under application 21/502372/SUB unless otherwise agreed in writing by the local planning authority.
- 13) The development shall be carried out in accordance with the ecological mitigation measures approved under application 21/502372/SUB.
- 14) The development shall be carried out in accordance with the detailed sustainable surface water drainage scheme approved under application 21/505011/SUB
- 15) The development shall be carried out in accordance with the sustainable surface water drainage infiltration details approved under application 21/505011/SUB.
- 16) The development shall be carried out in accordance with contaminated land details approved under application 21/502372/SUB. A Closure Report shall be submitted upon completion of the contamination/remediation works. The closure report shall include full verification details and include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean. Any changes to these components require the express consent of the local planning authority.

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

- 17) The development shall be carried out in accordance with the Written Scheme of Archaeological Investigation approved under application 21/502372/SUB. Before archaeological works cease, a post-excavation assessment report, full report and publication programme shall be agreed with the County Archaeologist and submitted to the local planning authority for approval in writing.
- 18) The development shall be carried out in accordance with the Arboricultural Method Statement (AMS) approved under application 21/502372/SUB.
- 19) The development shall be carried out in accordance with the slope stability report, recommendations, and sterilisation strip and details approved under application 21/503301/SUB.

Pre-Floor Slab Level

- 20) Unless approved under application 22/500170/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place until specific details of the landscaping proposals, which shall follow the principles shown on the

Landscape Strategy Plan (drawing no. 6703 LSP ASP5 Rev L), have been submitted to and approved in writing by the local planning authority. The scheme shall be designed in accordance with the principles of the Council's landscape character guidance and include a planting specification, a programme of implementation and a 5 year management plan. The landscape scheme shall specifically address the need to provide the following:

- a) A landscape phasing plan for the site which shall include the planting along the west boundary within the first phase.
- b) Strengthening and replacement native hedge planting along the site frontage with Church Road.
- c) Structural native tree and shrub planting along the site frontage with Church Road.
- d) Retention of trees along the western boundary and new native tree and shrub planting.
- e) Retention of trees along the southern boundary and new native tree and shrub planting.
- f) Retention of trees along the boundaries with the property 'Squerrys Oast'
- g) Native woodland and shrub planting to create at least a 30m buffer from the Ancient Woodland in the south east corner
- h) Orchard planting to the south of St Nicholas Church.
- i) Native hedge planting within the development.
- j) LEAP and LAP details.
- k) All proposed boundary treatments for the site beyond those approved under condition No. 3.

Landscaping shall be implemented in accordance with the approved details and programme.

- 21) Unless approved under application 21/505211/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place in any phase until full details of the ecological enhancements outlined in the Ecological Appraisal and their delivery have been submitted to and approved in writing by the local planning authority for that phase. The development shall be carried out in accordance with the approved details and measures which shall include the following:
 - a) Wildflower grassland
 - b) Measures to allow hedgehogs to move through the development
 - c) Bat and bird boxes
 - d) Habitat piles.
- 22) Unless approved under application 21/505661/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place in any phase until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) for that phase have been submitted to and approved in writing by the local planning authority. The materials shall

follow the 'Materials Distribution Diagram' (16206/SK55D) and include the following unless otherwise agreed in writing by the local planning authority:

- a) Multi stock facing bricks
- b) Clay hanging tiles
- c) Clay roof tiles
- d) Slate roof tiles
- e) Ragstone on buildings
- f) Ragstone walling.

The development shall be constructed using the approved materials unless otherwise agreed in writing by the local planning authority.

- 23) Unless approved under application 21/505661/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place in any phase until written details and large-scale plans showing the following architectural detailing have been submitted to and approved in writing by the local planning authority for that phase:

- a) Soldier courses
- b) Bricked arches above windows
- c) Bullnose hanging tile detailing.
- d) Roof overhangs.

The development shall be constructed in accordance with the approved materials.

- 24) Unless approved under application 21/505661/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place until a sample panel of the ragstone for the walling and buildings, including mortar mix details, has been submitted to and approved in writing by the local planning authority. Such details as approved shall be fully implemented on site.
- 25) Unless approved under application 21/505443/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place until the specific air quality mitigation measures, which shall include the type and location of electric vehicle charging points (which equates to 1 EV charge point per dwelling with dedicated parking) and details of charging for properties without on-plot parking, 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.
- 26) Unless approved under application 22/500168/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place until a "bat sensitive lighting scheme" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting plan shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
- b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and these shall be maintained thereafter.

- 27) Unless approved under application 22/500298/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level for any phase shall take place until details of lighting for streets and houses have been submitted to and approved in writing by the local planning authority for that phase. The lighting provided shall be carried out in accordance with the approved scheme.
- 28) Unless approved under application 21/506368/SUB (which if approved the development shall be carried out in accordance with the approved details), no development above floor slab level shall take place until a written statement of public art to be provided on site in the form of a Public Art Delivery Plan in line with the thresholds set within the Public Art Guidance has been submitted to and approved in writing by the local planning authority. This should include the selection and commissioning process, the artist's brief, the budget, possible form, materials and locations of public art, the timetable for provision, maintenance agreement and community engagement.

The development shall be carried out in accordance with the approved details.

- 29) No development above floor slab level shall take place until the access points hereby permitted have been provided in accordance with drawing No. 16-T114 06 Rev F (Proposed Access Arrangement) and thereafter the visibility splays shall be kept free of obstruction above a height of 1 metre.
- 30) The development shall not commence above floor slab level until the following off-site highways works have been provided in full:
 - a) Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 within the 'Iceni Transport Note – July 2019' or any alternative scheme agreed in writing with the local planning authority;
 - b) Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2 within the 'Iceni Transport Note – July 2019'.

The following off-site highways works shall be provided no later than the occupation of 100 units or 31st December 2023, whichever is the sooner. The

development shall not be occupied beyond this point until these off-site highways works have been provided:

- c) Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 14915-H01 Rev 5, or any alternative scheme agreed in writing with the local planning authority;
- 31) The development shall be carried out in accordance with the PV panels approved under application 21/504922/SUB and they shall be retained thereafter.

Pre-Occupation

- 32) The development shall not be occupied until the following off-site highways works have been provided in full:
- a) The proposed work as shown in drawing Nos 14590 H-01 P1, 14590 H-02 P1, 14590 H-03 P2, and 14590 H-04 P2;
 - b) Extension of the 30mph speed limit to the south of the application site to a position agreed in writing with the local planning authority; and
 - c) Improvements to the A20 Ashford Road/Spot Lane/Roseacre Lane junction as shown on drawing no. 14915-H-02 Rev P2, or any alternative scheme agreed in writing with the local planning authority.
- 33) Unless approved under application 22/500169/SUB (which if approved the development shall be carried out in accordance with the approved details), the development shall not be occupied until a Detailed Travel Plan for the development which follows the principles of the Framework Travel Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Detailed Travel Plan.
- 34) Unless approved under application 21/505211/SUB (which if approved the development shall be carried out in accordance with the approved details), the development shall not be occupied until a site-wide landscape and ecological management plan (LEMP), including timetable for implementation, long term design objectives, management responsibilities and maintenance schedules for all landscaped, open space, and drainage areas, but excluding privately owned domestic gardens, has been submitted to and approved in writing by the local planning authority. Landscape and ecological management shall be carried out in accordance with the approved plan and its timetable unless the local planning authority gives written consent to any variation.
- 35) Unless approved under application 21/503538/SUB (which if approved the development shall be carried out in accordance with the approved details), the development shall not be occupied until details of the pedestrian and cycle link to and across the area of Council owned land to the south of the site providing a link to Woolley Road and the timing of its delivery 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.

- 36) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the local planning authority which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed. No development shall be occupied until the approved scheme has been implemented.
- 37) If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not recommence until an appropriate remediation scheme has been submitted to and approved in writing by the local planning authority and the remediation has been completed. Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the local planning authority.

The closure report shall include details of:

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology;
 - b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site;
 - c) If no contamination has been discovered during the construction works then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.
- 38) Unless approved under application 21/503538/SUB (which if approved the development shall be carried out in accordance with the approved details), the development shall not be occupied until details of upgrade works to PROW KM86 have been submitted to and approved in writing by the local planning authority.

The development shall not be occupied until the approved works have been carried out in full.

Case Officer: Richard Timms



Appeal Decisions

Inquiry Held on 23-27 November 2020 and 30 November 2020

Site visit made on 19 November 2020

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 7th January 2021

Appeal A - Ref: APP/U2235/W/20/3254134 Land West of Church Road, Otham, Kent ME15 8SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Bellway Homes Limited against Maidstone Borough Council.
 - The application Ref 19/501600/OUT, is dated 27 March 2019.
 - The development proposed is an outline planning application for up to 440 residential dwellings, with associated access, infrastructure, drainage, landscaping and open space. Access to be considered in detail and all other matters reserved for future consideration.
-

Appeal B - Ref: APP/U2235/W/20/3256952 Land West of Church Road, Otham, Kent ME15 8SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Bellway Homes Limited against Maidstone Borough Council.
 - The application Ref 19/506182/FULL, dated 6 December 2019, was refused by notice dated 15 July 2020.
 - The development proposed is residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping.
-

Decisions

Appeal A

1. The appeal is allowed and outline planning permission is granted for up to 440 residential dwellings, with associated access, infrastructure, drainage, landscaping and open space. Access to be considered in detail and all other matters reserved for future consideration at Land West of Church Road, Otham, Kent ME15 8SB in accordance with the terms of the application, Ref 19/501600/OUT, dated 27 March 2019, subject to the conditions set out in the attached schedule.

Appeal B

2. The appeal is allowed and planning permission is granted for residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping at Land West of Church Road, Otham, Kent ME15 8SB in accordance with the terms of the application, Ref 19/506182/FULL dated 6 December 2019, subject to the conditions set out in the attached schedule.

Application for costs

3. At the Inquiry an application for costs was made by Bellway Homes Limited against Maidstone Borough Council in relation to both appeals. That application is the subject of a separate Decision.

Preliminary and procedural matters

4. The appeals relate to two applications on the same site with the same means of access. For ease of reference I have referred to the two cases as Appeals A and B in this decision letter as set out in the headers. Whilst I have dealt with each appeal on its individual merits there are many similarities in the planning issues that are set out below. I have considered the proposals together in this Decision Letter. Although there are two appeals, I use singular terms such as 'appellant' and 'appeal site' for ease of reference.
5. There is some discrepancy in the address of the appeal site from that contained within the relevant planning applications and that used by the Council. In the banner headings above I have used the address of the appeal site as that contained on the Council's Decision Notice in respect of Appeal B, dated 15 July 2020.
6. The application (Ref 19/501600/OUT) in Appeal A was submitted in outline with all matters, apart from the means of access onto Church Road, reserved for future determination. I have considered Appeal A on that basis. The submission documents included a Parameter Plan and Illustrative Masterplan which I have taken into account in the determination of this appeal.
7. At the Inquiry draft agreements under Section 106 of the Town and Country Planning Act (S106 Agreements) were provided in respect of both appeals. These were subsequently signed and dated 14 December 2020 and would take effect should planning permission be granted. The S106 Agreements pursuant to both appeals include obligations relating to affordable housing, provision of a car park for St Nicholas Church and financial contributions relating to primary education, cycleway improvements and monitoring of the Travel Plan.
8. A Community Infrastructure Levy (CIL) Compliance Statement was submitted at the Inquiry by the Council. I have had regard to the provisions of this in consideration of the S106 Agreements relative to both of these appeals. I shall return to these matters later in this decision.
9. The Kent Branch of the Campaign to Protect Rural England (CPRE), Maidstone Borough Council Labour Group, Downswood Parish Council and the Maidstone Cycle Campaign Forum were accorded Rule 6(6) party status and presented evidence in support of their objections to the proposals. These included matters in relation to the Council's reasons for refusal of planning permission in respect of the application relevant to Appeal B and the reasons that the Council would have refused the outline application in Appeal A. However, they also included a number of other matters that were not contested by the Council or Kent County Council (KCC) in its capacity as highway authority. In particular, Rule 6 Party concerns, amongst other things, related to the effect of the developments on heritage assets and a number of other matters including the effect on the character and appearance of the surrounding area, the living conditions of nearby residents, drainage, land stability, fear of crime and air quality.

10. The Inquiry was conducted on the basis of topic based round table sessions (RTS) involving discussions in relation to the effect on heritage assets and other matters raised by the Rule 6 Parties. Matters relating to the effect of the developments on highway safety, the free flow of traffic, planning issues and the planning balance were considered by the formal presentation of evidence.
11. Although the CPRE had submitted a proof of evidence in relation to the effect of the development proposals on heritage assets, the relevant witness was unable to attend the Inquiry. The CPRE Advocate confirmed that the Rule 6 Party was content for the evidence to be taken as read and discussed in the RTS without the witness being present. The RTS proceeded on that basis.

Background and Main Issues

12. Appeal A was submitted in respect of the non-determination of the outline planning application. The Council refused planning permission for the application relating to Appeal B and resolved that it was minded to refuse planning permission for Appeal A had it been in a position to determine the relevant planning application. The same two reasons for the refusal of planning permission were applicable to both applications and related to the impacts of the developments on traffic congestion on Willington Street and would worsen highway safety issues on Church Road.
13. There are no designated heritage assets within the boundary of the appeal site. However, there are a number of designated heritage assets located adjacent to it and within the immediate area. The Council did not identify the effects of the proposed developments on nearby heritage assets as a reason to refuse planning permission in respect of both appeals.
14. Rule 6 Parties and a number of other interested parties expressed concerns at the impact of the proposed developments on designated and non-designated heritage assets. I have therefore taken into account the requirements of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in respect of the special regard to the desirability of preserving a listed building or its setting, and the advice provided in Paragraph 193 of the National Planning Policy Framework (NPPF)
15. Having taken into account this background, the evidence before me and from what I heard at the Inquiry, the main issues are:
 - the effects of the proposed developments on the safe and efficient operation of the highway network in the vicinity of the appeal site; and,
 - the effects of the proposed developments on the special interest of nearby heritage assets.

Reasons

The appeal site and proposed developments

16. The appeal site is located to the south east of Maidstone. It comprises an agricultural field situated to the west of Church Road, to the east of Chapman Avenue. It is located on the south-eastern edge of Maidstone between substantial residential areas to the north, west and southwest, namely cul-de-sacs within the Downswood area to the north, Chapman Avenue to the west

- and Woolley Road to the south. To the east are open agricultural fields with the village of Otham lying beyond.
17. The site is highest at its southern end with a gradual fall to the north. To the west, the site abuts the rear boundaries of properties on Chapman Avenue with the houses being positioned at a lower level than the appeal site.
 18. To the north of the site is the Grade I listed St Nicholas Church, and Grade II Church House. Immediately to the south/southeast are a number of detached residential properties at The Rectory (Grade II listed) and Squerryes Oast.
 19. A Public Right of Way passes through the northern part of the site (KM86) that provides connectivity between Church Road and the area of open space outside the northwest corner of the site between The Beams and Longham Copse. To the east, the site is bound by a mature hedgerow which runs along Church Road. To the southeast is an area of recreational amenity space, Ancient Woodland, and an area of green space locally known as 'Glebe Land'.
 20. Appeal A relates to an outline planning application for up to 440 residential dwellings with all matters, other than access reserved for future consideration. The submitted 'Parameter Plan' shows a central area of open space linking to landscape buffers along the northern and eastern boundaries of the site. The plan shows vehicular access is proposed to the east of the site from Church Road via two priority access junctions which will link to a proposed spine road looping within the site.
 21. Appeal B relates to an application for full planning permission for 421 houses. The same two access points off Church Road, as proposed in Appeal A, are also proposed. The proposed layout would broadly follow the form of development proposed in the Parameter Plan and would provide for a range of detached, semi-detached, and terraced houses with a number of apartment blocks with development extending over 2 and 3 storeys. Affordable housing is proposed at 30% which equates to 126 units.

Planning policy context

22. The development plan comprises the Maidstone Borough Local Plan adopted in October 2017 (the Local Plan). Policy SP3 identifies land to the south east of the Maidstone urban area, which includes the appeal site, as a strategic development location for housing growth with supporting infrastructure. It is defined as the South East Maidstone Strategic Development Location (SEMSDL). Amongst other things, the policy sets out that approximately 2,651 new dwellings will be delivered in this area on six allocated sites (policies H1(5) to H1(10)). Policy H1(8) relates to the appeal site.
23. Policy H1 of the Local Plan sets out the Council's general approach to the consideration of development proposals on allocated sites. It provides a number of criteria that development on all sites should adhere and includes, amongst other things, that an individual transport assessment for development proposals will be required to demonstrate how proposed mitigation measures address the cumulative impacts of all sites taken together.
24. The appeal site is allocated under Policy H1(8) for development of approximately 440 dwellings at an average density of 35 dwellings per hectare. This policy also sets out a number of criteria that development proposals should meet. These include, amongst other things, a need to retain an

- undeveloped section of land along the eastern edge of the site in order to protect the setting of St Nicholas Church and maintain clear views of the Church from Church Road; the Church Road frontage to be built at a lower density from the remainder of the site; the hedge line along the eastern boundary of the site with Church Road to be retained and strengthened where not required for access to the site and access to be taken from Church Road only.
25. The Council identified two reasons for the refusal of planning permission for the development proposed in Appeal B, and the same two reasons for contesting the development proposed in Appeal A. The first reason was that that the proposed developments would result in severe traffic congestion on Willington Street, contrary to Policy DM21 of the Local Plan. This policy requires that development proposals demonstrate that the impacts of trips generated to and from the development are accommodated, remedied or mitigated to prevent severe residual impacts, including where necessary an exploration of delivering mitigation measures ahead of the development being occupied.
 26. The second reason identified that the proposals would result in the worsening of safety issues on Church Road to the south of the site and that the mitigation proposed was not sufficient to overcome these safety concerns contrary to Policy DM1 of the Local Plan. This policy sets out the Council's approach to good design. Criterion ix of the policy requires development to safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access.
 27. The main parties agree that the Council can demonstrate a 5 year supply of land for housing.¹ This being the case, none of the relevant policies in the recently adopted development plan can be considered as being out-of-date. Paragraph 11 (d) of the NPPF is therefore not engaged.
 28. Policy SP18 of the Local Plan sets out the Council's general approach to the conservation and enhancement of the historic environment. In particular, it identifies that this will be achieved through the development management process by securing the sensitive management and design of development which impacts on heritage assets and their settings and ensuring relevant heritage considerations are a key aspect of site master plans prepared in support of development allocations identified in the Local Plan.
 29. Policy DM4 of the Local Plan relates to development affecting designated and non-designated heritage assets. Amongst other things, this policy states that the Council will apply the relevant tests and assessment factors specified in the NPPF when determining applications for development which would result in the loss of, or harm to, the significance of a heritage asset and/or its setting.
 30. Policy SP20 sets out the Council's requirements for the provision of affordable housing. Developments of 11 units and more are required to provide 30% of the units as affordable housing with a tenure split of 70% affordable rented housing and 30% intermediate affordable housing (shared ownership and/or intermediate rent).
 31. The village of Otham is in the process of producing a Neighbourhood Plan for the period 2020 to 2035. This emerging Neighbourhood Plan follows the Otham

¹ Agreed Statement of Common Ground – CD166

Parish Boundary and therefore includes the appeal site. Consultation on this Plan, pursuant to Regulation 16 of the Neighbourhood Planning (General) Regulations 2012, was concluded during the Inquiry (27th November 2020). However, there is no evidence before me of the results of the consultation exercise or the extent to which any objections made are capable of resolution. Moreover, no date is available as to when this Plan may be subject to formal examination. Consequently, the emerging Neighbourhood Plan is currently not made and I have afforded the policies contained therein little weight in the determination of this appeal.

Effect on the efficient operation of the local highway network

32. The effect of development of the SEMSDL, including the appeal site, on the highway network was considered in the examination of the Local Plan. In particular, paragraph 173 of the Inspectors Report on the Examination of the Local Plan², dated 27 July 2017, states, *"In conclusion the Policy SP3 South East Maidstone Strategic Development Location will generate additional traffic and could contribute to an increase in congestion, particularly at peak hours, even after mitigation in the form of road improvements and other measures to make sustainable travel more attractive and effective. However the concentration of development close to the town does allow alternative and more sustainable means of travel to be made available. That is less likely to be the case were the housing to be located away from the town in another part of the Borough where residents would still need access to employment and services in the town."*
33. The adopted Local Plan includes the same strategic highways and transportation improvements in each of the relevant policies applicable to the six allocated sites in policies H1(5) to H1(10) that are required to be met. In the case of Policy H1(8) these are outlined in criterion 13 to 17. They include bus prioritisation measures on the A274 Sutton Road together with bus infrastructure improvements; improvements to capacity at the junctions of Willington Street/Wallis Avenue and Sutton Road; a package of measures to significantly relieve traffic congestion on Sutton Road and Willington Street; improvements to capacity at the A229/A274 Wheatsheaf junction and improvements to the frequency/quality of bus services on the Sutton Road corridor.
34. Planning permission for the H1(5) and H1(6) sites was granted in 2014 and each planning permission provided a unilateral planning obligation to provide the road capacity improvements identified in the relevant policies and measures to encourage sustainable travel modes. Planning permission was granted in 2018 for site H1(7) and site H1(10) and included similar obligations³. Following the introduction of the Council's Community Infrastructure Levy (CIL) any monies to strategic highway improvements would thereafter be via CIL, including those arising from the development of the appeal site. In respect of land at Bicknor Farm, site H1(9), the first of four CIL instalments was due on 25 September 2020⁴.
35. I have taken into account the concerns of Rule 6 and other interested parties that the identified improvements in Policies H1(5) to H1(10) have not yet been

² CPRE: Proof of Evidence – Otham Parish Council – Appendix 5

³ Paragraph 6.49 – CD169

⁴ ID12

- delivered. However, other than the contributions that would be delivered in respect of the appeal site, there are appropriate planning mechanisms in place to secure the funding identified by the Council to contribute to the highway and public transport improvements required to support the delivery of the SEMSDL as identified in the relevant policies H1(5) – H1(10) of the Local Plan. Whilst none of the identified improvements have yet commenced, the fact remains that the planning mechanisms to secure financial contributions have been made to address the cumulative impact on the highway network in respect of five of the six sites as clearly set out in the Local Plan.
36. The Deringwood Drive and Willington Street junction is not identified in the Local Plan as a junction requiring improvement to deliver the SEMSDL. Furthermore, I have no evidence to suggest that any issues with this junction were identified in the consideration of planning applications associated with the other five sites in the SEMSDL.
37. The proposed signalised junction improvement scheme has been subject to an independent Stage 1 Road Safety Audit and the Council has raised no highway safety issues associated with the proposed scheme⁵. The Council's concern is that the signalisation scheme would introduce a new delay on Willington Street thereby causing severe congestion on this road.
38. Following the submission of the Transport Assessments in respect of both appeals,⁶ a number of Transport Notes and Transport Technical Notes were submitted in response to issues raised by consultees.⁷ The Willington Street/Deringwood Drive junction currently takes the form of an uncontrolled priority junction. The submitted information identifies that, on completion of local committed developments, the junction will experience capacity issues, specifically on the Deringwood Drive arm, with drivers unable to exit this arm due to the increasingly heavy traffic volumes on Willington Street. This issue would be exacerbated by the implementation of the proposed development.
39. The forecasts in the Appellant's Transport Assessment indicates that on Deringwood Drive between Church Road and Willington Street the proposed development would result in 112 two-way traffic movements in the AM peak and 109 two-way traffic movements in the PM peak⁸. This means that the proposed developments would add up to 25% of traffic to the section of Deringwood Drive west of its junction with Church Road in peak hours in 2029.
40. The 'Iceni Transport Note' dated September 2019 shows that the Mean Maximum Queue (MMQ) of vehicles queuing on Deringwood Drive in the AM peak hour (08.00 - 09.00) without the proposed development would be 1.4 in the year 2018, 17.8 in 2019 and 57.9 in 2029. In 2029 with the proposed developments in this appeal in place the MMQ would be 144.2. The Rate of Flow to Capacity (RFC) of the Deringwood Drive arm of the junction in the AM peak was also considered. A RFC value of 1.0 is a point at which a junction becomes saturated. The RFCs were 0.60 in 2018, 1.38 in 2019, 2.34 in 2029 and 3.88 in 2029 with the proposed developments included.
41. Therefore, irrespective of whether the appeal schemes are allowed, the submitted Transport Assessment suggests that the Willington

⁵ KCC Consultation Response 27 March 2020.

⁶ CD26 and CD145

⁷ CDs 30 – 34, CD37, CD152, CD153

⁸ Paragraph 5.38-5.39 and Appendix 2 of B Mr Wrights Proof of Evidence (PoE)

- Street/Deringwood Drive junction cannot remain to operate within its existing arrangement over the next few years with the various committed development schemes currently completed or under construction in south-east Maidstone.
42. The proposed developments would involve the signalisation of this junction that would provide better opportunities for traffic queuing on Deringwood Drive to exit on to Willington Street and would introduce a Toucan Crossing to improve pedestrian/cyclist crossing of the road. In considering the effect of the signalisation of the junction on traffic flows, the appellant has provided modelling data both with the interaction between this junction and the two signalised junctions to the north (A20 Ashford Road/Willington Street and Willington Street/Madginford Road/Moat House) with account taken of the committed capacity enhancement scheme to the A20 Ashford Road/Willington Street junction. This modelling has considered the existing uncontrolled layout of the Willington Street/Deringwood Drive junction without the proposed development and a 'with mitigation' scenario with the proposed development, the transport mitigation measures identified in Policy H1(8) and signalling of the junction in place.
43. Whilst several iterations of the model have been produced, some of the latest outputs are provided in the Rebuttal Statement submitted by the appellant's highway witness. However, the Council consider that this latest modelling does not take into account the latest proposed designs for the A20 Ashford Road/Willington Street junction.
44. At the time the planning applications were considered by the Council the latest modelling at that time was based on that contained within the Transport Technical Note of February 2020. This shows that in 2029 with the development in place the proposed signalisation of the junction would result in AM Peak MMQs on Deringwood Drive of 38.2 with MMQs on Willington Street (South) Arm of 144.5 in the AM Peak and 122.1 in the PM Peak. The Council suggests that a 144 vehicle queue would extend beyond the School Lane/Willington Street junction.
45. The numerous iterations of the modelling data have considered the 2029 position both with and without the proposed development. The modelling contained within the evidence of Mr Lulham suggests that without the proposed development the AM peak MMQ on Willington Street (South) would be 244.9 and would be 192.3 with the proposed development and signalised junction⁹. In terms of Deringwood Drive this evidence suggest AM peak MMQs of 5.3 in 2029 without the development and 46.8 with.
46. The evidence in the appellant's Rebuttal Statement suggests that without the proposed development the AM peak MMQ on Willington Street (South) would be 86.5 and would be 127.4 with the proposed development and signalised junction. In terms of Deringwood Drive this evidence suggest AM peak MMQs of 5.0 in 2029 without the development and 16.4 with. This evidence also shows a MMQ of 67 vehicles that would queue back from the Madginford Road signals on Willington Street (South) in the AM peak which is long enough to extend beyond the Deringwood Drive junction.
47. Whichever modelling scenario is used, I find that the Council's assertion that whilst mitigating increased traffic congestion on Deringwood Drive, the

⁹ Tables 1 and 2 – Mr Lulham PoE

- proposed improvements to the Deringwood Drive and Willington Street junction will result in traffic congestion on Willington Street is not without basis. Furthermore, this would be also influenced by the frequency of operation of the Toucan Crossing, the speed which vehicles clear the junction, particularly HGV's, given the 'bowl' vertical alignment of the Willington Street arms and the extent to which the junction becomes blocked due to queuing traffic.
48. No agreement was reached between the main parties as which of the modelling results should be relied upon as being a realistic interpretation of vehicle queues and comprise a definitive position. The signalisation of the junction will undoubtedly interrupt traffic flows on Willington Street.
49. I have no conclusive evidence to suggest that the proposed signalised junction would have an unacceptable impact on highway safety. The key issue is whether this increase in congestion can be considered 'severe' within the context of the advice provided in paragraph 109 of the NPPF to the extent that these appeals should be dismissed.
50. There is no national definition of what may constitute a severe impact in the context of paragraph 109 of the NPPF. The appellant provided three Secretary of State decisions as examples of how the severe impact threshold has been considered¹⁰. No contrary evidence was provided by the Council as to how a severe impact should be considered or any quantification or threshold that should be applied in the context of these appeals to assess at what point, if any, an increase in congestion would amount to a severe residual impact on the road network.
51. In these circumstances, I consider that the Secretary of State's agreement to the general approach taken in these decisions, in that the NPPF sets a high bar for the refusal of planning permission in respect of the traffic effects arising from development, is correct. I have therefore attached significant weight to the interpretation of 'severe' constituting a 'high bar' or 'high threshold' as contained within these decisions.
52. The examination process which led to the adoption of the Local Plan involved the provision and consideration of evidence, including the Council's own commissioned modelling, relating to the highways impacts and mitigation required to support the allocation of the SEMSDL sites. In addition, the Council was provided with the Inspectors Report that clearly identifies that the "SEMSDL will generate additional traffic and could contribute to an increase in congestion, particularly at peak hours, even after mitigation in the form of road improvements and other measures to make sustainable travel more attractive and effective".
53. There was therefore a degree of acceptance by the Council in the adoption of the Local Plan that these sites would have some impact on congestion. To some extent this provided the justification for the need for the strategic highways and transportation improvements identified in each of the relevant policies applicable to the six allocated sites. There are mechanisms in place to secure the necessary funding for these improvements.
54. I recognise that drivers may seek alternative routes to avoid congested roads and therefore increase traffic on other roads. However, I have no substantive

¹⁰ ID7

evidence to suggest that there has been a fundamental change in the traffic data or highway conditions in the Borough since the Local Plan was adopted only three years ago when the traffic implications of the SEMSDL for the Plan Period to 2031 were comprehensively assessed. Therefore, to some extent, the implications of the traffic likely to be generated by the development of the appeal site on localised congestion was known to the Council at the time the Local Plan was adopted.

55. Furthermore, the Planning Officer's Report to Planning Committee on 28 May 2020¹¹ identifies that in considering the wider/strategic junctions, the appellant's evidence provides the likely additional impact of the development but relies upon the cumulative assessments of transport impacts carried out to support the planning applications for the development on allocated sites H1(7) and H1(10) and included the likely traffic arising from the appeal site. These assessments concluded that the cumulative traffic impact upon the local network (including the appeal site) would not be severe subject to the improvements outlined in the relevant policies to junctions and public transport. This suggests that in respect of the planning applications relevant to the H1(7) and H1(10) sites the Council had accepted the conclusion that there would not be a severe cumulative effect on the local network as a consequence of developing these SEMSDL sites, including the appeal site.
56. Taking into account all of the modelling scenarios it is clear that Willington Street will likely experience an increase in MMQs by 2029 as a consequence of development already permitted and irrespective of whether these appeals are allowed. This would correspondingly make right turn movements from the existing junction of Deringwood Drive increasingly more difficult without intervention. In considering the additional traffic arising from the appeal schemes, the appellant has understandably sought to address this matter to provide a mechanism to access Willington Street from Deringwood Drive. Equally understandable is that in doing so there would be some impact on MMQs on Willington Street as a consequence of signals introducing a break and delay in traffic flows along Willington Street. In my view, this is an entirely understandable consequence of developing the allocated site in accordance with the requirements of Policy H1(8). I consider that the appeal proposals provide a balanced approach in enabling traffic arising from the proposed development to access Willington Street from Deringwood Drive and hence the strategic highway network beyond.
57. There is no doubt in my mind that the appeal proposals will contribute to the congestion already experienced on Willington Street to a degree. Whilst this would undoubtedly cause driver inconvenience, I have no substantive evidence to suggest that this would cause a highway safety problem.
58. Taking into account the above factors and the context of paragraph 109 of the NPPF, I do not consider that the potential increase in MMQs and congestion on Willington Street as a consequence of the appeal proposals can be considered to constitute a severe residual cumulative impact on the road network. Therefore, there would be no conflict with Policy DM21 of the Local Plan. Furthermore, I do not consider that it would constitute a severe residual impact in the context of paragraph 109 of the NPPF.

¹¹ CD168 & 169 Planning Committee Report - 28 May 2020

Effects on highway safety

59. The appeal proposals provide for two vehicular access points onto Church Road which take the form of priority T-junctions that serve the 6m wide development spine road and incorporate 9m corner radii and 2m wide footways on each side. In this regard, the proposals accord with criterion 8 of Policy H1(8) of the Local Plan, which requires that 'access will be taken from Church Road only'. Visibility sightlines of 2.4m x 45m are proposed at both access junctions on the basis that the 30mph speed restriction will be extended southwards along Church Road. Swept path analysis demonstrates that the turning manoeuvres of refuse vehicles, buses and fire tenders can be accommodated at the junctions.
60. The Council and Kent County Council (KCC) in its capacity as Highway Authority have raised no objections to the design of the proposed junctions off Church Road to serve the developments. The Council's concerns, as articulated in the reasons for refusal, relate to the worsening of safety issues on Church Road to the south of the site.
61. Whilst Rule 6 parties provided anecdotal evidence of 'near misses' the fact remains that since 2013 no Personal Injury Accidents (PIAs) were recorded on Church Road within close proximity to the proposed site access. However, two PIAs were recorded elsewhere on Church Road, one causing slight injury in 2015 and one causing a serious injury in 2018¹². The serious injury accident occurred at the junction of Church Road with Gore Court Road and White Horse Lane whereby a vehicle swerved to avoid an animal causing a loss of control and a collision with a tree, which fell on top of the vehicle itself.
62. There is some discrepancy between KCC and the appellant as to the nature and location of the slight injury accident. The appellant identifies this as involving a driver exiting Church Road onto Deringwood Drive pulling out into the path of an oncoming vehicle. The Council refer to a cycle skidding on ice in the vicinity of Ellenswood Close. Irrespective, these therefore occurred towards each end of Church Road and were not located near to the proposed access points.
63. I accept that there may have been other unrecorded accidents on Church Road for which no data is available. However, the data on PIAs is commonly used as one source of information to assess highway safety matters relevant to a stretch of road. The source of the PIA data for Church Road is KCC and the PIAs identified appear to be driver and weather related that do not conclusively demonstrate a safety issue with the road itself. The data does not evidentially support any view that Church Road already has a poor safety record.
64. Church Road currently varies in width along its length between approximately 4.3m to 5.0m, has limited forward visibility in parts, no lighting and no pedestrian facilities. There are isolated areas where the road width is below these dimensions. It is currently subject to a 60mph speed limit along most of its length. The appeal proposals would involve the widening of the road to achieve a carriageway width of approximately 5.5m to the north of the southern access point. A new section of footway would extend from the northern site access, along the current highway verge outside of St Nicholas Church, to connect to the existing footway to the north.

¹² Table 3.1 -Transport Assessment (Iceni, December 2019) – CD145

65. The ability to widen Church Lane to the south of the proposed southern access is constrained by the extent of land in the control of the highway authority and the appellant and the proximity of ancient woodland. The appeals proposals provide for some widening to achieve a carriageway width of 4.8m along the majority of Church Road to the junction with White Horse Lane, although there would be localised areas where the carriageway width would remain at less than 4.8m. In addition, 'build outs' with a give way feature would also be provided on a bend in the vicinity of 'Little Squerryes' to the south of the site where there is currently limited forward visibility. As part of this scheme it is proposed that the existing 30mph speed restriction is extended from its current location outside the Church, to the south along the site frontage, to include the area containing the build outs.
66. The ecological and ownership constraints that affect the ability to widen Church Road, other than as proposed in these appeals, have not change since the adoption of the Local Plan which defined access onto this road only. Policy H1(8) is not prescriptive regarding the widening of the whole length of Church Road. Criterion 12 only requires road widening off Gore Court Road between the new road required under policy H1(6) and White Horse Lane. That widening will be delivered in connection with the permission being developed out on that site. In my view, taking into account ownership constraints and the position of the ancient woodland, the appellant's proposals to widen the road are the maximum of what can reasonably be achieved within the constraints identified.
67. KCC refer to the Kent County Council Design Guide (2005) which, amongst other things, sets out recommended carriageway widths for roads serving a development. Although its primary purpose is to inform the design of new roads, KCC use this as a reference when assessing the suitability of existing roads.¹³ The Council has not adopted the Guide as a Supplementary Planning Document. It has, however, approved the document for use as approved planning guidance¹⁴ and as such it can be afforded moderate weight.
68. In applying the principles of the Design Guide, KCC suggest that the whole length of Church Lane should have a minimum carriageway width of 5.5m¹⁵. KCC refer to Figure 7.1 of the Manual for Streets which indicates that a carriageway width of 4.8m would enable a Heavy Goods Vehicle (HGV) to pass a car and a width of 5.5m enables two opposing HGV's to pass one another. As there are parts of Church Road that are not proposed to be widened to those widths, KCC consider that Church Road would not conform to national or local standards. In particular, the unmodified parts of Church Road where the carriageway width would remain below 4.8m would not enable a car to pass an opposing HGV.
69. The submitted Transport Assessment identifies that traffic flows arising from the development proposals would add 84 two-way vehicle movements to Church Road to the south of the site during the weekday AM peak hour (08.00 – 09.00) and 81 two-way vehicle movements during the PM peak hour (17.00 – 18.00). This equates to just over one additional vehicle movement per minute at these times. Automatic Traffic Count Data collected during the week commencing 9 February 2020 identified that a maximum of 171 two-way HGV movements were recorded on a weekday on Church Road. The maximum

¹³ Paragraph 4.50 – Mr Wrights PoE

¹⁴ ID9

¹⁵ Appendix A – Mr Wrights PoE – KCC consultation response 13 February 2020

hourly HGV volumes were 25 northbound and 15 southbound¹⁶, although I have no evidence as to how these relate to peak hours.

70. It would not be possible to widen the full length of Church Road to 5.5m without encroaching into the ancient woodland and acquiring third party land. Whilst I recognise the desirability of KCC to achieve this width, in this case it is neither reasonable nor achievable in the appeals before me. Furthermore, there is no evidence before me to suggest that such widening was a prerequisite to the allocation of the site in the Local Plan. Strict adherence to KCC's requirements in this regard would effectively render the development of this carefully considered site allocation in the Local Plan as being undeliverable.
71. In my view, the appellant has provided optimum measures to widen Church Road, extend the 30mph speed limit and improve visibility within the parameters constrained by ownership and the proximity of ancient woodland. I do not consider that the additional traffic movements at peak hours of just over one per minute represents a significant increase in movements on Church Road.
72. I recognise that there is a possibility of an increased frequency of car and HGV conflict that would inhibit these vehicles to pass each other on the remaining sections of the road where widening is not possible. However, currently the potential for such conflict already occurs over a significant length of the road. As a consequence of the proposed works, the length of Church Road where such conflict could occur would be significantly reduced.
73. Taking into account the above factors, I do not consider that the proposed developments would demonstrably cause worsening safety issues on Church Road to the south of the site to the extent that both these appeals should be dismissed. In light of this conclusion, I do not consider that there would be conflict with Policy DM1 of the Local Plan.

Highway issues - Conclusion

74. I have found that there is no demonstrable evidence before me to suggest that the development proposals would give rise to a material worsening of highway safety conditions on Church Road. They would contribute to an increase in congestion on Willington Street. I accept that this would cause an inconvenience for drivers, but I have no evidence to suggest that this would cause any highway safety implications. In the context of paragraph 109 of the NPPF, I do not consider that that this would amount to a severe impact.
75. I have also taken into account the other proposed highway mitigation measures. These include the proposed improvements to the A20/Spot Lane Junction, the Deringwood Drive/Church Lane Junction and accessibility improvements that are considered elsewhere in this decision. These mitigation measures provide benefits that will be experienced by all users of the highway and the cycle/footpath network in the locality and not just those residing on the appeal site. Consequently, these benefits carry modest weight.
76. Therefore, taking all of the above factors into account, I do not consider that the proposed developments would have a material severe detrimental effect on the safe and efficient operation of the highway network in the vicinity of the

¹⁶ Paragraph 2.2.12 Mr Lulham PoE

appeal site. As such there would be no conflict with the relevant policies contained within the Local Plan.

Effects on heritage assets

77. There are no designated heritage assets within the boundary of the appeal site but there are five statutorily listed buildings located adjacent to it and other designated heritage assets in the vicinity. In particular, these comprise St Nicholas's Church (Grade I listed) and two Grade II listed monuments within the graveyard, and 'Church House' (Grade II listed) immediately to the north of the site. There is also 'The Rectory' (Grade II listed). Further afield, the Otham Conservation Area is located to the southeast of the site and separated from it by intervening agricultural land. Gore Court (Grade II listed) and its extensive grounds are also located to the south-east of the site.
78. In my view, there would be inevitably some impact on the setting of nearby heritage assets as a consequence of development on the site. However, the site has been considered suitable for a development of up to 440 houses by the allocation in the Local Plan and, as such, the principle that there would be some impact on the setting of heritage assets has been established as a consequence of the site allocation.
79. Although there is no evidence before me on the extent to which heritage matters in relation to the site were considered in the examination in public of the Local Plan, it is clear that the Inspector, in considering the allocation of the site, was mindful of the impact of development on the setting of St Nicholas Church. In particular, paragraph 172 of the Inspectors Report on the Examination of the Local Plan, dated 27 July 2017, identified Main Modification 19 (MM19) to Policy H1(8) to specifically require an undeveloped section of land to be retained along the eastern edge of the site in order to protect the setting of the Church and maintain clear views of it from Church Road¹⁷. However, no other impact on heritage assets in the proximity of the site was identified in the Inspectors Report in respect of the development of the site.
80. The adopted Policy H1(8) considers the impact of development on the setting of the Church itself. In addition to requiring an undeveloped section of land to be retained along the eastern edge of the site, which is set out in criterion 3 of the policy, criterion 4 requires development on the Church Road frontage to be built at a lower density from the remainder of the site, to maintain and reflect the existing open character of the arable fields on the eastern side of Church Road and to provide an open setting to St Nicholas Church. Criterion 6 requires the retention of non-arable land to the north and east of St Nicholas Church, to protect its setting.
81. In considering the impact of the development proposals on St Nicholas Church, these would result in the development of a plot of rural open land adjacent to the Church that would inevitably alter what remains of its wider historical setting. The close proximity of the northern access road to the Church will also form part of that change in setting.
82. The visual effects of the development proposals will be most obvious in views across the appeal site and from the east where the new buildings will be visible above the hedgerow along Church Road. However, Policy H1(8) is prescriptive

¹⁷ CPRE: Proof of Evidence – Otham Parish Council – Appendix 5

- in identifying how development proposals should protect the setting of the Church.
83. In respect of Appeal A, the submitted Parameter Plan shows an undeveloped area of land along the east edge of the site to maintain clear views of St Nicholas Church from Church Road in line with criterion 3 of Policy H1(8). Further open space is also shown to the south and west of the Church to limit the impact upon the setting of the Church. Land to the north of the Church is shown as open space in line with criterion 6. Adherence to a form of development that is consistent with the provisions of the Parameter Plan can be secured by the imposition of a suitable planning condition were I minded to allow this appeal. Ensuring that development on the Church Road frontage would be built at a lower density from the remainder of the site can be secured through subsequent reserved matters submissions.
84. In respect of Appeal B, the submitted plans show that building would be set back just over 35m from the east edge of the site to maintain clear views of St Nicholas Church from Church Road in line with criterion 3. Open space is proposed to the south and southeast of the Church to provide undeveloped areas to limit the impact upon the setting of the Church. Land to the north and west of the Church would be maintained as undeveloped in line with criterion 6. The density of development along the Church Road frontage would be generally lower than the remainder of the site and would therefore be consistent with criterion 4.
85. The setting of the Church will undoubtedly change. However, the evidence before me suggests that the proposed change would accord with the requirements of Policy H1(8) in respect of how development should protect the setting of the Church. The proposed layout in respect of both appeals provides undeveloped areas to the north, west, and south and maintains clear views of the Church from Church Road.
86. Overall, taking the above factors into account, I do not consider that the degree of proposed change would amount to a total loss of significance of the heritage value of the Church. However, there would be less than substantial harm to the significance of this heritage asset.
87. With regard to the two Grade II listed monuments within the graveyard I agree with the findings of the submitted Heritage Assessment¹⁸ and the evidence of Liz Vinson that the heritage significance of these listed structures derives from their visual, spatial and historical relationship with the Church and other graves and funerary monuments within the graveyard. This relationship is experienced within a limited area and localised setting that is contained within, and dependent on, their relationship with the Church. This relationship will remain unaffected by the development proposals. Consequently, I do not consider that the development proposals would cause harm to the setting of these monuments.
88. With regard to Church House, I also agree with the Heritage Assessment in that the external heritage significance of Church House is best experienced and appreciated from within its own grounds, which are separated from the adjacent churchyard by a tall hedged and tree-lined boundary, and from the appeal site by a tall wooden fence. This building does not have a visual

¹⁸ Paragraph 4.7 – Heritage Assessment (March 2019) - CD22

- influence over its wider surroundings in the same way as the Church. However, the proposed developments would erode some of the rural context in which it is experienced and affect some incidental views.
89. The Parameter Plan in respect of Appeal A, and the submitted Plans in respect of Appeal B, maintain an undeveloped area of land to the west and north of Church House and limit the position of new housing further west and south from it. These factors would reduce the visual effect of new development on the visual experience of the listed building. Taking these factors into account, I consider that there would be less than substantial harm to the significance of this heritage asset.
90. The Rectory is set back from Church Road and is partially secluded from the highway by a dense treeline. The Council indicate that it is located approximately 50m to the south of the site boundary. Views of the Rectory from the appeal site are filtered by an adjacent modern house, a tree-lined track leading from Church Road to Squerryes Oast and by Squerryes Oast itself. The appeal site currently provides a rural backdrop to the Church Road when viewing it from distance or obliquely along Church Road. In other views the setting of the Rectory is fairly localised and self-contained.
91. However, the historical link to the Church is one aspect of its setting. The proposed provision of an undeveloped area of land along the east edge of the site would maintain clear views of St Nicholas Church from Church Road, in line with criterion 3 of Policy H1(8). Consequently, I consider that the historical connection will remain. Whilst there would be change to the wider surroundings of the Rectory, the most important elements of its setting, namely the historical character of its recessed roadside frontage and the visual link it has with the Church, would be preserved. For these reasons, I do not consider that the development of the site would cause harm to the setting of this listed building.
92. Squerryes Oast is located to the west of the Rectory and comprises two converted oast houses. They are not recognised formally as heritage assets but I agree with the Heritage Assessment in that they can be considered to be of heritage interest as they represent a distinctive and well-preserved survival of a beer brewing industry. The setting is enclosed within a self-contained plot of land provided with almost total seclusion by dense tree cover along all of its boundaries. In my view, the oast houses can only be completely experienced and appreciated from within their own immediate surroundings, with only limited views available from the application site and none from Church Road.
93. The proposed developments will alter part of the wider rural setting of Squerryes Oast but not its immediate confined setting. Consequently, I do not consider that the proposals will lessen the appreciation of its remaining heritage interest.
94. Gore Court is a Grade II listed building located at the centre of an extensive private park enclosed by woodland. It is located to the south east of the site and situated on elevated ground between Church Road and the village of Otham. I agree with the Heritage Assessment that the intrinsic heritage significance of the house can only be experienced from within the estate, which effectively forms its setting. Only the woodland forming the northern boundary of the estate is visible from the appeal site.

95. The appeal proposals would result in residential development of farm land formerly attached to the Gore Court estate. However, given the intervening distance from the appeal site, the extensive surrounding woodland and its location in the centre of parkland, I consider that the setting of the listed building will remain unchanged by the proposals.
96. The Otham Conservation Area is separated from the appeal site by intervening agricultural land and hedgerows on Church Lane. The Council indicates that the distance from the edge of the Conservation Area to the appeal site is approximately 770m. The appeal site is visible from the western periphery of the Conservation Area and its appearance will change as a consequence of the development proposals. However, views of the appeal site are relatively distant beyond a large open field and the hedge-lines along Church Road. Given the intervening distance and the context of these views, I do not consider that the development proposals would be consequential to the heritage value of the Conservation Area which was designated primarily for its combination of built form, pattern of development and rural setting. Therefore, I consider that no harm would be caused to the setting of the Conservation Area.
97. The submitted Heritage Assessment also considered the effect of the proposed developments on the setting of the Mote Park Registered Park and Gardens. The existing intervening housing, the road layout and the surrounding topography serve to screen Mote Park from the application site and vice versa. As such, Mote Park and the application site do not share a common setting. Consequently, I do not consider that the appeal proposals would cause any harm to the setting of Mote Park.
98. In arriving at my above views regarding the harm to the setting of heritage assets, I have carefully considered the evidence provided in the Heritage Statement produced by Janice Gooch Consultancy (HS-JCG) on behalf of the CPRE. This Heritage Statement acknowledges that the site could be developed but that the proposed scheme is considered to cause substantial harm to the setting of the Church and its relationship with the Rectory and Church House¹⁹. In particular, it considers that there has been limited consideration of the group value of these listed buildings and their setting. Although the HS-JCG refers to the 'scheme' I interpret this to mean the development proposals pursuant to both appeals.
99. The HS-JCG considers that the proposed buffer zones are insufficient to provide protection of the loss of setting or allow for the retention of the visual link between the ecclesiastical buildings and therefore the scheme is considered to cause substantial harm to the setting of listed buildings. However, for the reasons explained above, I do not find this to be the case. In my view, both appeal proposals would be consistent with the relevant criteria of Policy H1(8) in maintaining appropriate buffers around heritage assets and maintaining the visual link between the Church and the Rectory. I have found that there would be less than substantial harm to the setting of the Church and Church House but I do not agree with the conclusions of the HS-JCG that the extent of the harm would amount to substantial.

¹⁹ Paragraph 6.5 Heritage Statement – Janice Gooch Heritage Consultancy (27 October 2020) – CPRE 8

100. I have also taken into account the views of CPRE, and the appeal decision provided, in respect of development on Land at Church Hill, High Halden²⁰ (High Halden) and whether this is determinative in considering Church Road as a non-designated heritage asset in the appeals before me. It is quite clear in that case that Church Hill, located within a Conservation Area, was considered by the Council to be a non-designated heritage asset (NDHA)²¹, although I have no other evidence to explain how this was designated and published as such.
101. In the case of the appeals before me I have no evidence to suggest that the Council has determined Church Road as a NDHA. The circumstances in these appeals are very different to that in the High Halden case in that Church Road does not lie within a Conservation Area, is not identified as a NDHA by the Council or any other statutory body and is specifically identified in the Local Plan to be used for access to serve an allocated site. I therefore attach little weight to the High Halden appeal decision.
102. Historic England accept the principle of development at the site and accept that it is unlikely that the overall harm can be reduced given other constraints on the site but that the proposal is capable of meeting NPPF requirements to minimise and thus also justify harm. This position was on the basis that a dedicated car park was to be provided within the appeal site to serve the Church. Historic England considers that without a dedicated church car park in the application there is less heritage benefit which might outweigh the harm arising from the proposed developments.
103. Notwithstanding the fact that the car park was removed from the plans that were considered by the Council, the proposals in the appeals before me both provide for a dedicated car park to serve the Church. On this basis, I have no other evidence to suggest that Historic England have objections to the appeal proposals.
104. The proposed car park would have a functional link with the Church. In my view, this would provide a small heritage benefit to assist in maintaining appropriate access to the Church for its use as a community resource. The proposed car park would be sited on land to the south of Church House, currently visually separated from Church House by a close boarded timber fence, and within an area which is proposed to receive surrounding landscaping as shown on the plans relevant to both appeals. This would enable it to be integrated into the overall landscaping scheme for the site that could be secured by an appropriate condition were I minded to approve these appeals. I do not consider that the proposed car park would have any material bearing on the appreciation of the heritage values of Church House or St Nicholas Church.
105. In consultation on the planning application relevant to Appeal A the Council's Conservation Officer was "*satisfied that the outline application scheme seeks to limit the harm on the setting of the listed buildings, in particular the Church, the Church House and the Rectory*". In addition, it was also stated that the proposals "*will only have a minimal effect on the setting of the Conservation Area*".

²⁰ ID8 - Appeal Decision APP/E2205/W/19/3227775

²¹ Paragraph 17 - Appeal Decision APP/E2205/W/19/3227775

106. In respect of the application relating to Appeal B, the Council's Conservation Officer identified that the site has been laid out with regard to the parameters in Local Plan H1(8). In addition, the consultation response also identified that *"the development would result in harm to the setting and significance of the Church due to the erosion of its historic rural outlook. There would also be harm to the setting of Church House for the same reasons but to a slightly lesser degree as the building is not a prominent landmark. I consider that the harm to the Church and Church House would be less than substantial and that the above measures would assist in mitigating the adverse heritage impacts of the scheme. I do not consider there would be harm to The Rectory or Otham Conservation Area as their settings would not be directly affected"*.
107. Overall, I consider that the harm to the setting of the heritage assets identified above would be less than substantial. In arriving at this view, I have also taken into account the advice contained within the Planning Practice Guidance (PPG) which advises that substantial harm is 'in general terms, a high test'. In my view, the characterisation of this by the appellant's heritage witness as being 'at the lower end of less than substantial harm' is reasonable. Furthermore, I have no other reasons to disagree with the views of Historic England or the Council's Conservation Officer in relation to the appeals proposals.
108. In arriving at this conclusion, I have had full regard to the desirability of preserving the setting of heritage assets and the need to give due weight to any harm in that respect. In particular, I have taken into account the provisions of paragraphs 193, 194 and 196 of the NPPF, which are reflected in Policy DM4 of the Local Plan. Whilst great weight is to be given to the conservation of heritage assets, less than substantial harm is to be weighed against any public benefits of the proposal.
109. In my view, the Parameter Plan, Illustrative Masterplan and proposed layout demonstrate that the proposed development has carefully considered how the impact upon heritage assets would be minimised to an acceptable degree bearing in mind the site is allocated for housing. However, in the case of both these appeals I have found less than substantial harm to the setting of the Church and Church House would be caused.
110. The allocation of 440 houses at the site would inevitably result in some harm to the setting of the two listed buildings to the north. Such impacts upon the setting of these listed buildings were clearly accepted when the Local Plan Inspector agreed that the allocation was acceptable for 440 houses, subject to criterion 3, 4, and 6 of Policy H1(8).
111. I have also found that both proposals would be consistent with the relevant criteria of Policy H1(8) in respect of measures required to be demonstrated in development proposals to protect the setting of St Nicolas Church, and in turn Church House, and maintain an undeveloped visual link to the Rectory along the eastern boundary of the site. I have also taken into account the public benefits of providing up to 440 houses in the case of Appeal A and 421 houses in the case of Appeal B. These include affordable housing to meet housing needs on an allocated site. In addition, there would be social and economic benefits associated with the construction and occupation of the dwellings identified elsewhere in this decision.
112. Whilst having special regard to the preservation of the setting of the Church and Church House, I conclude that the benefits identified above and elsewhere

in this decision outweigh the less than substantial harm that would be caused to the setting of these heritage assets and provide a clear and convincing justification in support of development of the site. Consequently, the proposed developments would not be in conflict with the relevant provisions of Policies H1(8), SP18 and DM4, nor with the relevant provisions of the NPPF.

Other Matters raised by Rule 6 Parties and Interested Parties

Character and appearance

113. The impact of the development of the site on the character and appearance of the surrounding area was considered at the Local Plan allocation stage in the Council's Landscape Capacity Study Site Assessment (2015)²² which formed part of the local plan evidence base. This confirms the visual sensitivity of the site to be moderate, relates reasonably well to existing development to the north, south and west and has the capacity to accommodate housing.
114. The Council's acceptance that there would be a change in the character and appearance of the appeal site was reflected in its allocation in the Local Plan. No objections have been raised by the Council in respect of the appeal proposals before me regarding the effect on the character and appearance of the surrounding area.
115. I have carefully considered the submitted Landscape and Visual Impact Assessment²³ (LVIA) which concludes that views of the proposals will be highly localised as a result of the gently sloping topography, established vegetation cover and intervening built form associated with the immediate setting of the site. Where localised views are available, the LVIA identifies that the proposals will integrate into the surrounding landscape when considering the existing built form, urbanising components and adjacent road corridors. Furthermore, it identifies that as the landscape features proposed within the landscape buffer mature, the proposed built elements will be softened, and the scheme will become an integrated part of the view. I have also taken into account the proposed layout of development which has been arranged to allow views of the Church from along Church Road within the proposed landscape buffer, and from within the site (diagonally from the centre towards the Church).
116. I recognise that there will be a change to the character and appearance of the surrounding area and to localised views. However, I am not persuaded that the magnitude and extent of this change would be any different from that identified in the LVIA. In this regard, I have no reasons to disagree with the conclusions of the LVIA.
117. Concerns were expressed in the Inquiry that the proposed access arrangements would give rise to the loss of more hedgerow on the Church Row frontage than was envisaged by criterion 5 of Policy H1(8). However, this part of the policy is not prescriptive of the extent of hedgerow to be retained. Whilst there would be some loss of this hedgerow there would also be some landscape strengthening and improvement to the remaining parts. I do not consider that the appeal proposals would conflict with the provisions of this part of the policy.
118. Taking into account the findings of the Council's Landscape Capacity Study Site Assessment (2015) and the findings of the LVIA, I do not consider that the

²² Appendix MW6 – Mr Woodhead PoE

²³ CD23

degree of change would be of such magnitude to cause material harm to the character and appearance of the surrounding area of an extent to warrant the dismissal of this appeal on those grounds. Notwithstanding the weight to be attached to the emerging Otham Neighbourhood Plan, I have taken into account the landscape protection policies of that plan but these do not lead me to any different conclusion on my findings identified above.

Air Quality

119. Concerns were expressed that the submitted Air Quality Assessments²⁴ (AQAs) lack consideration of any mitigation measures and lack rigour in their assessment of the impact, particularly at the junction of Willington Street and Deringwood Drive.
120. The appeal site is not located in an Air Quality Management Area (AQMA). The AQAs have been prepared in accordance with relevant Defra and best practice guidance. These conclude that the proposed developments would not have any significant impact on local air quality and no objections were made by the Council's Environmental Health Team in response to the consultations on the planning applications subject to mitigation measures which include provision for electric vehicle charging points. I have no other contrary evidence to suggest that the modelling methodology used in the AQAs to determine the impact of the proposed developments on air quality may be incorrect.
121. Predictions of 'Air Quality Standard' (AQS) concentrations in 2029 for a number of key pollutants shows these to be below the annual mean AQS in the local area. The Council has not identified the junction of Deringwood Drive and Willington Street as an area of concern in the annual review of the Local Air Quality Management Framework.
122. Whilst I recognise that the AQAs did not specifically assess this junction, they did assess the impacts at a number of worst-case sensitive receptor locations where the magnitude of change would be greatest and near major A roads where existing air quality is less good with a conservative assumption that there would be no improvement in the vehicle fleet beyond 2025.
123. Despite not modelling the junction, in the absence of any technical objection from the Council I have no reasons to suggest that the AQAs lack rigour in their assessment methodology. I have also considered the additional evidence provided by the appellant in this regard²⁵ and I have no reason to disagree with the findings that even if the junction was able to be modelled and found to have a slight/moderate impact this would not change the overall conclusion that the developments would have an overall negligible impact on air quality. Consequently, on the basis of the evidence provided, I am not persuaded that the proposed developments would have a material detrimental effect on air quality.
124. In arriving at the above view, I have taken into account the appeal decisions referred to by CPRE at London Road, Newington, Kent²⁶. However, the issues in relation to air quality in those cases are very different to those in the appeals before me. In particular, an AQMA was declared along a section of London Road in 2009 because the annual mean concentrations of the nitrogen dioxide

²⁴ CD17 and CD137

²⁵ Appendix MW2 – Air Quality Statement – Mr Woodhead PoE

²⁶ ID8

(NO₂) objective was exceeded. Modelling of “without development” and “with development” scenarios showed that for both appeal schemes there would be “substantial adverse” effects at three receptor sites in Newington. There were also “moderate adverse” and “slight adverse” effects at between three and five other receptor sites in each of these scenarios. In each case the limit value for annual mean NO₂ concentrations would be exceeded at five receptor sites, in some cases by a considerable amount. This is very different to the appeals before me where the modelling predicts that the highest concentration of NO₂ in 2029 to be 23.3% below the annual mean AQS. I have therefore attached little weight to these appeal decisions.

Flood risk and ground water

125. No objections have been received from statutory consultees regarding the submitted Flood Risk and Sustainable Drainage Assessment in respect of both appeals.²⁷ However, I have considered the concerns expressed by CPRE and the additional information provided by the appellant in response to these concerns.²⁸ In addition, the Council and the appellant have agreed planning conditions in respect of both appeals requiring the submission of the detailed design of the proposed surface water drainage scheme and specifying that infiltration to manage the surface water from the development will only be allowed where it is demonstrated that there is no resultant unacceptable risk to controlled waters and/or ground stability.
126. On the basis of the information submitted by the appellant, the responses from statutory and technical consultees, and subject to the imposition of suitable planning conditions, I am satisfied that an appropriate surface water drainage scheme can be provided that ensures that there would be no resultant unacceptable risk to controlled waters and/or ground stability.

Land stability

127. The Chapman Avenue Residents Association, in addition to written evidence submitted by Dr J M Speight, expressed concerns at the potential impact of the proposed developments on slope stability of the north western and northern boundary of the site. The submitted Outline Slope Stability Addendum Report²⁹ specifically considers this matter.
128. Following site investigation work, the report recommends that a sterilising strip of a distance twice that of the cliff/slope vertical height is allowed for from the crest of the slope. Within this zone it is recommended that all development is avoided as well as any temporary works that might impose loads on the slope. It was also recommended that any deep bore soakaways relatively close to the slope, should discharge at a depth lower than the base of the slope/cliff.
129. The proposed layout and the Parameter Plan show that no proposed plots would be sited in the sterilising strip. However, the report also identifies that this work does not constitute a full detailed slope stability analysis and that further detailed slope stability analysis could be carried out to further refine the safe distances from the toe of offsite slopes and cliffs.

²⁷ CD21 and CD142

²⁸ Appendix MW3 – Mr Woodhead PoE

²⁹ CD149

130. I have taken into account paragraph 170(e) of the NPPF which, amongst other things, requires that planning decisions should prevent existing development from being put at unacceptable risk from land instability. Whilst recognising the local concerns, the submitted Outline Slope Stability Addendum Report is based on the analysis of site investigations and I have no reasons to question the professional competence of the author of the report.
131. I have no reasons to suggest the advice contained within the report to be erroneous but I do recognise that it is essential to ensure that no development occurs within the sterilising strip and that further slope stability analysis should be carried out in accordance with the recommendations contained therein. These matters can be required by the imposition of a suitable planning condition. Consequently, subject to the imposition of such condition, I do not consider that there would be any conflict with the relevant provisions of the NPPF.

Living conditions

132. The Council suggests that the proposed dwellings would be positioned, at their closest, approximately 16m from end of the rear gardens of properties to the west on Chapman Avenue and 'The Beams', and at least 30m from the rear of the existing houses³⁰. The existing properties are positioned at a lower level than the appeal site and the submitted plans indicates that there would be landscaping along the western boundary of the site. Given these separation distances and the proposed intervening planting, I do not consider that the proposed developments would cause any overlooking, loss of privacy or overshadowing of an extent that that would cause material harm to the occupants of those existing properties sufficient to warrant the dismissal of these appeals.
133. Similarly, the Council also suggest that properties to the south on Woolley Road would be at least 24m away from the nearest proposed dwellings, properties to the north off Longham Copse would be at least 38m away, Squerryes Oast 70m away, Rectory Cottage 34m away, Church House and the Coach House at least 42m away. Given these separation distances I do not consider that the proposed developments would cause harm to the living conditions of the occupants of those existing properties.

Fear of crime

134. At the Inquiry concerns were raised that the proposed layout that provides for a footpath and trim trail along the western boundary of the site and in close proximity to the rear of property boundaries on Chapman Avenue could increase the risk of crime to those properties. There is currently an informal footpath route that runs along the western boundary of the site which is limited in public views in the context of providing surveillance.
135. The submitted Design and Access Statements demonstrate that the design of the proposed developments incorporate the principles of 'Secured by Design' and have taken into account the advice provided in the "Safer places – the Planning System and Crime Prevention" (Office of the Deputy Prime Minister, April 2004). The design of the proposed developments incorporates a number of attributes that are relevant to crime prevention.

³⁰ CD169 – paragraph 6.85

136. I have no evidence to indicate the extent to which properties in the local area, in particular properties on Chapman Avenue, already experience crime. The layout of the proposed developments would provide for the frontages of properties to have a degree of overlooking of the proposed footpath and other public areas. This therefore provides a degree of surveillance and defensible space.
137. Whilst I recognise local residents concerns in this matter, I do not consider that there is any demonstrable evidence before me to suggest that the proposed developments would give rise to a risk of increased crime in the area.

Use of Public Rights of Way

138. The proposed developments do not materially change the route of any Public Rights of Way in the area. They do include measures to improve the surfacing of path KM86 and provide for the landscaping along the route of the path through the site together with the creation of other informal paths along the western boundary and the provision of a connection to Woolley Road.
139. However, I recognise that there would be landscape change to the area surrounding footpath KM86 as it passes through the site as a consequence of the proposed developments. In addition, the users of the footpath network to the east of the site would experience a change in views looking to the west and towards Church Road. In respect of these matters I have carefully considered the concerns of The Ramblers.³¹
140. Taking into account my findings regarding the impact of the proposed developments on the character and appearance of the surrounding area, I accept that there would be a change to the landscape in the vicinity of St Nicholas Church when viewed from the public rights of way networks. This change would, to some degree, soften over time as the peripheral site landscaping matures.
141. I recognise that the degree of landscape change will have some detrimental impact on the enjoyment of the local public rights of way network. I also recognise that in allocating the site suitable for development such consequential landscape change was found acceptable by the Council. Notwithstanding this, the effect of the proposed developments on the enjoyment of the local public rights of way network does carry some limited weight against the schemes.

Access by emergency vehicles

142. Concerns were expressed in the Inquiry that the proposed access arrangements off Church Road may be unsuitable for access by emergency vehicles. A Swept Path Analysis exercise of a fire tender accessing the site was submitted with the planning applications³². In the absence of any other technical information, I have no contrary evidence to suggest that the swept path analysis may be incorrect and therefore no basis to suggest that emergency vehicles will be unable to access the site.

³¹ CPRE 5 PoE – The Ramblers

³² Appendix A17 of Transport Assessment – CD145

143. It is also proposed that the internal spine road is designed as a 6.0m wide major access road, to allow this to operate as a bus route. Such road width is suitable for use by emergency vehicles.

Church car park

144. In the Inquiry there were mixed views expressed by the Rule 6 Parties regarding the provision of a car park for the Church. The appeal proposals both provide for a dedicated car park. In my view, the provision of the car park has some limited benefit in assisting in sustaining the viability of the Church as a community asset. Furthermore, as explained above, I do not consider its provision would have any effect on the setting of nearby heritage assets.

Ancient woodland

145. The highway boundary on Church Road is located in close proximity to the ancient woodland. I have taken into account the provisions of paragraph 175(c) of the NPPF. The proposed widening of Church Road does not cause any encroachment of the highway boundary into the area designated as ancient woodland. Consequently, I do not consider that the proposed developments would result in any conflict with the relevant provisions of the NPPF.

Planning Obligations

146. Completed agreements pursuant to Section 106 of the Town and Country Planning Act 1990 have been provided in respect of both appeals. In considering whether the agreements are appropriate I have taken into account the provisions of the Community Infrastructure Levy (CIL) Compliance Statement provided by the Council³³.
147. Both agreements provide for a Primary Education Contribution which are defined as the expansion of the Greenfields Community Primary School and contain the agreed basis for calculating the required financial contribution. The CIL Compliance Statement identifies that there is express exclusion from CIL charges to secure contributions towards "expansion of an existing school within south-east Maidstone to accommodate site H1(8)", the appeal site, through a Section 106 obligation. These provisions are necessary to mitigate the impacts of the proposed developments on education services.
148. The agreements also make provision for 30% of the housing units to be provided as affordable dwellings of which 70% are to be affordable rented housing and 30% would be shared ownership dwellings. The agreement relative to Appeal A also includes an obligation to submit a Phasing Plan which would identify the location of affordable dwellings in each phase. These provisions are consistent with the requirements of Policy SP20 of the Local Plan.
149. The appellant has provided an Affordable Housing Statement³⁴ which demonstrates that there is a substantial unmet need for affordable housing across Kent. The provision required by the agreements would therefore represent a substantial social and public benefit.

³³ ID 22

³⁴ Appendix MW1 – Mr Woodhead PoE

150. Both agreements also provide for a financial contribution towards improvements to that part of the National Cycle Route 177 from Church Road to Deringwood Drive. This contribution is necessary to encourage sustainable transport modes and mitigate vehicle usage. The improvements to the cycle route would be a general public benefit to which I attach moderate weight.
151. A Framework Travel Plan was submitted to support the applications relevant to both appeals in accordance with the requirements of Policies SP23 and DM21 of the Local Plan and set out targets to reduce vehicle trips arising from the development proposals. Both agreements provide for a financial contribution payable to the Council for the purposes of monitoring the Travel Plan. These are necessary to assist in mitigating travel demand to the levels assumed in the Transport Assessment in accordance with the relevant policies.
152. Both agreements provide for the transfer of the proposed car park to serve St Nicholas Church to the Diocese of Canterbury for a nominal fee subject to certain obligations regarding its future use. The provision of the car park has some benefit to the free flow of traffic by reducing the number of vehicles that park on Church Road and thereby constraining the width of the useable carriageway. Whilst this has some degree of benefit to the general public, I consider that this attracts only limited weight.
153. All of the above obligations have been demonstrated to be necessary to make the developments acceptable and are relevant to the developments, reasonable in scale and kind and are justified in accordance with CIL Regulations. I am satisfied with the form, drafting and content of the obligations. I have therefore taken these into account and attached appropriate weight to the provisions contained therein that would provide public benefits.

Other benefits of the developments

154. In addition to the benefits already identified above, the developments would have significant benefits for the local and national economy. The investment represented by these developments would also be consistent with the economic dimension of sustainable development. The undisputed economic benefits would include investment in construction and related employment for its duration. Benefits would also include an increase in local household spending and demand for services. These benefits are also afforded substantial weight.
155. Improvements are also proposed by the appellants to the footpath KM86, including the provision of a ramped access at the north western corner of the site, and the provision of a linkage to Woolley Road. These improvements could be secured by planning conditions. Although minor in nature, they would have some benefit for existing residents as well as future occupiers of the development itself and therefore carry moderate weight.
156. Criterion 10 of Policy H1(8) requires that development of the site should provide for 2.88ha of natural/semi-natural open space. The proposals would provide for approximately 4.4ha of open space. In my view, the open space would primarily serve the residents of the proposed new houses and would be of limited benefit to the existing residents of the area. There is some encroachment of development in the south eastern corner of the site into the area required to be maintained as open space as identified in policies OS1(16) and DM19. However, I do not consider this to undermine the overall objective of these policies, particularly as the Council has raised no objections to this

encroachment. There is also a modest set of ecological enhancements proposed within both appeal schemes. Therefore, collectively I have afforded these benefits limited weight.

Planning Balance

157. The appeal site forms part of a number of sites in the SEMSDL that were allocated for housing development in a recently adopted Local Plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF at paragraph 11(c) advises that for decision making development proposals that accord with an up-to date development plan should be approved without delay.
158. The appeal proposals relate to an allocated site and accord with the location and scale of development proposed in the Local Plan. There is no evidence to suggest that the site is otherwise than sustainably located in relation to its proximity to the town centre and local services. Connectivity would be improved by the enhanced accessibility proposals associated with the footpath and cycleway improvements and the opportunity for the site to be accessed by public transport.
159. Whilst there would be an impact on congestion, I have found that this would not constitute a conflict with Policy DM21 of the Local Plan. Furthermore, the potential congestion that would be caused to Willington Street would not be of an extent that can be considered to constitute a severe residual impact in the context of paragraph 109 of the NPPF.
160. In addition, I have found that the proposed developments would not demonstrably cause worsening safety issues on Church Road to the south of the site. Consequently, the proposals would not have a material detrimental effect on the safe and efficient operation of the highway network in the vicinity of the appeal site. As such there would be no conflict with the relevant policies contained within the Local Plan.
161. I have found that there would be less than substantial harm to the setting of heritage assets. In accordance with the relevant provisions of the NPPF I am required to weigh this less than substantial harm against any public benefits of the proposals.
162. I have set out above the public benefits of providing up to 440 houses in the case of Appeal A and 421 houses in the case of Appeal B. These include affordable housing to meet a demonstrable housing need on an allocated housing site. I have attached significant weight to these benefits. In addition, there are other social and economic benefits associated with the construction and occupation of the dwellings and improvements to the accessibility of the local footpath and cycle network that I have identified above. I have also identified the appropriate weight that should be attached to these benefits. The significance of these public benefits outweighs the less than substantial harm that would be caused to the setting of the heritage assets identified.
163. There would undoubtedly be a change to the character and appearance of the appeal site with the proposed housing in place as a result of a change in the land use from an agricultural one to a predominantly residential one. The appeal site is not protected for its landscape character or quality. I do not

consider that the site in its current form makes such a significant positive contribution to the localised or wider landscape setting to the extent that there would be serious harm to the character and appearance of the surrounding local area as a consequence of the proposed developments, particularly as these matters were also considered at the local plan allocation stage. The proposed enhanced green edge to the site will contribute to the local green infrastructure and, over time, mitigate some of the visual effects of the developments.

164. Many other matters were raised by Rule 6 and interested parties in the Inquiry. Although these matters have been carefully considered, they do not alter the main issues which have been identified as the basis for the determination of these appeals, particularly in circumstances where the Council has not objected to the appeal schemes for these other reasons.
165. Overall, I find that the development proposals in both Appeal A and Appeal B accord with the development plan when taken as a whole. There are no other considerations of such weight as to warrant a decision other than in accordance with the aforementioned development plan policies and the NPPF. Therefore, in accordance with paragraph 11(c) of the NPPF these appeals should be allowed.

Conditions

166. I have considered the planning conditions, including a number of pre-commencement conditions, that were provided and agreed between the Council and the appellant and discussed at the Inquiry. I have considered these against the advice given in paragraph 55 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the PPG. Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability.

Appeal A

168. I have attached conditions limiting the life of the planning permission and setting out the requirements for the submission of reserved matters (condition Nos. 1-3). I have imposed a condition (No. 4) relating to the approved plans in the interests of certainty.
169. As part of the submission of reserved matters conditions are necessary to set out the parameters for landscaping, the buffer to the Ancient Woodland, open space provision and details of the proposed car park for St Nicholas Church (conditions Nos. 6, 7, 8, 10 and 11). In order to encourage the use of sustainable travel modes conditions are also necessary to ensure that the layout details submitted as part of a reserved matters submission provide pedestrian and cycle links to link with off-site public rights of way, cycle routes, open space and to Woolley Road and that a ramp is provided at the north western corner of the site (condition Nos. 9 and 17). However, I have amended the suggested condition in No. 9 to ensure that consideration is also given to the access arrangements for cyclists from the proposed cycle link from Church Road to 'The Beams' and the open space area to the north west of the site.
170. In order to ensure that the surface water arising from the proposed development can be appropriately drained and does not either cause off-site or on-site flood risk or any resultant risk to controlled waters and/or ground

- instability, conditions are necessary requiring the submission of details of the proposed drainage scheme and the subsequent verification of its installation (conditions Nos. 12, 13 and 30). These are also required to ensure that the construction of the development accords with the submitted Flood Risk and Sustainable Drainage Assessment (March 2019).
171. In the interests of protecting the ecology of the area, a condition requiring the implementation of the submitted ecological mitigation measures, and any necessary updated measures, is necessary (Ecological Appraisal - Aspect Ecology - March 2019) (condition No. 14). Also, in the interests of protecting the ecology of the area, and in the interests of protecting the character and appearance of the area, a condition is necessary requiring the submission and implementation of a site-wide landscape and ecological management plan (condition No. 27).
 172. A condition requiring a site investigation of the nature and extent of any contamination affecting the site, along with any requisite remediation, is also necessary to safeguard the health and well-being of future occupiers (condition No. 15). A condition requiring an investigation and the recording of the potential archaeological interest on the site is necessary in order to ensure that any archaeological interest is recorded or safeguarded (condition No. 16).
 173. The submission and approval of a Construction Management Plan is necessary to safeguard the living conditions of local residents and in the interests of highway safety (condition No. 18). However, I have amended the suggested condition to include the submission of mitigation measures for noise, dust, vibration, the minimisation of the deposition of mud on Church Road and the hours of construction work and deliveries. In the interests of ensuring that the proposed development does not put existing development adjoining the site at an unacceptable risk from land instability, a condition is required requiring a slope stability analysis and measures to ensure that construction works do not give rise to land instability issues (condition No. 19).
 174. The submission of details of air quality mitigation, including electric vehicle charging points, is necessary in order to mitigate any effects of the development on air quality (condition No. 21). A condition requiring an external lighting scheme is also necessary to minimise the effect of artificial light on local species (condition No. 22).
 175. A condition requiring the early provision of the car park for St Nicholas Church is necessary in the interests of highway safety and to maintain the usability of the Church (condition No. 23). In the interests of highway safety and flow of traffic, conditions are necessary requiring the provision of the site access and off-site junction and highway improvement works (Conditions Nos. 5, 20, 24, and 25). However, I have amended the suggested condition relating to access to ensure that the access points are provided prior to the commencement of any development above slab level.
 176. To promote sustainable modes of transport and reduce the need for travel by car, conditions are necessary to secure the implementation of the Travel Plan, upgrade works to Public Right of Way KM86 and design details of pedestrian/cycle routes (conditions Nos. 26, 28 and 29).

177. In order to promote the minimisation of energy usage and in the interest of sustainable development, a condition is necessary to ensure the provision of photovoltaic panels on some of the proposed dwellings (Condition No. 31).

Appeal B

178. In addition to the standard time limit, I have imposed a condition (No. 2) relating to the approved plans in the interests of certainty.
179. In the interests of protecting the character and appearance of the area, conditions are necessary relating to boundary treatment, the treatment of hard surfaces, landscaping of the site, retention of open space areas, the details of the construction materials proposed to be used, phasing plan, the provision of public art, the implementation of a landscape and ecological management plan and arboricultural method statement (conditions Nos. 3, 4, 5, 6, 12, 18, 20, 22, 23, 24, 28 and 34).
180. Conditions requiring a site investigation of the nature and extent of any contamination affecting the site, along with any requisite remediation, are necessary to safeguard the health and well-being of future occupiers (condition Nos. 16 and 37). In the interests of ensuring that the proposed development does not put existing development adjoining the site at an unacceptable risk from land instability, a condition is required requiring a slope stability analysis and measures to ensure that construction works do not give rise to land instability issues (condition No. 19).
181. A condition requiring an investigation and the recording of the potential archaeological interest on the site is also necessary in order to ensure that any archaeological interest is recorded or safeguarded (condition No 17).
182. Conditions requiring an external lighting scheme are also necessary to minimise the effect of artificial light on local species and in the interests of protecting the living conditions of existing nearby residents and the future occupants of the development (condition Nos 26 and 27).
183. To promote sustainable modes of transport, reduce the need for travel by car and provide access for all users, conditions are necessary to secure the implementation of the Travel Plan and the provision of footpath, cycle links, ramped access in the north west corner of the site and electric vehicle charging points (conditions Nos 9, 11, 25, 33, 35, and 38).
184. The submission and approval of a Construction Management Plan is necessary to safeguard the living conditions of local residents and in the interests of highway safety (condition No. 8). However, I have amended the suggested condition to include the submission of mitigation measures for noise, dust, vibration and the minimisation of the deposition of mud on Church Road and the hours of construction work and deliveries
185. A condition requiring the early provision of the car park for St Nicholas Church is necessary in the interests of highway safety and to maintain the usability of the Church (condition No. 10). Also in the interests of highway safety, conditions are necessary requiring the provision of the site accesses, off-site highway improvements, measures to maintain the access visibility splays and the provision of parking/turning areas for each building (conditions Nos. 7, 29, 30 and 32). However, I have amended the suggested condition relating to

access to ensure that the access points are provided prior to the commencement of any development above slab level.

186. In the interests of protecting the ecology of the area, conditions are necessary requiring the implementation of the submitted ecological mitigation measures and any necessary updated measures (Ecological Appraisal - Aspect Ecology - March 2019) (condition Nos. 13 and 21).
187. In order to ensure that the surface water arising from the proposed development can be appropriately drained and does not either cause off-site or on-site flood risk or land instability problems, conditions are necessary requiring the submission of details of the proposed drainage scheme and measures to ensure that the construction of the development accords with the submitted Flood Risk and Sustainable Drainage Assessment (dated January 2020 by Herrington) and does not cause harm to controlled waters (conditions Nos. 14, 15 and 36).
188. The submission of details of air quality mitigation, including electric vehicle charging points, is necessary in order to mitigate any effects of the development on air quality (condition No. 25). In order to promote the minimisation of energy usage and in the interest of sustainable development, a condition is necessary to ensure the provision of photovoltaic panels on some of the proposed dwellings (condition No. 31).

Conclusion

189. There are no other considerations of such weight as to warrant a decision other than in accordance with the aforementioned development plan policies and the Framework. Consequently, for the above reasons, based on the evidence before me and all other matters raised, I conclude that both appeals should be allowed subject to conditions.

Stephen Normington

INSPECTOR

Attached

1. Appearances
2. List of Plans and documents submitted during the Inquiry
3. Schedule of conditions for Appeal A
4. Schedule of conditions for Appeal B

1. APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

Megan Thomas

of Counsel instructed by Maidstone
Borough Council

She called

Brendan Wright BA(Hons) MCIHT

Principal Transport and Development
Planner, Highways and
Transportation, Kent County Council

Robert McQuillan BA(Hons) MCD
MRICS MRTPI

Planning Consultant
Robinson Escott Planning LLP

FOR THE APPELLANT

Hashi Mohamed

of Counsel instructed by Bellway
Homes Limited

He called

Paul Lulham MSc MA MCILT

Director of Transport Planning, DHA
Planning

Matthew Woodhead BA(Hons)
BTP, MAUD, MRTPI

Director of Planning and Urban Design
DHA Planning

For the Appellant
(Round Table Sessions)

Liz Vinson BA(Hons) MSc IHBC

Director of HCUK Group

Harvey Parfitt

Phlorum Limited

RULE 6 PARTIES

CPRE (Kent)

Richard Knox-Johnston

Maidstone District CPRE

Rachel Gray

Otham Parish Council

Brian Page

St Nicholas Church Otham PCC

Malcolm Kersey

Local Resident

David Hatcher

Chapman Avenue Area Residents
Association

Councillor George Newton

Maidstone Borough Councillor

Graham Smith

Ramblers Maidstone Branch

MAIDSTONE BOROUGH COUNCIL LABOUR GROUP

Councillor Malcolm McKay

Maidstone Borough Councillor

DOWNSWOOD PARISH COUNCIL

Councillor Martin Weeks

Downswood Parish Councillor

MAIDSTONE CYCLE CAMPAIGN FORUM

Duncan Edwards

Maidstone Cycle Campaign Forum

INTERESTED PERSONS

Councillor Val Springett

Maidstone Borough Councillor

Councillor Paul Harper

Maidstone Borough Councillor

2. LIST OF PLANS AND DOCUMENTS SUBMITTED DURING THE INQUIRY

- ID1 Appellant's opening statement
- ID2 Council's opening statement
- ID3 CPRE opening statement
- ID4 Maidstone Borough Council Labour Group opening statement
- ID5 Downswood Parish Council opening statement
- ID6 Maidstone Cycle Campaign Forum opening statement
- ID7 Appeal Decisions APP/U1105/A/13/2208393, APP/M2325/A/14/2217060 and APP/N4720/W/15/3004034 submitted by the appellant.
- ID8 Appeal Decisions APP/E2205/W/19/3227775, APP/V2255/15/3067053 and APP/V2235/16/3148140 submitted by CPRE
- ID9 Note submitted by the Council setting out the planning policy status of the Kent County Council Design Guide 2005
- ID10 Plans List submitted by the appellant in respect of both appeals
- ID11 Schedule of resident parking per plot in respect of Appeal B submitted by the appellant
- ID12 Note submitted by the appellant regarding the funding status of Highways Improvement Package 1 – South East Maidstone Strategic Development Location (SEMSDL) within the adopted Local Plan
- ID13 Note submitted by Council on Wavendon Properties Ltd v. Secretary of State for Housing, Communities and Local Government [2019] EWHC 1524 (Admin) and Hallam Land Management Ltd v Secretary of State for Communities and Local Government [2018] EWCA Civ 1808
- ID14 Closing submissions by the Council
- ID15 Closing submissions by CPRE
- ID16 Closing submissions by Maidstone Borough Council Labour Group
- ID17 Closing submissions by Downswood Parish Council
- ID18 Closing submissions by Maidstone Cycle Campaign Forum
- ID19 Closing submissions by appellant
- ID20 List of conditions for Appeal A agreed between the appellant and the Council
- ID21 List of conditions for Appeal B agreed between the appellant and the Council

ID22 CIL Compliance Statement

ID23 Completed Deed of Agreement pursuant to Section 106 of the Town & Country Planning Act 1990 for Appeal A dated 14 December 2020 submitted by the appellant

ID24 Completed Deed of Agreement pursuant to Section 106 of the Town & Country Planning Act 1990 for Appeal B dated 14 December 2020 submitted by the appellant

3. SCHEDULE OF CONDITIONS FOR APPEAL A

Standard time limit

- 1) No phase of the development hereby approved shall commence until the following reserved matters have been submitted to and approval has been obtained in writing from the local planning authority for that phase: a) Scale b) Layout c) Appearance d) Landscaping. The development shall be carried out in accordance with the approved details.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Details and drawings subject to the permission

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan - 16206 S102 Rev A
Parameter Plan - 16206 C03 Rev M
Proposed Access Arrangement - 16-T114 06 Rev F
Proposed Amendments to Church Road Northern Section (junction with Deringwood Drive) - Drawing 16-T114 34.1
Proposed Amendments to Church Road Section Immediately Outside Site Area - Drawing 16-T114 34.2
Proposed Off Site Highway Improvements (1 of 4) - 14590-H-01 P1
Proposed Off Site Highway Improvements (2 of 4) - 14590-H-02 P1
Proposed Off Site Highway Improvements (3 of 4) - 14590-H-03 P2
Proposed Off Site Highway Improvements (4 of 4) - 14590-H-03 P2
Wellington Street/Deringwood Drive Junction - Proposed Traffic Signals - 14195-H-01 P5
Spot Lane Junction Potential Adjustments - 14195-H-02 P2

Access

- 5) No development above slab level shall take place until the access points hereby permitted have been provided in accordance with drawing No. 16-T114 06 Rev F (Proposed Access Arrangement) and thereafter the visibility splays shall be kept free of obstruction above a height of 1 metre.

Parameters

- 6) The layout details submitted pursuant to condition 1 shall follow the principles of the development areas and buffers/landscape areas as shown on the approved Parameter Plan (Drawing No. 16206 C03 Rev M).
- 7) The layout details submitted pursuant to condition 1 shall provide at least a 30m woodland planted development free buffer to the Ancient Woodland in the southern part of the site as shown on the approved Parameter Plan (Drawing No. 16206 C03 Rev M).

- 8) The layout details submitted pursuant to condition 1 shall provide at least 2.88 hectares of on-site public open space.
- 9) The layout and access details submitted pursuant to condition 1 shall provide the following:
 - A pedestrian and cycle link from Church Road to the development area via the open space to the north of St Nicholas Church and Church House.
 - A pedestrian and cycle link to and across the area of Council owned land to the south of the site providing a link to Woolley Road.
 - Measures to ensure that cyclists can gain access to the The Beams and the Play area to the north west of the site from the cycle link identified above from Church Road to the development area via the open space to the north of St Nicholas Church and Church House.
- 10) The landscape details submitted pursuant to condition 1 shall provide the following:
 - Native planting within the buffers areas as shown on the Parameter Plan (Drawing No. 16206 C03 Rev M).
 - Strengthening and replacement native hedge planting along the site frontage with Church Road.
 - Woodland planting within the Ancient Woodland buffer
 - Orchard planting to the south of St Nicholas Church.
- 11) The details submitted pursuant to condition 1 shall include full details of the proposed car park for St Nicholas Church (as identified on Drawing No. 16206 C03 Rev M - Parameter Plan) including the detailed layout, barrier, overall design and implementation programme. Once implemented the car park shall only be used in connection with use of the Church for parking purposes only.

Pre-Commencement conditions

- 12) No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the principles within the Flood Risk and Sustainable Drainage Assessment (Herrington, March 2019) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details prior to occupation.

- 13) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information has been submitted to, and approved in writing by the local planning authority, to demonstrate that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.
- 14) No development shall take place until the mitigation measures detailed within chapter 6 of the Ecological Appraisal (Aspect Ecology; March 2019) have been implemented as detailed. If works have not commenced by March 2021 an updated ecological mitigation strategy shall be submitted to the local planning authority for written approval. It must include the following information:
 - a) Updated ecological appraisal
 - b) Results of recommended specific species surveys
 - c) Overview of the ecological mitigation required
 - d) Detailed methodology to implement the mitigation
 - e) Timing of the proposed works
 - f) Details of who will be carrying out the works,
 - g) Maps clearly showing the mitigation areas.

The mitigation shall be implemented in accordance with the approved measures.

- 15) No development shall take place until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to and approved in writing by the local planning authority:
 - a) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - b) A site investigation, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (b). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

- d) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in (c) above. This shall include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean.

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

- 16) No development shall take place until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- a) archaeological field evaluation works in accordance with specification and written timetable for undertaking site investigation work.
 - b) the programme and methodology of site investigation and recording;
 - c) the programme for post investigation assessment and evaluation;
 - d) any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority.

The development shall thereafter be undertaken in accordance with the approved scheme.

- 17) Before any part of the development hereby permitted is first commenced, details of a ramp to provide accessibility for all users including disabled persons, wheelchairs, pushchairs and cycles at the steps to the north west of the site along PROW KM86 shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.
- 18) No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
- Development contacts, roles and responsibilities;
 - Details of liaison arrangements to be carried out with local groups who may be affected by construction including the St Nicholas Church;
 - The hours of construction work and deliveries;
 - Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction;
 - Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction;
 - Details of the routing of construction traffic to the site and any traffic management measures.
 - Details of measures to be taken to minimise the deposition of mud and deleterious material on Church Road.

- Mitigation measures in respect of noise, dust, vibration and disturbance during the construction phases.

The development shall be carried out in accordance with the approved CEMP.

- 19) No development shall take place until details have been submitted to and approved in writing by the local planning authority which provide a slope stability analysis and identifies any remedial measures necessary to ensure that the proposed development does not give rise to any land instability issues both on and off the site. Such details shall provide:
- a) Analysis and details of any necessary on or off-site remediation measures necessary to ensure that the development will pose no unacceptable risk to land instability.
 - b) Measures to define the extent of any sterilisation strip on site and the measures to be employed to ensure that no development occurs within the sterilisation strip during construction operations that could prejudice the stability of land on or off-site.
 - c) The methodology to be employed to ensure that any necessary works within the sterilisation strip do not give rise to land instability issues.

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

Pre-Slab Level

- 20) No development above floor slab level shall take place until the access points hereby permitted have been provided in accordance with drawing No. 16-T114 06 Rev F (Proposed Access Arrangement) and thereafter the visibility splays kept free of obstruction above a height of 1 metre.
- 21) No development above floor slab level shall take place until details of air quality mitigation measures, which shall include the type and location of electric vehicle charging points, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 22) No development above floor slab level shall take place until a "bat sensitive lighting plan" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting plan shall:
- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory.
 - b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the approved plan.

- 23) The development shall not commence above floor slab level until the proposed car park for St Nicholas Church has been constructed and is available for use in accordance with the details approved in writing by the local planning authority pursuant to the requirements of condition No. 11 above.
- 24) The development shall not commence above floor slab level until the following off-site highways works have been provided in full:
 - a) Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 within the 'Iceni Transport Note — July 2019' or any alternative scheme agreed in writing by the local planning authority;
 - b) Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 14915-H01 Rev 5 (scheme to include toucan cycle crossing), or any alternative scheme agreed in writing by the local planning authority;
 - c) Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2 within the 'Iceni Transport Note — July 2019'.

Pre-Occupation

- 25) The development shall not be occupied until the following off-site highways works have been provided in full:
 - a) The proposed work as shown in drawing Nos 14590 H-01 P1, 14590 H-02 P1, 14590 H-03 P2, and 14590 H-04 P2;
 - b) Extension of the 30mph speed limit to the south of the application site to a position agreed in writing by the local planning authority; and,
 - c) Improvements to the A20 Ashford Road/Spot Lane/Roseacre Lane junction as shown on drawing no. 14915-H-02 Rev P2, or any alternative scheme agreed in writing by the local planning authority.
- 26) The development shall not be occupied until a Detailed Travel Plan for the development which follows the principles of the Framework Travel Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Detailed Travel Plan.
- 27) The development shall not be occupied until a site-wide landscape and ecological management plan (LEMP), including timetable for implementation, long term design objectives, management responsibilities and maintenance schedules for all landscaped, open space, and drainage areas, but excluding privately owned domestic gardens, has been submitted to and approved in writing by the local planning authority. Landscape and ecological management shall be carried out in accordance with the approved plan and its timetable.

- 28) The development shall not be occupied until details of upgrade works to PROW KM86 have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved works have been carried out in full.
- 29) Before any part of the development hereby permitted is first commenced, a plan and construction design specification shall be submitted to and approved by the local planning authority, which shows all pedestrian/cycle routes and design details, including links to the national cycle network and road network at the north east and south cycle/pedestrian access points. Such design specification shall ensure that the cycle routes provided are no less than 3m wide. The approved pedestrian/cycle routes shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.
- 30) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to and approved in writing by the local planning authority. Such Report shall demonstrate the suitable modelled operation of the drainage system such that flood risk is appropriately managed. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed. No development shall be occupied until the surface water drainage scheme has been implemented in accordance with the details provided in the Report.
- 31) The reserved matters details submitted pursuant to condition 1 shall provide for 10% of the affordable residential units to be provided with photovoltaic (PV) panels. Such PV panels shall be provided prior to the occupation of the residential unit on which they are proposed to be installed.

4. SCHEDULE OF CONDITIONS FOR APPEAL B

Standard time limit

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

Details and drawings subject to the permission

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location plan - 16206 S101 Rev A
Existing Site Survey - 16206 S102 Rev B
Site Layout Masterplan - 16206 P101 Rev U
Coloured Site Layout Masterplan - 16206 C101 Rev S
Site Layout (North) - 16206 P102 Rev D
Site Layout (South) - 16206 P103 Rev B
Site Layout (Colour coded by type) - 16206 P104
Site Layout (Hard surfaces) - 16206 P105 Rev A
Proposed Street Scenes A-A & B-B - 16206 P110 Rev E
Proposed Street Scenes C-C & D-D - 16206 P111 Rev E
Proposed Street Scenes E-E to G-G - 16206 P112 Rev D
Proposed Street Scenes H-H & J-J - 16206 P113 Rev E
Proposed Street Scenes K-K to M-M - 16206 P114 Rev D
Proposed Street Scenes N-N & P-P - 16206 P115 Rev D
Proposed Street Scenes Q-Q & R-R - 16206 P116 Rev D
Coloured Street Scenes A-A & B-B - 16206 C110 Rev D
Coloured Street Scenes C-C & D-D - 16206 C111 Rev D
Coloured Street Scenes E-E to G-G - 16206 C112 Rev C
Coloured Street Scenes H-H & J-J - 16206 C113 Rev B
Coloured Street Scenes K-K to M-M - 16206 C114 Rev B
Coloured Street Scenes N-N & P-P - 16206 C115 Rev B
Coloured Street Scenes Q-Q & R-R - 16206 C116 Rev B
Affordable House types, 2 Bedroom - 16206 P120
Affordable House types, 3 Bedroom (1 of 2) - 16206 P121
Affordable House types, 3 Bedroom (2 of 2) - 16206 P122
Affordable House types, 4 Bedroom - 16206 P123 Rev A
Private 2 Bed Houses - Type 2A (1 of 2) - 16206 P130 Rev A
Private 2 Bed Houses - Type 2A (2 of 2) - 16206 P131 Rev A
Private 2 Bed Houses - Type 2A & 2B terrace - 16206 P132 Rev A
Private 2 Bed Houses - Type 2B (1 of 3) - 16206 P133 Rev A
Private 2 Bed Houses - Type 2B (2 of 3) - 16206 P134 Rev A
Private 2 Bed Houses - Type 2B (3 of 3) - 16206 P135 Rev A
Private 3 Bed Houses - Type 3A (1 of 2) - 16206 P136
Private 3 Bed Houses - Type 3A (2 of 2) - 16206 P137
Private 3 Bed Houses - Type 3B (1 of 2) - 16206 P138 Rev A
Private 3 Bed Houses - Type 3B (2 of 2) - 16206 P139 Rev B
Private 3 Bed Houses - Type 3C (1 of 2) - 16206 P140 Rev C
Private 3 Bed Houses - Type 3D (1 of 3) - 16206 P141
Private 3 Bed Houses - Type 3D (2 of 3) - 16206 P142

Private 3 Bed Houses - Type 3D (3 of 3) – 16206 P143
Private 3 Bed Houses - Type 3D/3B (1 of 7) – 16206 P144
Private 3 Bed Houses - Type 3D/3B (2 of 7) – 16206 P145 Rev A
Private 3 Bed Houses - Type 3D/3B (3 of 7) – 16206 P146
Private 3 Bed Houses - Type 3D/3B (4 of 7) – 16206 P147
Private 3 Bed Houses - Type 3D/3B (5 of 7) – 16206 P148 Rev A
Private 3 Bed Houses - Type 3D/3B (6 of 7) – 16206 P149 Rev A
Private 3 Bed Houses - Type 3D/3B (7 of 7) – 16206 P150 Rev A
Private 3 Bed Houses - Type 3E – 16206 P151 Rev B
Private 3 Bed Houses - Type 3C (2 of 2) – 16206 P152 Rev A
Private 3 Bed Houses - Type 3C1 – 16206 P153
Private 4 Bed Houses - Type 4A (1 of 2) – 16206 P155
Private 4 Bed Houses - Type 4A (2 of 2) – 16206 P156
Private 4 Bed Houses - Type 4B (1 of 4) – 16206 P157 Rev A
Private 4 Bed Houses - Type 4B (2 of 4) – 16206 P158 Rev A
Private 4 Bed Houses - Type 4B (3 of 4) – 16206 P159 Rev A
Private 4 Bed Houses - Type 4B (4 of 4) – 16206 P160 Rev B
Private 4 Bed Houses - Type 4C – 16206 P161
Private 4 Bed Houses - Type 4D (1 of 4) – 16206 P162
Private 4 Bed Houses - Type 4D (2 of 4) – 16206 P163 Rev B
Private 4 Bed Houses - Type 4D (3 of 4) – 16206 P164 Rev A
Private 4 Bed Houses - Type 4D (4 of 4) – 16206 P165 Rev A
Affordable apartments - Block 1 Plans (1 of 2) – 16206 P170 Rev B
Affordable apartments - Block 1 Plans (2 of 2) – 16206 P171 Rev B
Affordable apartments - Block 1 Elevations – 16206 P172 Rev B
Affordable apartments - Block 2 Plans (1 of 2) – 16206 P173 Rev B
Affordable apartments - Block 2 Plans (2 of 2) – 16206 P174 Rev B
Affordable apartments - Block 2 Elevations – 16206 P175 Rev C
Affordable apartments - Block 3 Plans – 16206 P176 Rev C
Affordable apartments - Block 3 Elevations – 16206 P178 Rev B
Affordable apartments - Block 4 Plans – 16206 P179 Rev B
Affordable apartments - Block 4 Elevations – 16206 P180 Rev B
Affordable apartments - Block 5 Plans – 16206 P181 Rev D
Affordable apartments - Block 5 Elevations – 16206 P182 Rev C
Affordable apartments - Block 6 Plans – 16206 P183 Rev C
Affordable apartments - Block 6 Elevations – 16206 P184 Rev D
Affordable apartments - Block 7 Plans – 16206 P185 Rev D
Affordable apartments - Block 7 Elevations – 16206 P186 Rev C
Affordable apartments - Block 8 Plans – 16206 P187 Rev C
Affordable apartments - Block 8 Elevations – 16206 P188 Rev C
Affordable apartments - Block 9 Plans – 16206 P189 Rev B
Affordable apartments - Block 9 Elevations – 16206 P190 Rev B
Private apartments - Block 10 Plans (1 of 2) – 16206 P191 Rev B
Private apartments - Block 10 Plans (2 of 2) – 16206 P192 Rev B
Private apartments - Block 10 Elevations – 16206 P193 Rev B
Private apartments - Block 11 Plans – 16206 P194 Rev B
Private apartments - Block 11 Elevations – 16206 P195 Rev C
2 Bedroom F.O.G - Plans & Elevations (1 of 2) – 16206 P196
2 Bedroom F.O.G - Plans & Elevations (2 of 2) – 16206 P197 Rev A
2 Bedroom Gate House - Plans & Elevations – 16206 P198 Rev A
Ancillary Buildings (Garages & substation) – 16206 P199 Rev B

OSP drawings listed within the drawing issue sheet dated 5/09/2020 (CD132) (all drawings in CD1, CD50-CD130, and CD133-137)

Materials Distribution Diagram - 16206 - SK55D

Landscape Strategy Plan - 6703.LSP.ASP5 Rev L

Proposed Access Arrangement - Drawing 16-T114 06 Rev F

Proposed Amendments to Church Road Northern Section (Junction with Deringwood Drive) - 16-T114 34.1

Proposed Amendments to Church Road Section Immediately Outside Site Area - Drawing 16-T114 34.2

Proposed Off Site Highway Improvements (1 of 4) - 14590-H-01 P1

Proposed Off Site Highway Improvements (2 of 4) - 14590-H-02 P1

Proposed Off Site Highway Improvements (3 of 4) - 14590-H-03 P2

Proposed Off Site Highway Improvements (4 of 4) - 14590-H-04 P2

Willington Street/Deringwood Drive Junction - Proposed Traffic Signals - 14195-H-01 P5

Spot Lane Junction Potential Adjustments - 14195-H-02 P2-

Compliance

- 3) The development shall be carried out in accordance with the boundary treatments as shown on drawing nos. 16206 P101 Rev U and 16206/SK55D and shall be retained and maintained thereafter.
- 4) The development shall be carried out in accordance with the hard surfaces as shown on drawing no. 16206 P105 Rev A and maintained thereafter.
- 5) All planting, seeding and turfing specified in the approved landscape details shall be carried out either before or in the first planting season (October to February) following the occupation of the building(s) or the completion of the development to which phase they relate, whichever is the sooner; and any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.
- 6) Excluding the area in the southeast corner of the site adjacent to ancient woodland, the areas of open space as shown on pages 58 and 59 of the Design & Access Statement shall be maintained as publicly accessible open space in perpetuity.
- 7) The approved details of the parking/turning areas for each building shall be completed before the commencement of the use of the land or buildings to which they relate and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on parking/turning areas for each building or in such a position as to preclude vehicular access to them.

Pre-Commencement

- 8) No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
- Development contacts, roles and responsibilities;
 - Details of liaison arrangements to be carried out with local groups who may be affected by construction including the St Nicholas Church;
 - The hours of construction work and deliveries;
 - Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction;
 - Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction;
 - Details of the routing of construction traffic to the site and any traffic management measures.
 - Details of measures to be taken to minimise the deposition of mud and deleterious material on Church Road.
 - Mitigation measures in respect of noise, dust, vibration and disturbance during the construction phases.

The development shall be carried out in accordance with the approved CEMP.

- 9) Before any part of the development hereby permitted is first commenced, details of a ramp to provide accessibility for all users including disabled persons, wheelchairs, pushchairs and cycles at the steps to the north west of the site along PROW KM86 shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.
- 10) Before any part of the development hereby permitted is first commenced the details of those works proposed in the area identified as Church Parking on drawing 16206 - C101S (Coloured Site Layout) including the detailed layout, barrier, overall design and implementation programme has been submitted to and approved in writing by the local planning authority. The development shall not commence above slab level until the proposed car park for St Nicholas Church has been constructed and is available for use in accordance with the details approved. Once implemented the car park shall only be used in connection with use of the Church for parking purposes.
- 11) Before any part of the development hereby permitted is first commenced, a plan and construction design specification shall be submitted to and approved by the local planning authority, which shows:
- a) all pedestrian/cycle routes and design details, including links to the national cycle network and road network at the north east and south cycle/pedestrian access points;
 - b) measures to ensure that cyclists can gain cycle access to 'The Beams' and the Play area to the north west of the site from the cycle routes.

Such design specification shall ensure that the cycle routes provided are no less than 3m wide. The approved pedestrian/cycle routes shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.

- 12) No development shall take place until a Phasing Plan for the development including open space areas has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved phasing plan unless otherwise agreed in writing by the local planning authority.
- 13) No development shall take place until a review and, if required, an update of the mitigation measures detailed within chapter 6 of the Ecological Appraisal (Aspect Ecology; March 2019), which shall be informed by updated ecological survey(s), have been submitted to and approved in writing by the local planning authority. The review and update shall include the following information:
 - a) Updated ecological appraisal
 - b) Results of recommended specific species surveys (where required)
 - c) Letter detailing why the mitigation detailed within the Ecological Appraisal is still valid, or;
 - d) Updated mitigation strategy — including the following:
 - Over view of the ecological mitigation required
 - Detailed methodology to implement the mitigation
 - Timing of the proposed works
 - Details of who will be carrying out the works
 - Maps clearly showing the mitigation areas

The development shall proceed, and mitigation measures implemented, in accordance with the approved Ecological Appraisal and review or update.

- 14) No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk and Sustainable Drainage Assessment (dated January 2020 by Herrington) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or offsite. It shall also explore the use of more swales within the development. The drainage scheme shall also demonstrate (with reference to published guidance):
 - a) That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
 - b) Appropriate operational, maintenance and access requirements for each drainage feature or SUDS component are adequately

considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details and prior to occupation.

- 15) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to and approved in writing by, the local planning authority that demonstrates that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.
- 16) No development shall take place until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved in writing by the local planning authority:
 - a) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors of potentially unacceptable risks arising from contamination at the site.
 - b) A site investigation, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (b). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
 - d) A Closure Report shall be submitted upon completion of the works. The closure report shall include full verification details as set out in 'c'. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean. Any changes to these components require the express consent of the local planning authority.

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

- 17) No development in any phase shall take place until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - a) archaeological field evaluation works in accordance with a specification and written timetable for each phase of development; and

- b) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the local planning authority

The development shall be carried out in accordance with the approved details.

- 18) No development in any phase shall take place until an Arboricultural Method Statement (AMS) which accords with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority for that phase. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots, and shall take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan. The development shall be undertaken in accordance with the approved AMS.
- 19) No development shall take place until details have been submitted to and approved in writing by the local planning authority which provides a slope stability analysis and identifies any remedial measures necessary to ensure that the proposed development does not give rise to any land instability issues both on and off the site. Such details shall provide:
 - a) Analysis and details of any necessary on or off-site remediation measures necessary to ensure that the development will pose no unacceptable risk to land instability.
 - b) Measures to define the extent of any sterilisation strip on site and the measures to be employed to ensure that no development occurs within the sterilisation strip during construction operations that could prejudice the stability of land on or off-site.
 - c) The methodology to be employed to ensure that any necessary works within the sterilisation strip do not give rise to land instability issues.

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

Pre-Floor Slab Level

- 20) No development above floor slab level shall take place until specific details of the landscaping proposals, which shall follow the principles shown on the Landscape Strategy Plan (drawing no. 6703 LSP ASP5 Rev L), have been submitted to and approved in writing by the local planning authority. The scheme shall be designed in accordance with the principles of the Council's landscape character guidance and include a planting specification, a programme of implementation and a 5 year management plan. The landscape scheme shall specifically address the need to provide the following:

- a) A landscape phasing plan for the site which shall include the planting along the west boundary within the first phase.
- b) Strengthening and replacement native hedge planting along the site frontage with Church Road.
- c) Structural native tree and shrub planting along the site frontage with Church Road.
- d) Retention of trees along the western boundary and new native tree and shrub planting.
- e) Retention of trees along the southern boundary and new native tree and shrub planting.
- f) Retention of trees along the boundaries with the property 'Squerrys Oast'
- g) Native woodland and shrub planting to create at least a 30m buffer from the Ancient Woodland in the south east corner
- h) Orchard planting to the south of St Nicholas Church.
- i) Native hedge planting within the development.
- j) LEAP and LAP details.
- k) All proposed boundary treatments for the site beyond those approved under condition No. 3.

Landscaping shall be implemented in accordance with the approved details and programme.

- 21) No development above floor slab level shall take place in any phase until full details of the ecological enhancements outlined in the Ecological Appraisal and their delivery have been submitted to and approved in writing by the local planning authority for that phase. The development shall be carried out in accordance with the approved details and measures which shall include the following:
 - a) Wildflower grassland
 - b) Measures to allow hedgehogs to move through the development
 - c) Bat and bird boxes
 - d) Habitat piles.
- 22) No development above floor slab level shall take place in any phase until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) for that phase have been submitted to and approved in writing by the local planning authority. The materials shall follow the 'Materials Distribution Diagram' (16206/SK55D) and include the following unless otherwise agreed in writing by the local planning authority:
 - a) Multi stock facing bricks
 - b) Clay hanging tiles
 - c) Clay roof tiles
 - d) Slate roof tiles
 - e) Ragstone on buildings
 - f) Ragstone walling.

The development shall be constructed using the approved materials unless otherwise agreed in writing by the local planning authority.

- 23) No development above floor slab level shall take place in any phase until written details and large-scale plans showing the following architectural detailing have been submitted to and approved in writing by the local planning authority for that phase:

- a) Soldier courses
- b) Bricked arches above windows
- c) Bullnose hanging tile detailing.
- d) Roof overhangs.

The development shall be constructed in accordance with the approved materials.

- 24) No development above floor slab level shall take place until a sample panel of the ragstone for the walling and buildings, including mortar mix details, has been submitted to and approved in writing by the local planning authority. Such details as approved shall be fully implemented on site.

- 25) No development above floor slab level shall take place until the specific air quality mitigation measures, which shall include the type and location of electric vehicle charging points (which equates to 1 EV charge point per dwelling with dedicated parking) and details of charging for properties without on-plot parking, 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.

- 26) No development above floor slab level shall take place until a "bat sensitive lighting scheme" for the site boundaries has been submitted to and approved in writing by the local planning authority. The lighting plan shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory;
- b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and these shall be maintained thereafter.

- 27) No development above floor slab level for any phase shall take place until details of lighting for streets and houses have been submitted to and approved in writing by the local planning authority for that phase. The lighting provided shall be carried out in accordance with the approved scheme.

- 28) No development above floor slab level shall take place until a written statement of public art to be provided on site in the form of a Public Art Delivery Plan in line with the thresholds set within the Public Art Guidance has been submitted to and approved in writing by the local planning

- authority. This should include the selection and commissioning process, the artist's brief, the budget, possible form, materials and locations of public art, the timetable for provision, maintenance agreement and community engagement. The development shall be carried out in accordance with the approved details.
- 29) No development above floor slab level shall take place until the access points hereby permitted have been provided in accordance with drawing No. 16-T114 06 Rev F (Proposed Access Arrangement) and thereafter the visibility splays shall be kept free of obstruction above a height of 1 metre.
- 30) The development shall not commence above floor slab level until the following off-site highways works have been provided in full:
- a) Improvements to the Church Road/Deringwood Drive junction as shown on drawing no. 34.1 within the 'Iceni Transport Note — July 2019' or any alternative scheme agreed in writing with the local planning authority;
 - b) Improvements to the Deringwood Drive/Willington Street junction as shown on drawing no. 14915-H01 Rev 5, or any alternative scheme agreed in writing with the local planning authority;
 - c) Road widening and new pavement provision on Church Road as shown on drawing nos. 34.1 and 34.2 within the 'Iceni Transport Note — July 2019'.
- 31) The development shall not commence above floor slab level until full details of the proposed PV panels on 10% of the affordable residential units has been submitted to and approved in writing by the Local Planning Authority. The PV panels shall thereafter be provided in accordance with the approved details.

Pre-Occupation

- 32) The development shall not be occupied until the following off-site highways works have been provided in full:
- a) The proposed work as shown in drawing Nos 14590 H-01 P1, 14590 H-02 P1, 14590 H-03 P2, and 14590 H-04 P2;
 - b) Extension of the 30mph speed limit to the south of the application site to a position agreed in writing with the local planning authority; and
 - c) Improvements to the A20 Ashford Road/Spot Lane/Roseacre Lane junction as shown on drawing no. 14915-H-02 Rev P2, or any alternative scheme agreed in writing with the local planning authority.
- 33) The development shall not be occupied until a Detailed Travel Plan for the development which follows the principles of the Framework Travel Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Detailed Travel Plan.

- 34) The development shall not be occupied until a site-wide landscape and ecological management plan (LEMP), including timetable for implementation, long term design objectives, management responsibilities and maintenance schedules for all landscaped, open space, and drainage areas, but excluding privately owned domestic gardens, has been submitted to and approved in writing by the local planning authority. Landscape and ecological management shall be carried out in accordance with the approved plan and its timetable unless the local planning authority gives written consent to any variation.
- 35) The development shall not be occupied until details of the pedestrian and cycle link to and across the area of Council owned land to the south of the site providing a link to Woolley Road and the timing of its delivery 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.
- 36) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the local planning authority which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed. No development shall be occupied until the approved scheme has been implemented.
- 37) If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not recommence until an appropriate remediation scheme has been submitted to and approved in writing by the local planning authority and the remediation has been completed. Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the local planning authority.
The closure report shall include details of:
- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology;
 - b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site;

- c) If no contamination has been discovered during the construction works then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.
- 38) The development shall not be occupied until details of upgrade works to PROW KM86 have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved works have been carried out in full.

Agenda Item 14



21/503538/SUB Land west of Church Road, Otham, Kent, ME15 8SB

Scale: 1:5000

Printed on: 27/1/2022 at 15:54 PM by JoannaW

REFERENCE NO - 21/503538/SUB			
APPLICATION PROPOSAL Submission of Details to Discharge Conditions 9 (Ramp to Public Right of Way KM86), 11 (Pedestrian/Cycle Route Details), 35 (Pedestrian/Cycle Link to South), and 38 (Upgrade Works to PROW KM86), subject to the Appeal Decision of Application 19/506182/FULL			
ADDRESS Land West of Church Road, Otham, ME15 8SB			
RECOMMENDATION – APPROVE WITH CONDITIONS			
SUMMARY OF REASONS FOR RECOMMENDATION <ul style="list-style-type: none"> The submitted details suitably comply with the requirements of all the planning conditions. 			
REASON FOR REFERRAL TO COMMITTEE <ul style="list-style-type: none"> The Head of Planning has requested the conditions relating to pedestrian and cycle routes (9, 11 and 35) are considered by the Planning Committee. Councillor Newton has requested the application is considered by the Planning Committee. 			
WARD Downswood & Otham	PARISH COUNCIL Otham	APPLICANT Bellway Homes Ltd AGENT None	
DECISION DUE DATE: 25/08/21	PUBLICITY EXPIRY DATE: 12/01/22	SITE VISIT DATE: Various in 2021/22	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
19/506182	Residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping.	REFUSED & ALLOWED AT APPEAL	07/01/21
19/501600	Outline application for up to 440 residential dwellings, with associated access, infrastructure, drainage, landscaping and open space (Access being sought with all other matters reserved for future consideration)	REFUSED & ALLOWED AT APPEAL	07/01/21

1.0 DESCRIPTION OF SITE

1.01 The application relates to the 'Land West of Church Road' housing allocation site (H1(8)) where full and outline permission was allowed at appeal in January 2021 subject to conditions. The site is to the southeast of Maidstone and is between substantial residential areas to the north, west and southwest. To the east are open agricultural fields and immediately to the south/southeast are a number of detached residential properties at The

Rectory (Grade II listed) and Squerryes Oast. St Nicholas's Church (Grade I listed) and Church House (Grade II listed) are to the north of the site.

- 1.02 There are areas of public open space owned by Maidstone Borough Council to the south and northwest of the application site which are relevant to some of the conditions.

2.0 PROPOSAL

- 2.01 This submission is to discharge four conditions that were attached by the Planning Inspector to the approval of the full planning permission (19/506182). The conditions are set out in full in the assessment later in this report and all relate to pedestrian and cycle links within, and outside the site.

- 2.02 Condition 9 relates to the requirement for a new ramped access on MBC owned public open space to the northwest of the site (Foxden play area) to connect with 'The Beams'; condition 11 relates to the construction details of all pedestrian/cycle routes in and off site; condition 35 relates to details of the pedestrian/cycle link on MBC owned land to the south; and condition 38 relates to details of any upgrade works to PROW KM86, which runs across the north edge of the site.

- 2.03 The proposals have been amended since submission mainly in respect of the off-site ramp to the northwest which has been re-designed in response to comments received on the application.

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP3, SP18, SP23, H1, H1(8), DM1, DM3, DM4, DM19, DM21
- Otham Neighbourhood Plan (2021): ST1, ST2, ST3
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Maidstone Building for Life 12

4.0 LOCAL REPRESENTATIONS

- 4.01 **Otham Parish Council:** Raise the following summarised points on the original submission/first amended plans:

- Ramp design (condition 9) is unfit for purpose and does not allow safe passage for disabled residents and cyclists; hairpins are of insufficient width.
- For condition 11, cycle paths are not separate from the PROW as required.
- The (amended) design still does not reflect what was agreed with the Inspector at Appeal.
- The (amended) ramp design is extremely large, will dominate the area, and encroaches on the existing open space and will mean the unacceptable loss of mature trees.

- 4.02 **Downswood Parish Council:** Raise the following summarised points on the original submission:

- The proposals do not provide a cycle link all the way across the north boundary as required.
- The loss of open space for the ramp will have a negative impact on residents/
- The ramp is unsightly and will adversely impact the open space with loss of trees and vegetation. Will the loss of open space be compensated?
- The ramp is not wide enough and if made wider would result in an even bigger blot on the landscape.
- The ramp gradient is too steep, the 'hairpin' turns are too sharp and there is a lack of separation of pedestrians and cyclists.
- Agree with comments of the MBC's Parks & Open Spaces manager.

4.03 Local Residents: 12 representations received raising the following (summarised points) on the original submission:

- 3m wide cycle paths separate from pedestrian paths are not included.
- Access to Woolley Road is missing.
- The ramp lacks detail, does not properly connect to The Beams, and may not comply with the Kent Design Guide.
- Ramp will provide needed access for wheelchair users.
- The angle of turns on the ramp are very severe for wheelchairs/prams and cyclists.
- There is no separation of cyclists and pedestrians between the site, The Beams or play area.
- Lack of separate cycle and pedestrian paths along the north boundary.
- Ramp will be blot on the landscape with loss of approximately 500m² of public open space.
- Gradient of ramp is too steep.
- Lack of gain from ramp to justify loss of open space.
- Comment on lighting (which is not part of this submission).

4.04 Chapman Avenue Area Residents Association: Raise the following summarised points on the original submission:

- Does not comply with the requirements of the Inspector.
- Separate pedestrian and cycle routes (3m) are not proposed.
- Ramp turns are too severe.
- Does not comply with Kent Design Guide.
- Route to Woolley Road is not shown.

4.05 Maidstone Cycle Campaign Forum: Raise no objections and make the following summarised points:

- The developer has worked collaboratively and positively to deliver a set of plans which achieve the objectives and minimise the impact on the existing space. These provisions will be valuable for existing and future residents in the area.

There are two items which need finalisation in due course:

- To clarify the timing of the delivery of the active travel connection to Wooley Road.
- To consider the incorporation of a raised table at the connection points between the active travel routes and the road network at the north and south of the site. This will help improve safety between motor vehicles, walkers and cyclists at these two junctions.

5.0 CONSULTATIONS

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

5.01 **KCC Highways: No objections.** *"KCC highways are satisfied following the revised cycle ramp drawing. Other drawings within the site are acceptable. I am therefore content that these elements can be discharged from a highways perspective."*

5.02 **KCC PROW: No objections** subject to details of surfacing of the PROW KM86 where it crosses the proposed paths.

5.03 **KCC Ecology: No objections** subject to a precautionary mitigation approach and a Management Plan for the ramp/open space area.

5.04 **MBC Parks & Open Spaces Manager:**

Original submission

- Access to play park will not be improved.
- Significant or total loss of tree and vegetation cover and lack of arboricultural assessment.
- No mitigation or compensation for loss of habitat.
- Approximately 500-575m² of public open space would be lost and should be compensated for with land or a monetary compensation to improve quality or quantity locally.
- Design doesn't explore reducing levels on the application site which would lessen the impact.
- Does not consider residents will want to use the ramp to arrive at The Beams and face a significant gradient upwards to Willington Street.

First amended plans

- As cyclists would have to dismount it will not mark an improvement from walking down the existing steps.
- Ramp will be visually intrusive.
- Retaining walls will be blighted by graffiti.
- Handrails should be provided.
- Ramp will become a high-speed skateboard/scooter track.
- Surface of ramp needs to drain freely and quickly with grip.
- Maintenance of new planting will cost money.
- Do not consider the loss of trees is justified.
- Drainage has not been considered.

Second amended plans

- Fewer trees will now be removed and more habitat retained.
- Significant native tree cover is now proposed.
- Significant native shrub and wildflower areas now created.
- Access to existing play is improved with fewer steps.
- Barriers/rails are needed to prevent shortcuts and stunt riding.
- A resting place/bench should be provided.
- Other concerns remain (cyclists dismounting; handrails; high-speed track; ramp surface; drainage).

5.05 **MBC Landscape Officer:** No objections

6.0 **APPRAISAL**

6.01 Each condition is set out in full and then followed by the assessment.

Condition 9

6.02 ***Before any part of the development hereby permitted is first commenced, details of a ramp to provide accessibility for all users including disabled persons, wheelchairs, pushchairs and cycles at the steps to the northwest of the site along PROW KM86 shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.***

6.03 The applicant has amended the ramp design in response to MBC officers and third part representations, including from the Maidstone Cycle Campaign Forum (MCCF). Officers have also directly engaged with MCCF.

6.04 A curved ramp is proposed from the top of the existing steps linking up with the public footpath to 'The Beams'. This would also involve realigning the existing path that heads northwards. As the land levels drop quite steeply, earthworks are required with the main change being an approximate 2m high raised bund for the lower and middle sections of the ramp. The existing steps which run northwards would be relocated so this desire route is maintained. The ramp would have 'high friction' surfacing, steel handrails either side, a bench in the middle, and a land drain on the south side to deal with any run-off.

6.05 The ramp would be 3m wide (as required by the Inspector under condition 11) with a gradient of 1:12 (apart from a short section), and level 'landings' every 9m. Local Transport Note 1/20 Cycle Infrastructure Design, Table 6-3 states a minimum of 3m width for shared use routes (assuming less than 300 cyclists and less than 300 pedestrians per hour) which is expected to be the case here.

6.06 The applicant has referred to the 'Countryside for All Good Practice Guide' document which provides guidance on disabled peoples access in the

countryside. This advises on a maximum gradient of 1:12, which is proposed, and landings every 9m, which is also proposed. On this basis, it is considered the width and design is suitable to provide access for all users including disabled persons, wheelchairs, pushchairs and cycles as per the condition. Cyclists would have to dismount at the top of the ramp to avoid conflicts with other users and as there is a public footpath where the ramp meets 'The Beams', as cycling over a public footpath is not allowed. KCC PROW raise no objection subject to signage being provided which is shown on the plans.

6.07 The proposals will result in the loss of 4 category B trees, 1 category C tree, and a category C group of trees. Category B trees should be retained where possible but there is no way of avoiding their loss. The ramp has been amended with the current scheme resulting in the least tree loss, the most direct route for the ramp, and larger areas for landscaping and replacement trees. There will be some development in root protection areas but the Landscape Officer raises no objections to the impacts subject to compliance with the Arboricultural Method Statement.

6.08 To compensate for the tree loss, the applicant is proposing a landscaping scheme which includes 10 new native trees (field maple and hornbeam), native shrubs, and a wildflower grass mix. This is considered to provide sufficient mitigation of the development.

6.09 An ecological appraisal has been carried out which considers the site to support a low ecological interest being dominated by a small number of scattered trees, small area of tall ruderal vegetation, and amenity grassland with some minor potential for use by roosting bats and reptiles. Based on this, measures are recommended to safeguard roosting bats and nesting birds, and recommendations with respect to hedgehogs and reptiles in the event they are present. This would include a precautionary approach to the felling of trees and carrying out the development. Enhancements are also proposed through the native landscaping, and bat and bird boxes on trees.

6.10 KCC Ecology have been consulted and raise no objections subject to the proposed precautionary mitigation approach, which will be secured by condition, and a Management Plan to ensure the ecological interest of the site is retained.

6.11 Whilst some representations consider there should be a 3m width for cyclists and then additional width for pedestrians, this would result in a very wide ramp in an area that is constrained, and the impact upon the local area would be even greater. In balancing all matters, it is considered the proposed ramp is suitable for its purpose whilst having the least impact possible, and complies with the requirements of the condition. KCC Highways and KCC PROW also raise no objections to the proposals.

Condition 11

6.12 ***Before any part of the development hereby permitted is first commenced, a plan and construction design specification shall be submitted to and approved by the local planning authority, which shows:***

- a) ***all pedestrian/cycle routes and design details, including links to the national cycle network and road network at the north east and south cycle/pedestrian access points;***
- b) ***measures to ensure that cyclists can gain cycle access to 'The Beams' and the play area to the north west of the site from the cycle routes.***

Such design specification shall ensure that the cycle routes provided are no less than 3m wide. The approved pedestrian/cycle routes shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.

6.13 For part (a), all pedestrian/cycle routes have been submitted which show the following:

- Separate 3m wide 'hoggin' cycle path across the north edge of the site which links with the national cycle network to the northeast and the proposed 'ramp' to the northwest. This also runs south into the site then linking with the internal roads to provide a route to Council owned land , which links to Woolley Road further south.
- Separate 1.5m wide 'hoggin' pedestrian path across the north edge of the site which links with the path to Deringwood Drive to the northeast and the proposed 'ramp' and public rights of way to the northwest. The approved roadside pavements would provide a route to the south. As approved, a pavement will be provided on the north side of the northern access to link with the new pavement that must be provided outside the Church, on Church Road.
- 1.2m wide 'hoggin' pedestrian path running north/south along the west boundary of the site.

6.14 These details are acceptable in terms of the surface materials, the path widths, and providing the necessary links.

6.15 For part (b), this is the ramp referred to above under condition 9 and so cyclists will have access to 'The Beams' and play area. All these links must be provided prior to any occupation.

Condition 35

6.16 ***The development shall not be occupied until details of the pedestrian and cycle link to and across the area of Council owned land to the south of the site providing a link to Woolley Road and the timing of its delivery 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.***

6.17 Separate 3m wide and 1.5m wide cycle and pedestrian paths would be provided on Council owned land and link with the existing roadway and the existing bumps/ramps would be removed. This would be accessed by the

internal roads. In terms of delivery, the applicant has confirmed the internal roads to the southern end of the site will be established early in the build this year, and these together with the southern pedestrian/cycle link will be provided before the first occupation of any dwelling in line with condition 11.

Condition 38

6.18 *The development shall not be occupied until details of upgrade works to PROW KM86 have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved works have been carried out in full.*

6.19 PROW KM86 runs along the north edge of the site and most of its definitive line is not actually used 'on the ground'. No upgrade works are required as the applicant is proposing, and always has, separate cycle and pedestrian routes. It would not be appropriate to surface the PROW as there would then be three surfaced paths through the north part of the site. However, KCC PROW have requested that where the new paths cross the PROW, measures are required to prevent any tripping which would be a small amount of hard surfacing/hardcore, which can be secured by condition.

Representations

6.20 Many representations object to the ramp and the impact it will have including the loss of trees and public open space. The ramp is a requirement of the Planning Inspector's conditions and because of the level changes, a fairly large impact and loss of some land within the public open space is inevitable. As outlined above, it is considered the minimum impact is being made. MCCF refer to providing raised tables at the connection points between the ped/cycle routes and the road network at the north and south of the site. This is not a requirement of any conditions but a condition will be attached to cover this matter in the interest of safety.

6.21 The MBC Parks & Open Spaces Manager has been consulted on the proposed ramp it being on land owned by Maidstone Council and is not supportive, mainly due to the impact it will cause and has provided comments. The Council (as landowner) will need to make a separate decision whether to accept the development on its land when formally approached by the applicant, which would be expected if the condition details are approved. The applicant has made amendments taking into account the comments made, and those issues remaining are not requirements of the planning condition. These include providing a path to the play park, compensation for the loss of open space, and the cost of ongoing maintenance. These are matters that would potentially need to be negotiated between Maidstone Borough Council and the applicant in deciding whether to allow the development on their land. The paths on Council land to the south were agreed at the application stage with officers in the Property Section and are minimal and do not raise such issues.

Other Matters

6.22 It is noted the plans submitted to discharge the conditions include discrepancies with the approved site layout plans and this has been pointed out to the applicant. These plans have been accepted on the basis of approving the pedestrian and cycle paths/links only and the approved plans referred to in the Appeal Decision take precedent. An informative will make this clear.

7.0 CONCLUSION

7.01 For the above reasons the details are considered sufficient to discharge the conditions and approval of the details is recommended subject to the following conditions.

8.0 RECOMMENDATION

APPROVE THE DETAILS FOR CONDITIONS 9, 11, 35, and 38 subject to the following conditions with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Conditions:

1. The off-site ramp development approved in relation to condition 9 shall be carried out in accordance with the precautionary mitigation approach and ecological enhancements as set out in the Ecological Appraisal (December 2021).

Reason: In the interests of biodiversity and to protect wildlife.

2. The off-site ramp development approved in relation to condition 9 shall be carried out in accordance with Arboricultural Method Statement and Tree Protection Plan RevC (January 2022).

Reason: To protect retained trees.

3. The off-site ramp development approved in relation to condition 9 shall not commence until an Ecological Management Plan for the retained and proposed landscaped areas has been submitted to and approved in writing by the local planning authority. This development shall be carried out in accordance with approved details.

Reason: In the interests of biodiversity and to protect wildlife.

4. The landscaping scheme for the off-site ramp development approved in relation to condition 9 and as shown on drawing no. 6703/ASP3 RevB shall be carried out either before or in the first planting season (October to February) following the completion of this development and any seeding or turfing which fails to establish or any trees or plants which, within five years from their planting, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next

planting season with plants of the same species and size unless the local planning authority gives written consent to any variation.

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

5. The cycle and pedestrian paths approved in relation to condition 11 along the north part of the site shall not commence until details of surfacing and measures to prevent any trip hazards where PROW KM86 crosses the approved paths has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with approved details.

Reason: To protect users of the PROW.

6. The cycle and pedestrian paths approved in relation to condition 11 shall not commence until measures to warn drivers of pedestrians and cyclists (signage or raised tables) at the points where they cross the internal road network have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with approved details.

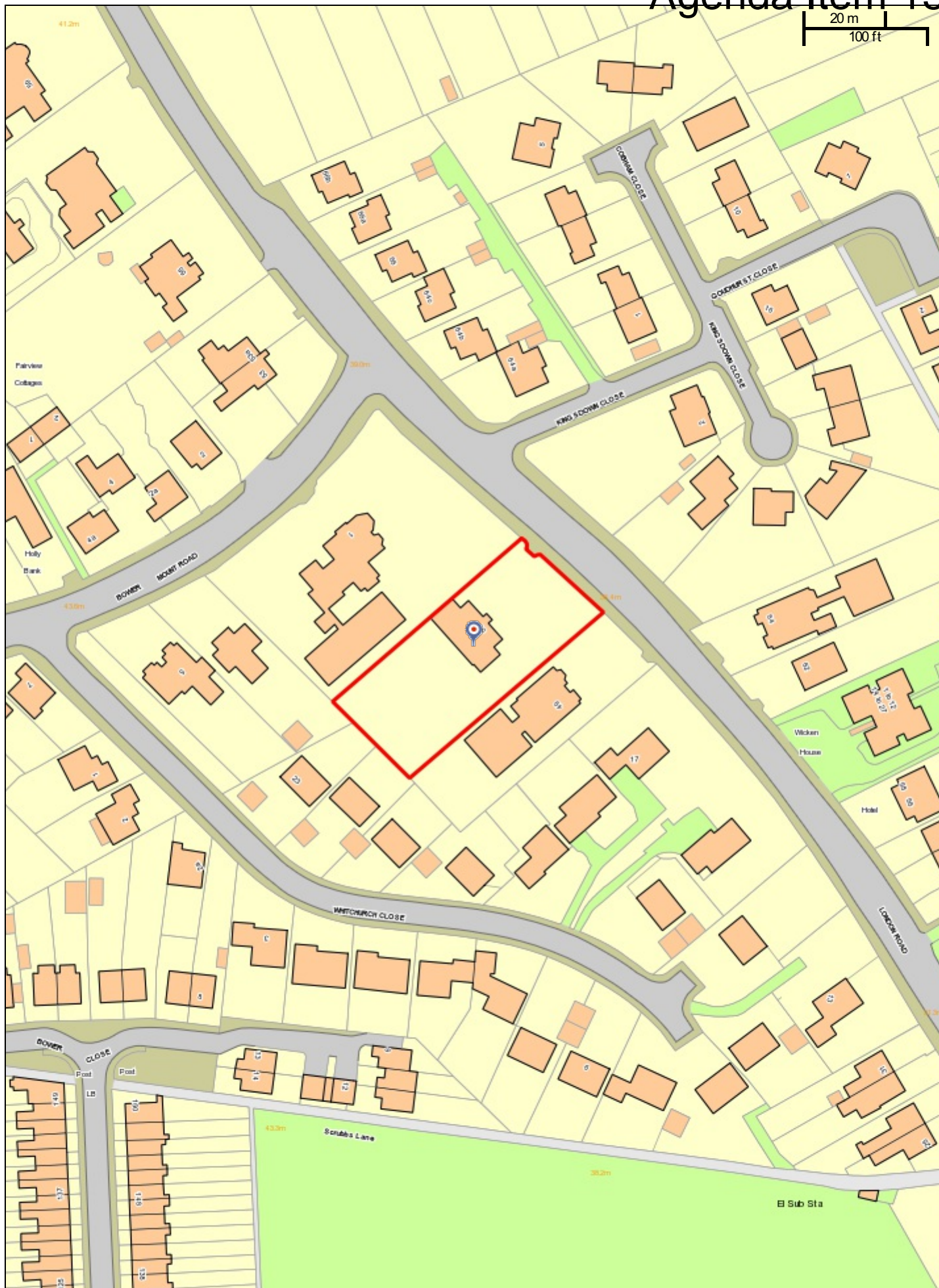
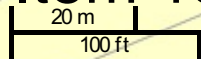
Reason: In the interests of safety.

Informatives

It is apparent the plans submitted to discharge the conditions include discrepancies from the approved site layout plans. These plans have been accepted on the basis of approving the pedestrian and cycle paths/links only and do not supersede the approved plans referred to in the Appeal Decision.

The applicant is advised to consider providing raised tables or signage at the connection points between the ped/cycle routes and the road network at the north and south of the site.

Case Officer: Richard Timms



21/503713/FULL Land on site of former 51 London Road, Sittingbourne, Kent

Scale: 1:1250

Printed on: 27/1/2022 at 16:01 PM by JoannaW



REFERENCE NO - 21/503713/FULL		
APPLICATION PROPOSAL Erection of a four storey apartment building comprising 14 no. units with associated landscaping and ancillary works including the creation of no. 7 parking spaces, cycle shelter and bins stores, creation of new pedestrian access and use of existing vehicular access from London Road.		
ADDRESS Land on site of former 51 London Road Maidstone Kent ME16 8JE		
RECOMMENDATION GRANT PLANNING PERMISSION subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal would be acceptable with regard to the Local Plan, the NPPF and all other relevant material considerations. All material considerations indicate that planning permission should be approved. Furthermore, the previous reasons for refusal cited by the Inspector have been overcome by the current application.		
REASON FOR REFERRAL TO COMMITTEE Call in request by Cllr Purle. Cllr Purle expressed concern regarding the potential impact on the amenity of the neighbours in Whitchurch Close (to the rear/southwest of the development proposal) and the occupiers of No.49 to the southeast. In addition, he expressed concern relating to the reduction in parking spaces from previous proposals on the site.		
WARD Bridge	PARISH/TOWN COUNCIL	APPLICANT Lebanon Property Trust (1936) AGENT Hume Planning Consultancy Ltd
TARGET DECISION DATE 21/02/22		PUBLICITY EXPIRY DATE 19/08/21

Relevant Planning History

20/506068/PAMEET Re-development of the site to create a residential apartment building comprising of 14 flats.

18/506333/FULL Erection of a three storey apartment building, comprising 18no. units and 18no. parking spaces at basement level.

REFUSED 14.03.2019 for the following reasons:

1. The design, bulk, scale and massing, poor legibility and lack of landscaped frontage of the development proposal would result in a development which would fail to integrate successfully in this prominent location.
2. The siting, height, depth, scale and design of the development proposal would represent a visually intrusive, overbearing and unneighbourly form of development resulting in an unreasonable loss of outlook and privacy to adjoining residential properties and their external amenity areas.
3. The poor outlook provided to the proposed ground floor flats of the development proposal in close proximity to boundary walls and trees, and the poor relationship between upper ground floor bedroom windows and external amenity areas, would fail to provide suitable living conditions for future occupiers.
4. The close proximity of the proposed development to mature trees, would threaten the long term survival of these trees with undue future pressure from occupiers of the flats to remove or lop the trees, to the detriment of the visual amenity of the locality.
5. The application fails to demonstrate that the development can provide adequate site access facilities that would not be detrimental to highway safety both for future residents and for pedestrians and vehicles using London Road.
6. In the absence of an appropriate legal mechanism to secure 30% affordable housing the impact of the development would be contrary to national and local policies.

Dismissed on appeal (referenced APP/U2235/W/19/3232563) on 24th January 2020.
Inspector's comments set out in the Background Section of the report.

18/501160/FULL Erection of a three storey apartment building, comprising 18 units and 22 parking spaces at basement level. REFUSED

16/505127/FULL 26 Flats and 20 car spaces
REFUSED 10.02.2017

16/501265/FULL Erection of 32 dwellings comprising 24 x 2 bed roomed flats plus 8 x 1 bed roomed flats together with 27 car parking spaces
REFUSED 10.05.2016

08/1990 Outline planning permission for the demolition of existing office and erection of a 42 bed five storey nursing home with access to be considered at this stage and all other matters referred for future consideration (Resubmission of MA/08/0988)
APPROVED 25.11.2010

08/0988 Outline planning permission for the erection of 55 bed, five storey nursing home with means of access only to be considered at this stage and all other matters reserved for future consideration.
WITHDRAWN 23.07.2008

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is located to the southwest of London Road within the urban area of Maidstone as identified on the Maidstone Borough Local Plan Proposals Map 2017. The ground levels are gradually elevated above the highway by approximately 2.0 metres towards the rear (southwest) of the site. The site is accessed via London Road at the north-eastern side of the front of the site. The site is substantially overgrown and there are some self-seeded trees with more mature specimens located around the boundaries.
- 1.02 To the northeast of the application site is Bower Mount Medical Practice, a two storey building with parking to the front and side. To the southeast of the site is No 49 London Road, a two storey Victorian property with rooms in the roof and a large annexe to the rear. The rear boundary of the application site bounds 3 Bower Mount Road and 22 and 23 Whitchurch Close which are two storey residential properties. The wider context of London Road has a mix of building types including some multi-storey development.

2. PROPOSAL

- 2.01 The proposal is for the re-development of the site to create a residential apartment building comprising of 14 flats. It would consist of four floors with the uppermost floor set in by 5.0 metres on the south-eastern boundary to the rear of the building, with the remaining floor area set in approximately 1.0 metre around the perimeter of the remaining roof. The first three storeys would have four 2 bed flats, and the fourth floor having one 2 bed and one 3 bed flat. Units 1 – 12 and 14 would have combined kitchen/dining/living areas, an en-suite bedroom, second bedroom and separate bathroom. Unit 13 would have an en-suite bedroom, two further bedrooms and a separate bathroom, with combined kitchen/dining/living areas. All units would have individual external spaces, with patio areas for units 1 – 4, balconies for units 5 – 12, and terraces for units 13 – 14. The building would be mainly brick, but would use a bronze cladding in order to soften the development proposal. The windows and doors would also have a bronze filling.

- 2.02 The entrance to the flats would be situated on the principal elevation of the building. Seven car parking spaces would be located to the front of the site, with a separate pedestrian access central to it. Landscaping would be located around the perimeter of the site, with bin and cycle storage located to the south-eastern boundary.

3.0 BACKGROUND

- 3.01 Summarised conclusions of Inspector's assessment with regard the dismissed appeal reference APP/U2235/W/19/3232563 on 24th January 2020. A copy of the decision letter is attached at Appendix 1.
- 3.02 The development proposal would have an acceptable impact on the character and appearance of the area.
- 3.03 From its scale and position, and the scale and position of other nearby buildings, it is unlikely that the proposed development would cause unacceptable harm to the occupiers of nearby dwellings. Whilst the proposed development would not adversely affect the living conditions of nearby occupiers with regard to natural light, it would significantly affect the occupiers of No 49 in terms of loss of privacy and outlook.
- 3.04 Provided the root protection area is adhered to with regard to the protected Lime tree in the Bower Mount Medical Centre, there is no reason to believe that the construction of the proposed development would cause unacceptable harm to it. There is no compelling evidence to show that the protected tree would be unacceptably harmed by the proposed development, including from future occupiers of the appeal development wishing to undertake works to it. The category B trees make a generally positive contribution to the character and appearance of the area. However, a suitably mature, replacement native hedgerow, whilst smaller than the category B trees, would still, on balance, be sufficient to mitigate their loss, in terms of the character and appearance of the area.
- 3.05 The proposed development would adversely affect the living conditions of future occupiers of the single aspect ground floor flats, with particular regard to outlook.
- 3.06 It has not been demonstrated that the undercroft layout shown on the additional drawing is one that could be achieved as part of the proposed development and, on this basis, the proposed development would not be acceptable in terms of highway and pedestrian safety.
- 3.07 The proposed development would have an acceptable impact in terms of affordable housing provision.

4. POLICY AND OTHER CONSIDERATIONS

- 4.01 Maidstone Borough Local Plan 2017 - SS1, SP1, SP20, DM1, DM2, DM5, DM12, DM21, DM23
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Supplementary Planning Documents:
Maidstone Building for Life
Technical housing standards – nationally described space standard
London Road Character Area Assessment 2008 SPD
Maidstone Landscape Character Assessment 2012
- 4.02 Maidstone Borough Local Plan Review (Regulation 19) dated October 2021 - LPRSP2, LPRSP15, LPRSP10(A), LPRSP10(B), LPRSP12, LPRSP15
The Regulation 19 draft is a material consideration and some weight must be attached to the document because of the stage it is at but its weight is limited, as it has yet to be the subject of an examination in public.

5.0 LOCAL REPRESENTATIONS

Local Residents:

- 5.01 22 representations received from local residents raising the following (summarised) issues
- Over-looking and loss of privacy, overshadowing and overbearance, cramped over-development out of character with the locality, poor design and excessive height of four storeys, inadequate parking and dangerous access, unacceptable change of land levels and adverse impact on drainage, lack of information on air quality and drainage, noise and disturbance and pollution due to intensification of use.
- 5.02 These matters raised by neighbours and other objectors are discussed in the detailed assessment below.

6.0 CONSULTATIONS

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

KCC Flood and Water Management

- 6.01 Kent County Council accept that pre-commencement conditions may be applied to the development proposal at this site. However, ground investigation must be undertaken to assess the feasibility of infiltration on the site. If the recommendation is for approval conditions relating to the provision of a SuDs scheme and the provision of a drainage verification report in a suitable location within the site are requested.

KCC Highways

- 6.02 Section 278 agreement is required with KCC, to upgrade the crossing facility and associated technology, in order to mitigate any safety concerns. One disabled space is acceptable. EV charging points for all parking spaces. The development is in a sustainable location and is not considered likely to cause a severe impact on the highway network. The cycling and walking facilities proposed are acceptable.

Environmental Services

- 6.03 No objections subject to conditions relating to internal/external sound levels, hours of construction, lighting details, air quality assessment details and calculations for mitigation, electric vehicle charging points and details on code of construction practice.

MBC Arboricultural Officer

- 6.04 Tree survey appears inconsistent. If the recommendation is positive, conditions are requested relating to an updated Arboricultural Method Statement accurately plotting the trees on the northwest boundary, and a Tree Protection Plan. A landscaping scheme would also be required including native hedging along the boundaries of the site.

Kent Police

- 6.05 No objection subject to details regarding security of the construction site and the security of the completed development.

Parks and Open spaces

- 6.06 Contributions will be requested for outdoor recreational spaces in the form of a Section 106.

KCC Ecology

- 6.07 No objection subject to a condition relating to biodiversity enhancements with the incorporation of a green roof. Informative relating to breeding birds to be added.

KCC Infrastructure

- 6.08 Request condition relating to the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mb) connections. Request Maidstone BC notes the impacts in determining the application and allocates CIL funds to cover this.

Housing

- 6.09 Request that 4 units (preferably on the ground floor) are used for affordable housing contributions, to be dealt with by a Section 106 legal agreement.

7.0 APPRAISAL

Main Issues

- 7.01 The key issues for consideration relate to:
- Sustainability
 - Design of the development proposal and its impact on the character of the surrounding area
 - Impact on outlook and amenity of properties overlooking and abutting the site
 - Trees and landscaping issues
 - Biodiversity
 - Highways and parking considerations.
 - Affordable housing

Sustainability

- 7.02 Local Plan policy and central Government guidance within the revised National Planning Policy Framework (NPPF) encourages new housing in sustainable urban locations as an alternative to residential development in more remote countryside situations. Policy SS1 (Spatial Strategy) of the Local Plan includes a sustainable development hierarchy that directs new housing to the most sustainable locations in the borough, with the Maidstone Urban Area being the preferred location at the top of this hierarchy, followed by the designated Rural Service Centres and then the larger villages.
- 7.03 The application site is within the urban area of Maidstone and, as such, is considered to be in a sustainable location in accordance with Local Plan policies and would therefore be suitable in principle for new residential development subject to assessment against other adopted policies.

Design of the development proposal and its impact on the character of the surrounding area

- 7.04 Local Plan policies SS1 and SP1 states that new development in the urban area should be on appropriate sites, and contribute positively to the locality's distinctive character. Local Plan policy DM1 sets out the principles of good design, which include the requirement for new development to respond positively to, and where possible enhance local character.
- 7.05 The properties on the western side of London Road in close proximity to the application site largely comprise traditional dwellings. They are elevated from the highway and a ragstone wall approximately 1.4 metres high runs along the boundary between the residences and the road. Some of the properties do not front onto London Road, but face onto Whitchurch Close. The properties to the east are set down from the highway and comprise newer dwellings. Some front Cobstone Close with the rear gardens backing onto London Road.
- 7.06 The previously refused application (reference 18/506333/FULL) which was dismissed at appeal comprised a double gable frontage with an eaves height of 8.7 metres and a ridge height of 11.4 metres, approximately 2.0 metres taller than the neighbouring property at No 49. Undercroft parking was incorporated within the building with a height of 2.2 metres. In terms of footprint, the development proposal had a width of 17 metres and a depth of 35.3 metres.



Figs. 1 and 2. Front and side elevations of the previous application (referenced 18/506333/FULL) which was refused and subsequently dismissed at appeal.

- 7.07 In paras 12 and 14 (see Appendix 1) of the appeal decision dated 24th January 2020 the Inspector commented that, 'The design and scale of the front elevation of the proposed building, and its set-back position, would not be out of keeping with the

mixed character and appearance of this part of London Road,...Whilst it (the development proposal) would have a significantly larger height and massing than No 49,...the reduced ground floor level and the amenity areas surrounding the proposed building, together with appropriately mature landscaping along the boundaries, means that it would not cause unacceptable harm to the mixed character and appearance of the area.'

- 7.08 The current application comprises a contemporary building arranged over four storeys with the uppermost storey set in from the front and side elevations, with a flat roof and a ridge height of 10.8 metres, approximately 1.4 metres taller than the neighbouring property at No 49. No undercroft parking has been proposed. In terms of footprint, the development proposal had a width of 15.6 metres and a depth of 25.7 metres.



Figs 3 and 4. Front and side elevations of the current application



- 7.09 The previous development comprised three floors with undercroft parking. The bulk and massing of the building was larger than the current proposal. While it is acknowledged that there would be four floors, the construction would involve less excavation, and the ridge would be lower than the previous proposal.
- 7.10 In terms of the design, a more contemporary style has been introduced. Although this would contrast with the neighbouring property at No 49, it would not be out of character with the locality as there are several flat roofed buildings along the road, and the street view below highlights the closest one, that of Wicken House, 60 London Road (nearly opposite the development site) and marked in orange. There is

also a large two storey flat roof development directly adjacent to the site at the Bower Mount Medical Practice (marked in green).



Fig 5. Google maps showing the site, (marked in red) Bower Mount Medical Practice extension (marked in green) and the nearby Wicken House flats (marked in orange).

- 7.11 The front entrance of the previous proposal provided a revised access however it was not focally prominent but was set back beneath the balcony of the unit on the floor above. By Design: Urban design in the planning system: towards better practice, sets out the importance of legibility, and the use of lighting, focal points, visible routes and landscaping to inform the person how to use the space. The current proposals show the front entrance to be central on the principal elevation, with a modest porch, raised landscaping beds on either side, and a new entrance set in the ragstone wall with steps up to the entrance. The driveway would need to be marked to provide a safe crossing within the parking area. This would be a marked improvement on the previous design.
- 7.12 In terms of the bulk and massing of the development proposal it is lower than the previous planning application with no parking undercroft, and the fourth floor is set back from the principal elevation by 1.4 metres, and set in from the flank walls by 1.0 metre. The loss of the undercroft would also reduce the bulk and massing of the overall form. This would result in a more subservient element than the first three floors. The use of bronze cladding would provide an interesting contrast, and the lighter cladding used on the fourth floor would also serve to lessen the bulk and massing of the building.
- 7.13 The materials in this locality are predominantly brick, of varying colours, and render. The buildings vary in age and size. In terms of materials, Bronze standing seam cladding with Vandersanden Argentis brickwork would be used. Reconstituted stone capping & surrounds (Portland) would be used on the Ragstone wall, and the windows and doors would be in bronze. These materials are considered generally acceptable when viewed within the context of the locality, although samples of the materials would be required by condition.
- 7.14 The gap between the proposed development and the neighbouring property at No 49 is approximately 8.5 metres, with the overall width reduced by 1.5 metres. The depth of the development proposal has been reduced by 10 metres, (from 35 metres in the refused appeal scheme) and the proposed development would now be

set back from the front footprint of No 49 by 3 metres. The ridge height has also been reduced by 0.5 metres. I therefore consider that the development would be acceptable in terms of design and impact on the character of the area when assessed on these issues and the previous concerns raised by the Inspector have now been addressed in the current proposal.

Impact on outlook and amenity of properties overlooking and abutting the site

7.15 Policy DM1 sets out the importance of respecting the amenities of occupiers of neighbouring properties. DM1 also sets out the importance of adequate residential amenities for future occupiers in terms of noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion. A development should not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.

7.16 The building would comprise four storeys with the first three floors providing four apartments, and the fourth providing two. The uppermost storey is set in from the flank walls by 1.0 metre. In addition, on the south-eastern side (adjacent to No 49) the building has a setback approximately 5.0 metres deep with a width of 4.0 metres. This gap would be located centrally along the depth of the building, and would provide visual relief from the solid form of the building (as shown in Fig 4). In addition, the uppermost floor is set in 5.0 metres from the south-eastern wall, extending some 18 metres from the rear wall of the building. This setback would assist in reducing any overbearing impact on the neighbouring property. The use of the cladding would also assist in the visual relief of the development proposal.



Fig 6. Top floor of proposed development

7.17 As can be seen in Fig 6, the bulk, massing and density of the development has been substantially reduced from the previously refused scheme. The setback can be clearly demonstrated, and this would clearly improve the outlook of the neighbouring property at No 49. Furthermore, the reduction in the amount of fenestration on the southeast boundary (the side of the flat roofed terraces) would result in significantly less over-looking. The majority of the windows are secondary to the living areas, and the bedroom windows are of an oriel design which would have oblique views as set out in Fig 8. Fig 9 shows the previously refused scheme for

comparison purposes. The terraces and fenestration have been clearly marked on the drawings as being obscure glazed, and a condition to ensure that this would remain the case has been added. In addition, a condition relating to details of the screening on the south-eastern side of the balconies which can also be seen on either end of the south-eastern elevation as set out on Fig 8 has also been requested by condition.



Fig 7 Top floor of previously refused application

7.18 No 49 London Road has several windows on the north-west (flank wall) of the building. These comprise kitchen and conservatory windows at ground floor level, and bathroom and study windows at first floor level. In addition to this, there is an annexe to the rear of No 49 London Road which has three windows on the flank wall which (the occupant has confirmed) all serve a living space. There is a 1.8 metre high wall on the boundary of this property. The reduction in the height, siting and depth of the proposed four storey building, with a combination of vastly reduced kitchen/bathroom and landing fenestrations on each floor (all of which would be obscure glazed) and two oriel bedroom windows on the first floor and second floors of the 25 metre flank elevation, would be a marked improvement on the previous scheme.

Section through development proposal showing relationship to the boundary with No 49.

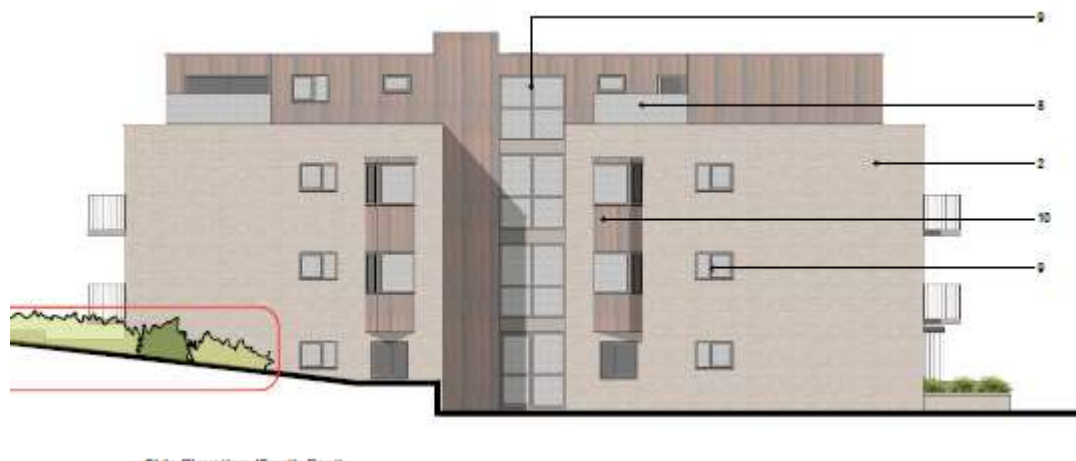


Fig 8 South-eastern elevation of the current scheme



Fig 9 South-eastern elevation of the previously refused scheme

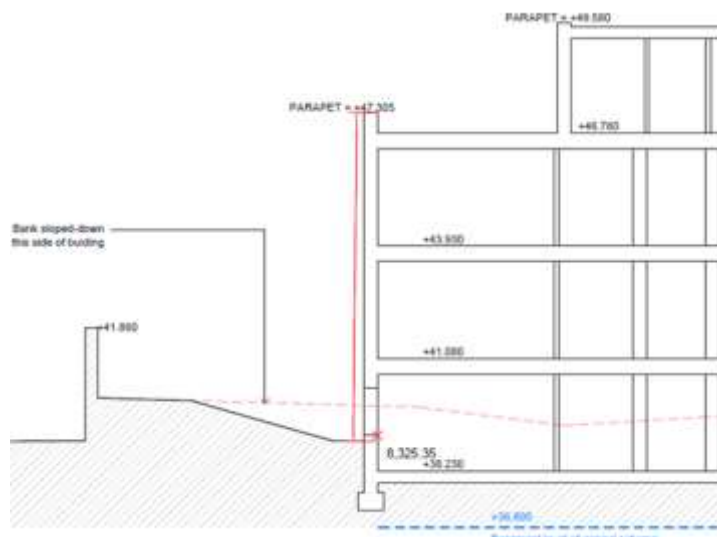
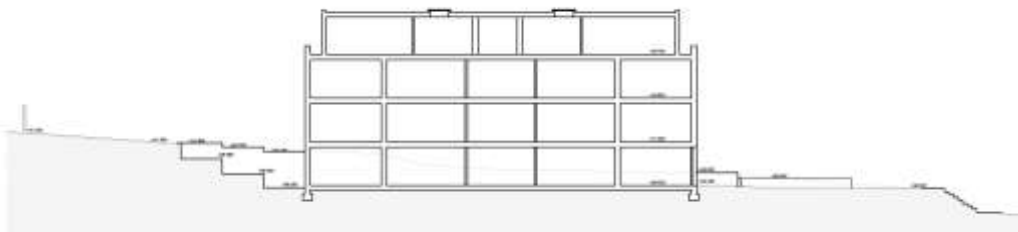


Fig 10 Section through the proposed development showing the relationship of the building to the south-eastern boundary.

7.19 The reduced height of the proposed building and its siting over 8.5 metres away from the south-eastern boundary would also be an improvement on the previous scheme. The fourth floor has been set in from the flank wall an additional 7.3 metres resulting in the bulk of the building closest to the neighbour having a height of 8.0 metres. (See Fig 10 above) These measures, in addition to the reduction in the depth of the building by 10 metres (which would comprise a 3 metre setback from the principal elevation of the front footprint of No 49 and the rear elevation of the development proposal being brought into line with the rear elevation of No 49) would result in it overcoming the loss of outlook set out in the previous appeal decision.

- 7.20 Properties on Whitchurch Close back onto the south-western boundary of the application site. The neighbours in Whitchurch Close have relatively modest rear amenity areas. At the closest point, the rear elevation of the proposed building would be 27.6 metres from the rear elevation of these properties, a reduction of 6.6 metres from the previous application. However, the previous application was designed so that the majority of the fenestration was secondary to the habitable rooms and, as such, could be obscure glazed by condition, but the current proposal has not followed this design option.
- 7.21 The current application proposes living and bedroom fenestration with balcony areas to the rear. Notwithstanding this, the development proposal would be sited a sufficient distance from the neighbouring properties in Whitchurch Close (18.8 metres from the boundary) and would also be set lower than the neighbours located to the rear of the development proposal. Furthermore, the introduction of landscaping on the site would soften any potential impact. As such, any potential amenity issues in terms of over-bearance and privacy would be minimised.



Section through the proposed development showing relationship to the rear boundary

- 7.22 The neighbours to the rear of the site fronting Bower Mount Road would be a sufficient distance for any issues in terms of overshadowing and overbearance to be minimised, despite the orientation of the building being to the southeast of these neighbours. In terms of overlooking issues, any views to the properties in Bower Mount Road would be oblique due to the orientation of the building, and it would be a sufficient distance to further negate this issue.
- 7.23 The Medical Centre does not contain residential accommodation and, therefore privacy issues would not be considered problematic. . The separation distance of approximately 9.5 metres from the proposed building, along with its siting to the southeast, would alleviate any issues in terms of over-bearance and overshadowing.
- 7.24 The concerns previously raised by the Inspector specifically in relation to the overbearance and loss of privacy that would have adversely impacted the occupiers of No 49 have now been overcome by the amended design and layout. All other neighbours would be a sufficient distance away for any issues in terms of amenity to be minimised.

Amenities of future occupiers

- 7.25 In the previously refused application, four of the ground floor units were single aspect and set down in the site, resulting in limited outlook. The Inspector considered that the living conditions of future occupiers of these single aspect units would be compromised in terms of outlook and refused the application on this

ground. The flats within the proposed development are now all double aspect thus improving their outlook.

- 7.26 The land levels have been altered by some 1.6 metres to the rear of the building and the patio doors would provide space onto a terrace and a reasonable outlook for future occupiers. The proposals comply with the National Space Standards as set out in the Local Plan Review and with all things considered, the application is acceptable in this regard.

Trees and landscaping

- 7.27 Policy DM3 states that development proposals should protect positive landscape character, including trees with significant amenity value. I note in the previous appeal decision the Inspector commented that the protected lime tree at the front of the site would be unlikely to be harmed either during construction (provided the root protection areas are adhered to) or by any works that may be requested to be carried out by future occupiers of the development proposal. Furthermore, while he noted that the category B trees on the northwest boundary of the application site provided a positive contribution to the character of the locality, he went on to say that their replacement with a suitable hedge of native species would be acceptable.
- 7.28 Whilst the Council's tree officer does not share the same opinion as the Inspector in this regard, the Inspector's decision carries significant weight in the assessment of the current scheme. In addition, there appears to be some discrepancy with the tree survey drawings. However, since the trees bounding the site are to be removed, I do not consider that this would impede the decision-making process. I note that the Tree Officer has requested an up to date arboricultural method statement and tree protection plan, and this can be dealt with by condition.
- 7.29 Regarding landscaping matters, the hedging shown circumnavigating the development proposal would be likely to result in a negative impact on the outlook of future occupiers due to its proximity to fenestration. For this reason, it should be re-located around the perimeter of the site. Notwithstanding this, a landscaping plan has been requested as part of the suggested conditions, and the new details would allow details such as the siting of the hedge to be dealt with at that time.
- 7.30 Taking these issues into account, I consider that the proposed development would be acceptable on trees and landscape grounds, with the inclusion of conditions relating to arboricultural method statement and tree protection and landscape details.

Biodiversity

- 7.31 Policy DM3 sets out the importance of protecting the natural environment and providing net gain for biodiversity from all new development.
- 7.32 It is noted that, due to the site remaining empty for some years, it has now become overgrown. The development of this site will now result in some loss of biodiversity, although no protected species have been found on the site.
- 7.33 In order to mitigate the loss of biodiversity, it is suggested that a green roof is added to the proposed development, in addition to the provision of other items to encourage wildlife onto the site. For these reasons, a condition for biodiversity

enhancements including the installation of a green roof will be added, and this has been agreed in writing by the agent.

Highways and access

- 7.34 Policy DM1 and DM23 (and LP appendix B) take into account the type of the development, car parking, access, cycle facilities on new developments and the incorporation of electrical vehicle charging infrastructure.
- 7.35 The previous application/appeal highlighted concerns relating to highway and pedestrian safety. However, the current application has omitted the undercroft parking, leaving seven allocated parking bays, and bin and cycle storage within the frontage of the development proposal.
- 7.36 The Highways officer has raised concerns that, due to the re-introduction of the access after in excess of 10 years, there may be a knock-on effect regarding the safety of the Puffin crossing situated in close proximity to the access.
- 7.37 These safety issues would be alleviated with the installation of a newer Puffin Crossing, as it would have more poles and signal heads improving visibility in addition to removing the flashing amber stage of the process. With this in mind, if the developer undertakes a Section 278 agreement with KCC to upgrade the crossing facility and associated technology, this will mitigate any safety concerns. The provision of these upgrades can be secured by condition as the Highways officer was concerned about the re-instatement of the access in this location after it being closed for a period in excess of 10 years..
- 7.38 The previous application contained a parking space for each flat. However, the site does not have the space to accommodate this level of parking. However, as acknowledged by the Highways officer, the application site is situated within a sustainable location with bus stops in close proximity and a train station a short walk away. Para 6.99 of the supporting text of DM23 highlights that 'the Council offers a flexible approach to minimum and maximum parking standards to reflect local circumstances and the availability of alternative modes of transport to the private car.' I note that, in this location, a parking space for each flat is highlighted as a maximum standard and, for this reason, this level of parking is not required to be achieved. I also note that, with the car parking spaces removed from the layout of the site, the development proposal is more acceptable and the siting and layout are less cramped. As such, the site is more easily utilized with the seven spaces offered. KCC highways have raised no objection to this level of parking provision.
- 7.39 Further conditions relating to the provision and permanent retention of the vehicle parking spaces and cycle parking and the installation of 7 electric vehicle charging points are requested.

Affordable housing

- 7.40 SP20 states that affordable housing provision of 30% will be achieved on housing sites supplying over 10 units (major applications) within the Maidstone Urban Area.
- 7.41 The housing officer has advised that 4 flats would ideally be for affordable rent. As the ground floor would have 4 x 2 bedroom units they may suit the affordable

housing part of the development. This has been discussed with the agent and he has agreed to this. The affordable housing can be dealt with as part of the Section 106.

Other Matters

- 7.42 The Parks and Open Spaces officer has set out that contributions will be required for outdoor recreational spaces. However, this will be dealt with as part of CIL.
- 7.43 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

PUBLIC SECTOR EQUALITY DUTY

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

8.0 CONCLUSION

- 8.01 The development proposal has been designed taking into account the Inspector's appeal decision from the previously refused application and would have an acceptable impact on the character and appearance of the area.
- 8.02 The Inspector commented that the previous development proposal would have had an acceptable impact on the character of the locality. The design of the flats has subsequently been altered, but the contemporary style is not considered to be out of character with the surrounding area bearing in mind the mix of traditional housing and larger flat roofed developments nearby. The high quality materials would result in a good standard of development, and the use of brickwork for the majority of the development is a material that is widely used in this location albeit in varied colours. The reduction in the bulk, massing and height of the development proposal would ensure that it would not result in a dominating form within the street scene. A condition relating to material samples will be added to ensure a high quality development.
- 8.03 The Inspector determined that the previous application was acceptable in terms of its scale and siting in relation to neighbouring properties to the rear of the application site. The current application has been re-sited further away from the neighbours to the rear, although the sloping form that made up the rear elevation has now been replaced with a vertical wall. Notwithstanding this, the distance between the properties to the rear is sufficient to minimise any potential impact in terms of privacy, overbearance and overshadowing issues. Furthermore, the set-down of the proposed building into the site would also help to alleviate any potential issues in this regard.
- 8.04 The Inspector was of the opinion that the previously refused application would significantly affect the occupiers of No 49 in terms of loss of privacy and outlook. However, the increase in the gap between the development proposal and No 49 and the set-back of the fourth floor, as well as the reduction in the height, bulk and massing and the substantial reduction in fenestration on the side elevations, would result in a design that would overcome the design flaws of the last scheme. Furthermore, conditions have been added to ensure that the fenestration and terrace boundaries that may potentially result in over-looking issues would be obscure-glazed. Also, details of the balconies have been requested as a condition to ensure that they don't result in over-looking of the neighbours at No 49.

- 8.05 The Inspector set out that, in terms of the trees, specifically the lime at the front of the site and on the boundary with the Bower Mount Medical Centre, would be unlikely to be harmed as a result of the previous development. The current application has a similar footprint and, on this basis, the Inspector's comments are still relevant. Tree protection and arboricultural method statement conditions would be applied to ensure the retention of these trees. Furthermore, the Inspector stated that a suitably mature, replacement native hedgerow, whilst smaller than the category B trees, would still, on balance, be sufficient to mitigate their loss, in terms of the character and appearance of the area. On this basis the application would be considered acceptable with a landscaping condition securing details of the siting of the replacement species while ensuring that the planting is adequate, robust and of a suitable species.
- 8.06 The Inspector also expressed concerns relating to the previous development adversely affect the living conditions of future occupiers of the single aspect ground floor flats, with particular regard to outlook. However, the revised design comprises double aspect flats which have an improved outlook when compared with the previous scheme. In addition, the space standards are acceptable and would provide acceptable living conditions for future occupiers.
- 8.07 The Inspector was not of the opinion that the undercroft car parking would be acceptable in terms of highway and pedestrian safety. However, the current layout provides a clear demarcation for pedestrians. In addition, the loss of the undercroft parking would result in a more spacious and well-designed layout on the site. As the location of the proposed development would be in a sustainable area, future occupiers would be able to use more sustainable modes of travel to access local facilities. Conditions relating to a S278 for the provision of a Puffin crossing would be added, in addition to conditions relating to the retention of parking, cycling and bin stores, and the incorporation of electric vehicle charging points.
- 8.08 In terms of biodiversity, the development proposal would result in the loss of green space due to it being unused for a long period of time. The biodiversity officer has requested that enhancement be included as a condition to the development proposal. In addition, a green roof is to be added, and this has been agreed by the agent. Not all of the roof will be green as some space will be left in order to incorporate renewables. Biodiversity enhancements and renewables conditions will both be added to the decision.
- 8.09 The proposed development would have an acceptable impact in terms of affordable housing provision. The submitted proposal has been considered and has been found to be acceptable by the Housing officer, on the proviso that four flats will be set aside for use as affordable housing. On balance, the development proposal is considered acceptable and, for this reason, the officer's recommendation is for approval.

8.02 RECOMMENDATION

The Head of Planning and Development BE GIVEN DELEGATED POWERS TO GRANT planning permission subject to the prior completion of a legal agreement to provide the following (including the Head of Planning and Development being able to settle or amend any necessary terms of the legal agreement in line with the matters set out in the recommendation resolved by Planning Committee):

- the prior payment of s106 monitoring fees of £500 in total
- Affordable housing contributions comprising 4 flats to be used for affordable rent

and the imposition of the conditions as set out below:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

05 Jul 2021	HM96-02	Proposed Sections
05 Jul 2021	HM96-05	Proposed Location and Block Plan
05 Jul 2021	HM96-06	Proposed Bin, Bike Stores Floor Plans an...
05 Jul 2021		Cover letter
05 Jul 2021		Preliminary Ecological Appraisal Report
05 Jul 2021		Tree Survey Report
05 Jul 2021		Design and Access Statement with Planning Statement
19 Jul 2021		Application Form
19 Jul 2021	HM96-01A	Proposed Site/Roof Plan and Street Elevations
19 Jul 2021	HM94-03A	Proposed Elevations
17 Aug 2021	HM96-03B	Proposed Floor Plans
11 Oct 2021		Daylight/Sunlight Assessment

Reason: For the avoidance of doubt.

- 3) Notwithstanding the information received, prior to the commencement of development hereby approved (including site clearance) an up-to-date Arboricultural Method Statement (AMS) and tree protection details in accordance with the current edition of BS 5837 shall be submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees (including the hedgerow immediately to the south of the proposed dwelling), including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme. The development shall only proceed in accordance with the agreed details including the installation of tree protection measures prior to any on site works and the retention of these measures for the duration of the construction works.

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

- 4) Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in back gardens and other relevant amenity areas will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - shall be submitted to and approved in writing by the Local Planning

Authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

Reason: To safeguard the amenities of future occupiers.

- 5) Prior to the commencement of development hereby approved an air quality assessment shall be carried out by a competent person in accordance with current guidelines and best practice with the written assessment report submitted to and approved in writing by the local Planning Authority. The report shall contain a) an assessment of air quality on the application site and of any scheme necessary for the mitigation of poor air quality affecting the residential amenity of future occupiers of the development. b) An assessment of the effect that the development will have on the air quality of the surrounding area and any scheme necessary for the mitigation of poor air quality arising from the development. Any scheme of mitigation set out in the subsequently approved report shall be implemented prior to the first occupation of the building and retained thereafter.

Reason: To protect air quality and the amenity of future occupiers. Details are required prior to commencing to ensure that the maximum range of mitigation measures are available.

- 6) Prior to the commencement of development hereby approved a report shall be submitted to and approved in writing by the Local Planning Authority including a calculation of pollutant emission costs from the vehicular traffic generated by the development, (utilising the most recent DEFRA Emissions Factor Toolkit and the latest DEFRA IGCB Air Quality Damage Costs for the pollutants considered). The report should include identification of the additional vehicular trip rates generated by the proposal (from the Transport Assessment); the emissions calculated for the pollutants of concern (NO_x and PM₁₀) [from the Emissions Factor Toolkit] and the air quality damage costs calculation for the specific pollutant emissions (from DEFRA IGCB). The result should be totalled for a five year period to enable mitigation implementation. The calculation is summarised as Road Transport Emission Increase = Summation [Estimated trip rate for five years x Emission rate per 10km per vehicle type x Damage Costs]. The pollution damage costs will determine the level of mitigation/compensation required to negate the impacts of the development on the local air quality.

Reason: To protect air quality and the amenity of future residents. Details are required prior to development commencing to ensure that the maximum range of mitigation measures are available.

- 7) Prior to the commencement of the development hereby approved, a Code of Construction Practice shall be submitted to and approved in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003).

The code shall include the following:

- (a) An indicative programme for carrying out the works,
- (b) measures to minimise the production of dust on the site,
- (c) measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use

of noise mitigation barriers, maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site,

(d) Routing of construction and delivery vehicles to/from site,

(e) Parking and turning areas for construction and delivery vehicles and site personnel,

(f) Temporary traffic management/signage, design and provision of site hoardings,

(g) Details relating to site security,

(h) measures to prevent the transfer of mud and extraneous material onto the public highway,

(i) measures to manage the production of waste and to maximise the re-use of materials,

(j) measures to minimise the potential for pollution of groundwater and surface water and prevent its discharge onto the highway,

(k) the location and design of site office(s), storage compounds and timings of deliveries,

(l) arrangements for public consultation and liaison during the construction works. The development will be constructed in accordance with the details provided.

Reason: In the interests of highway safety, the security of the site during construction and to protect the amenities of neighbouring occupiers.

- 8) The development hereby approved shall not commence until, details of the proposed slab levels of the building and the existing and proposed 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.

Prior to the commencement of the development hereby approved, a S278 agreement shall be in place for the incorporation of a single pedestrian crossing upgrade outside No. 51 London Road, Maidstone to include the installation of a newer Puffin crossing, and no dwelling shall be occupied until such time as the puffin crossing has been installed and is operational. Reason: In the interests of highway safety

- 9) Prior to the commencement of development hereby approved, a detailed sustainable surface water drainage scheme for the site shall be submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site if infiltration is demonstrated as feasible, otherwise with a connection to the public sewer at a rate approved by the Lead Local Flood Authority, without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker. The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- 10) Prior to the first occupation of the development hereby permitted, a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed. The development shall be constructed taking into account the contents of the verification report and shall be completed prior to the first occupation of the development and retained hereafter.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

- 11) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where information is submitted to demonstrate to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

- 12) The development hereby permitted shall not commence above slab level until details of measures to minimise the risk of crime in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The details shall be in accordance with the principles and physical security requirements of Crime Prevention Through Environmental Design (CPTED). The approved measures shall be implemented before the development is occupied and retained thereafter.

Reason: to secure crime prevention and safety of the area

- 13) The development hereby approved shall not commence above slab level until details of a scheme for the enhancement of biodiversity on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through the incorporation of a grass roof, and shall

provide wildlife niches such as swift bricks, bat tubes or bee bricks, and additionally through provision within the site curtilage such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgerow corridors. The development shall be implemented in accordance with the approved details prior to the use of the development and all features shall be maintained permanently thereafter.

Reason: To enhance ecology and biodiversity on the site in line with the requirement to achieve a net biodiversity gain from all development.

- 14) The development shall not commence above slab level until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority (to include gaps at ground level in the boundaries to allow the passage of wildlife) and the development shall be carried out in accordance with the approved details before the first occupation of the buildings and maintained as such thereafter.

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers and for the passage of wildlife.

- 15) Prior to the first occupation of the development hereby approved, the vehicle parking spaces, cycle parking and bin storage facilities shown on the submitted plans shall be provided and shall be retained hereafter in perpetuity.

Reason: In the interests of highway safety and to secure storage of property.

- 16) Prior to first occupation of the development hereby approved, landscaping shall be in place on the site that is in accordance with a landscape scheme that has previously been submitted to and approved in writing by the local planning authority. The landscape scheme shall be designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012). The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed, include a planting specification, implementation details and a [5] year landscape management plan (Only non-plastic guards shall be used for the new trees and hedgerows, and no Sycamore trees shall be planted). Details of screening shall be provided, including trees and hedging, around the perimeter of the site to mitigate for the development and strengthen the front (southwest) boundary to enhance the locality.

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

- 17) All approved landscaping shall be carried out during the planting season (October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first use of the dwelling(s) die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

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

- 18) Prior to the first occupation of the development hereby approved, 7 operational electric vehicle charging points for low-emission plug-in vehicles for each allocated space shall be installed and ready for the use of the new occupant with the electric

vehicle charging point thereafter retained and maintained operational as such for that purpose.

Reason: To promote to promote sustainable travel choices and the reduction of CO2 emissions through use of low emissions vehicles.

- 19) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors and the sensitive landscape location. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.

Reason: In the interest of neighbour amenity.

- 20) Before the first occupation of the development hereby permitted, the windows and external spaces on the southeast elevation as set out on the drawing referenced Dwg HM93 3 A shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3 and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such at all times;

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of existing and prospective occupiers.

- 21) Before the first occupation of the development hereby approved measures to screen the balconies on the southeast elevation of the site shall be constructed in accordance with details that shall be submitted to, and approved in writing by the Local Planning Authority. The screening details shall be erected in accordance with the approved details prior to the first occupation of the units they serve and shall remain in place in perpetuity thereafter..

Reason: In the interests of the amenities of the occupiers of No 49 London Road, and to protect the amenities of future occupiers.

- 22) Notwithstanding the information provided, the development hereby approved shall not commence above slab level until, written details and samples of the materials to be used in the construction of the external surfaces of the development 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.

- 23) The development hereby approved shall not commence until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved to provide at least 10% of total annual energy requirements of the development, will be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To ensure an energy efficient form of development. Details are required prior to development commencing to ensure the methods are integral to the design and to ensure that all options (including ground source heat pumps) are available.

- 24) The roof areas of the development hereby permitted not shown on the approved plans as amenity areas shall not be used as a balcony, roof garden or similar amenity area at any time.

Reason: To prevent overlooking of adjoining properties and to protect the privacy of the occupiers.

INFORMATIVES

- 1) Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

- 2) All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Home Charge Scheme approved charge point model list: <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>
- 3) The foul sewerage shall be disposed in accordance with Part H1 of Building Regulations hierarchy. It may be possible for the foul flows from the proposed development to be connected to a nearby public sewer, and the applicant shall investigate this option. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer. To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link: southernwater.co.uk/developing-building/connection-charging-arrangements
- 4) The Environment Agency should be consulted directly by the applicant regarding the use of a private wastewater treatment works which disposes of effluent to sub-soil irrigation. The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development. The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to

discharge surface water to the local watercourse. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119)The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25th October 2017 and began charging on all CIL liable applications approved on and from 1st October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

Case Officer: Jocelyn Miller



Appeal Decision

Site visit made on 13 January 2020

by A. Parkin, BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th January 2020

Appeal Ref: APP/U2235/W/19/3232563

Land on site of former 51 London Road, Maidstone, Kent, ME16 8JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Lebanon Property Trust against the decision of Maidstone Borough Council.
 - The application Ref: 18/506333/FULL dated 5 December 2018, was refused by notice dated 14 March 2019.
 - The development proposed is the erection of a three-storey apartment building, comprising 18 units and 18 parking spaces at basement level.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address of the proposed development from the Council's Decision Notice, which more accurately describes its location.

Main Issues

3. The main issues are the effect of the proposal on:
 - The character and appearance of the area
 - The living conditions of nearby occupiers with particular regard to outlook, privacy and natural light
 - The living conditions of future occupiers of the ground floor flats, with particular regard to outlook
 - Highway and pedestrian safety
 - Affordable housing provision.

Reasons

Character and appearance

4. The appeal site is in a predominantly residential area, containing a mix of different dwellings in generally well landscaped plots of land. The appeal site is a generally rectangular plot, which rises up from London Road towards the rear, and which is largely overgrown with vegetation, including various trees and bushes around much of the boundary. The site previously contained a detached dwelling (No 51), now demolished, which had vehicular and

- pedestrian access to and from London Road, through a ragstone front boundary wall, some 1.4 metres high.
5. The front boundary wall is part of a similar wall positioned along much of the southern side of London Road in this area. The road has a generally southeast/northwest axis that slopes upwards to the northwest, away from Maidstone Town Centre.
 6. There are a limited number of non-residential buildings in the area, such as the Bower Mount Medical Practice (BMMP), a large General Practice centre to the immediate northwest of the appeal site. This comprises a 2-storey traditional brick building with a substantial 2-storey modern extension close to the appeal site. The BMMP centre is at a higher elevation than London Road and the appeal site. It is accessed by steps through the ragstone wall and a landscaped area. The building is largely surrounded by a hard-surfaced car park, with vehicular access from Bower Mount Road.
 7. To the immediate southeast of the appeal site is 49 London Road, a traditional, double gable fronted, 2-storey detached dwelling, also at a higher elevation than London Road. It has a combined stepped and vehicular access through its front ragstone wall and narrow landscape buffer, leading to a hard surfaced area to the front of the dwelling. To the rear are a number of extensions and outbuildings, including a large single-storey, hipped-roofed structure.
 8. To the rear of the appeal site are a number of modern, detached 2-storey dwellings, most of which face onto Whitchurch Close, with their rear elevations and gardens backing onto the site.
 9. The proposed development would be a 3-storey building containing 18 flats, with 18 undercroft car parking spaces beneath it. The front elevation of the proposed building would be of a double gable design, somewhat larger than that at No 49, although set back a similar distance from London Road and with an area of hardstanding between it and the front boundary wall.
 10. The existing vehicular access to London Road would be widened somewhat, which would make the interior of the site more visually prominent. However, the ragstone front boundary wall would be largely retained and extended into the site as part of the proposal. Significant excavation works would be required to enable the provision of the undercroft car park and associated hardstanding, which would be at a similar elevation to London Road. This would also mean that the ground level of the proposed building would be somewhat lower than the ground level of the land to the sides and rear.
 11. The proposed building would occupy a large central part of the appeal site and would have a significantly larger footprint than the demolished No 51. I note the recent planning history of the site, and that the current building is somewhat narrower and less high than the recent proposal that was refused planning permission¹. A 42-bedroomed, 5-storey nursing home proposal² was approved in outline some time ago, with all matters reserved other than Access. However, this approval has now lapsed and I also note that it was determined with regard to a different development plan.

¹ LPA Ref. 18/501160/FULL

² LPA Ref. 08/1990

12. The design and scale of the front elevation of the proposed building, and its set-back position, would not be out of keeping with the mixed character and appearance of this part of London Road, and would be partly screened from view by the front ragstone wall and retained vegetation.
13. The 3-storey height of the proposed building, together with its large footprint, means that its massing would be substantial. The reduction in height and massing as a result of the pitched roof towards the rear of the proposed building and to a lesser extent to the sides, together with its somewhat sunken position within the site, means it would have a similar visual impact to the BMMP building in views from the rear.
14. Whilst it would have a significantly larger height and massing than No 49, particularly the single storey hipped roofed building to the rear, the reduced ground floor level and the amenity areas surrounding the proposed building, together with appropriately mature landscaping along the boundaries, means that it would not cause unacceptable harm to the mixed character and appearance of the area.
15. The submitted drawings³ show that the existing trees to the front and rear are to be retained, with most of the trees to the sides to be removed. New trees would be planted to screen the development from the rear and new native hedgerow planted to the side boundaries. However, amongst the trees to be removed would be category B trees⁴ on the northwestern boundary which are of moderate quality and which would be expected to live for at least another 20 years, at the time of the tree survey in 2016. There is to be no direct replacement of these trees.
16. The evidence includes details of Tree Preservation Orders (TPOs) at both the appeal site and at the BMMP site next door. With reference to evidence none of the four TPO protected trees within the site remain. However, the protected Lime Tree⁵ within the BMMP site and next to the boundary of the appeal site is still present.
17. The submitted tree survey shows a Root Protection Area for this tree, said to have been agreed with the Council with regard to a larger (refused) scheme at the appeal site in 2015. Provided that this is fully adhered to, I have no reason to believe that the construction of the proposed development would cause unacceptable harm to this protected tree.
18. Parts of the front and side of the proposed building would be close to the protected tree. However, this tree was similarly positioned to the former building on the appeal site and does not seem to have been significantly affected by this. There is no compelling evidence to show that the protected tree would be unacceptably harmed by the proposed development, including from future occupiers of the appeal development wishing to undertake works to it.
19. The appellant has not directly addressed the proposed loss of the category B trees or the Council's concerns regarding the impact of the proposed building and access arrangements on retained mature trees, other than to disagree with them. I note the appellant's statement that such concerns were not raised with

³ Including drawing DHA_12489_11V2

⁴ Trees 4B (Holly) and 6B (a row of Yew trees)

⁵ Tree T5 in TPO No.3 of 2011 – Trees at 1 Bower Mount Road, Maidstone

previous, larger schemes at the appeal site. However, concerns have been raised regarding the appeal development.

20. The category B trees make a generally positive contribution to the character and appearance of the area. However, a suitably mature, replacement native hedgerow, whilst smaller than the category B trees, would still, on balance, be sufficient to mitigate their loss, in terms of the character and appearance of the area.
21. It is not clear from the evidence what impact the proposed access arrangements would have on the retained trees to the front and front/side of the site. However, they would be similarly positioned to the existing access, and notwithstanding the issues with the proposed access arrangements, which I address later, there is no substantive evidence to show that any of the existing trees would be unacceptably harmed by this element of the proposed development.
22. For these reasons, the proposed development would have an acceptable impact on the character and appearance of the area. It would not, therefore, conflict with Policy DM1 (principles of good design) contained in the Maidstone Borough Local Plan 2017 (MBLP) and with guidance contained in the National Planning Policy Framework 2019 (the Framework), in this regard.

Living conditions of nearby occupiers

23. The proposed 3-storey building would be somewhat sunken, due to the changes in levels to facilitate the undercroft car park. It would also be separated from its next door neighbours to the side and rear by small amenity spaces and boundary planting. The two side boundaries would be largely cleared of existing vegetation, with replacement native hedges provided in their place. Some trees would be retained by the rear boundary, which would be supplemented by some further tree planting.
24. The appeal building would contain flats with habitable rooms at its rear and along both of its flank elevations, at ground, first and second floor level. These habitable rooms each contain windows, some of which are described as oriel windows, facing towards the next door properties on each floor, although for some of the second floor rooms these would be rooflights.
25. The dwellings to the rear are at a somewhat higher elevation than the appeal building would be. Together with the stated separation distances and the proposed screening vegetation, I am satisfied that the design, height, massing and position of the proposed development would not cause unacceptable harm to the occupiers of these dwellings in terms of overlooking or reduced outlook.
26. However, the habitable room windows on the southeastern side of the appeal building, at first and second floor levels, would face towards the dwelling at No 49. From the evidence I am not satisfied that the changed ground levels within the site, the proposed window designs, the boundary wall or the proposed boundary hedge and separation distances, would prevent harmful overlooking of No 49 and its curtilage from these upper floor windows.
27. Furthermore, the height, massing and position of the proposed development relative to No 49 would mean it would appear overbearing and would reduce the outlook from the various habitable rooms on the northwestern side of No 49.

28. No substantive evidence has been provided that there would be any significant loss of natural light to the nearby dwellings as a result of the proposed development. From its scale and position, and the scale and position of other nearby buildings, it is unlikely that the proposed development would cause unacceptable harm to the occupiers of nearby dwellings, in this regard.
29. For these reasons, whilst the proposed development would not adversely affect the living conditions of nearby occupiers with regard to natural light, it would significantly affect the occupiers of No 49 in terms of loss of privacy and outlook. It would, therefore, conflict with Policy DM1 contained in the MBLP and with guidance contained in the Framework, in this regard.

Living conditions of future occupiers of the ground floor flats

30. The proposed side boundaries of the appeal site, to the rear of the front elevation, would contain vegetation in the form of a native hedgerow. Part of the function of this hedgerow would be to screen the development and its neighbours. The boundary with No 49 also includes an existing brick wall.
31. The appeal proposal has been developed in light of previous refusals of planning permission and is said to have a greater focus on amenity space, both private and shared, to the sides and to the rear. However, the somewhat sunken position of the proposed building, and the short distance from the side elevations to the side boundaries, means that the four ground floor, single-aspect flats would have a very limited outlook.
32. I note the Council's further concern with '...the poor relationship between upper ground floor bedroom windows and external amenity areas...'. However, from the evidence, and in the absence of any specific details, I am not satisfied that this relationship would be likely to cause harm to future occupiers.
33. For these reasons the proposed development would adversely affect the living conditions of future occupiers of the single aspect ground floor flats, with particular regard to outlook. It would, therefore, conflict with Policy DM1 contained in the MBLP and with guidance contained in the Framework, in this regard.

Highway and pedestrian safety

34. Vehicular and pedestrian access to the proposed development would be from the existing opening in the ragstone wall by London Road, which would be widened somewhat. There would be no separation between pedestrians and vehicles using the access.
35. London Road is two-way with footpaths on both sides. There are two side road junctions nearby to the northwest of the appeal site, at Kingsdown Close and Bower Mount Road. There are also two bus stops in close proximity to the appeal site on both sides of London Road and there is a controlled pedestrian crossing in front of the appeal site, a short distance to the southeast of the existing access.
36. London Road forms part of routes to and from Maidstone town centre and from my observations in the early morning and at mid and late afternoon, it was a busy thoroughfare.

37. On 11 January 2019, the Highway Authority objected to the proposal on a number of grounds, including the close proximity to a pedestrian crossing; the absence of an appropriately scaled drawing to demonstrate safe visibility splays; the absence of swept path analysis to demonstrate that medium-sized service vehicles could enter, turn and then egress back onto the public highway in a forward motion, and the absence of the number of traffic movements associated with the existing use and the proposed use.
38. The appellant did not respond to this objection prior to the application being refused planning permission on 14 March 2019. However, an additional drawing, dating from before the application was made, was submitted with the appeal⁶. This drawing shows that an estate car could enter and leave the appeal site in a forward gear, by way of a turning area within the undercroft car park.
39. Government guidance is clear that the appeal process should not be used to evolve a scheme, and that if *an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application*⁷. No explanation has been provided by the appellant as to why they did not respond to the Highway Authority's objection during the application process.
40. I note that the additional drawing shows a significantly different undercroft layout to that shown on drawing DHA/12489/12V2, which is also inconsistent with other submitted elevation drawings, including with regard to the pedestrian entrance to the proposed building. Given these inconsistencies I am not satisfied that the undercroft layout shown on the additional drawing is one that could be achieved as part of the proposed development.
41. I have not, therefore, had regard to the additional drawing. I have determined this appeal on the basis of the scheme that was refused planning permission by the Council and to which the Highway Authority objected. Furthermore, even if I were to accept the additional drawing, it does not address the Highway Authority's stated concerns.
42. Consequently, I am not satisfied that the proposed development would be acceptable in terms of highway and pedestrian safety. It would, therefore, conflict with Policy DM1 contained in the MBLP and with guidance contained in the Framework, in this regard.

Affordable housing provision

43. It is not disputed by the parties that 30% of the proposed dwellings should be *Affordable Housing*, which would be consistent with the requirements of Policy SP20 (Affordable Housing) of the MBLP. A total of six flats (33.33% of the total provision) would be classed as affordable units. This ratio would be controlled by way of a Section 106⁸ Planning Agreement, a signed and certified copy of which was provided during the appeal process, dated 17 January 2020.
44. From the evidence, I am satisfied that the Agreement meets the three tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended).

⁶ 12489 T-01 Rev P1

⁷ Paragraph M.1.1 – Procedural Guide Planning Appeals – England, August 2019

⁸ Of the Town and Country Planning Act 1990

45. Consequently, the proposed development would have an acceptable impact in terms of affordable housing provision and would accord with Policy SP20 of the MBLP and with the Framework in this regard.

Conclusion

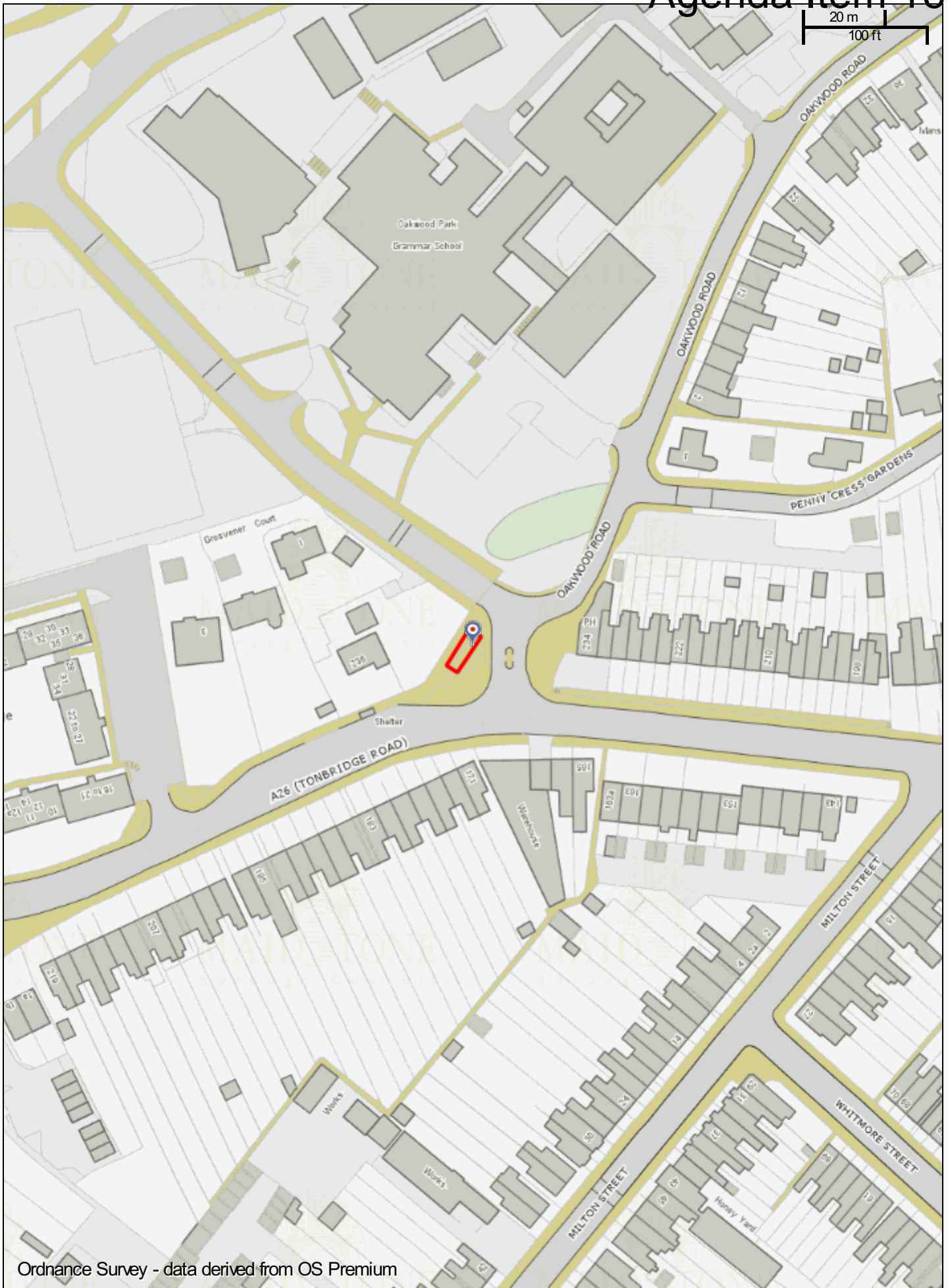
46. Whilst the impact of the proposed development on the character and appearance of the area and in terms of affordable housing provision would be acceptable, this would be outweighed by the harm to the living conditions of nearby and future occupiers and with regard to highway and pedestrian safety, as set out above.

47. For these reasons, and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR

20 m
100 ft



Ordnance Survey - data derived from OS Premium

21/506690/FULL Telecommunications Base Station At Junction Of Tonbridge Road And Oakwood Road, Maidstone, Kent

Scale: 1:1250

Printed on: 12/1/2022 at 9:13 AM by JoannaW

REPORT SUMMARY

REFERENCE NO - 21/506690/FULL			
APPLICATION PROPOSAL Removal of 1no. 12.5m street monopole, and replacement with 1no. 20m street monopole supporting 3no. antennas. Removal of 1no. cabinet and 1no. meter cabinet and replacement with 1no. new meter cabinet, and ancillary works thereto.			
ADDRESS Telecommunications base station at junction of Tonbridge Road and Oakwood Road Maidstone Kent ME16 8AN			
RECOMMENDATION - APPROVE, subject to conditions.			
SUMMARY OF REASONS FOR RECOMMENDATION A similar proposal has already been granted for the removal of a 12.5m monopole and its replacement with a 20m monopole. The re-siting of the new monopole is now proposed a few metres south than the previous consent, which moves it slightly nearer to the road, but it is not considered that the new siting causes sufficient harm to visual amenity on which to justify a refusal.			
REASON FOR REFERRAL TO COMMITTEE Cllr Kimmance requested referral based on visual impact caused by moving the siting of the approved 20m monopole.			
WARD Heath	PARISH/TOWN COUNCIL	APPLICANT Cornerstone AGENT Waldon Telecom Ltd	
DECISION DUE DATE 14/02/22	PUBLICITY EXPIRY DATE 13/01/22	OFFICER SITE VISIT DATE 07/01/22	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
21/504936/FULL	Replacement of 1no. 12.5m monopole with 1no. 20m monopole, supporting 6no. antennas and ancillary works thereto.	Approve subject to conditions.	11/11/21
<i>Reasons: Proposal was deemed acceptable in relation to visual impact and also in relation to residential amenity.</i>			
19/502130/Twork	Installation of Electronic Communications Apparatus.	No further action.	13.05.21
<i>Reasons: Proposals fell within permitted development criteria.</i>			
13/0715	An application for telecommunications prior approval for the removal of the existing telecommunications pole and the installation of a replacement 12.5m high telecommunications pole with two dish antennas and two additional equipment cabinets.	Prior Approval Granted.	22.04.13
<i>Reasons: Proposal was deemed acceptable and was acceptable in terms of visual impact and in terms of residential amenity and undertook mast sharing between companies.</i>			
11/0654	An application for telecommunications prior approval for the installation of a 12.5m	Prior Approval	22.04.11

	high Vodafone/O2 telecommunications pole, 1no. equipment cabinet and ancillary development	Granted.	
<i>Reasons: Reasons: Proposal was deemed acceptable and was acceptable in terms of visual impact and in terms of residential amenity and undertook mast sharing between companies.</i>			

Officer note: This application was due to be considered at Committee on 20th January 2022. However, the item was withdrawn to allow the consultation period for the site notice to finish and for the item to be reported back after 28th January 2022.

MAIN REPORT

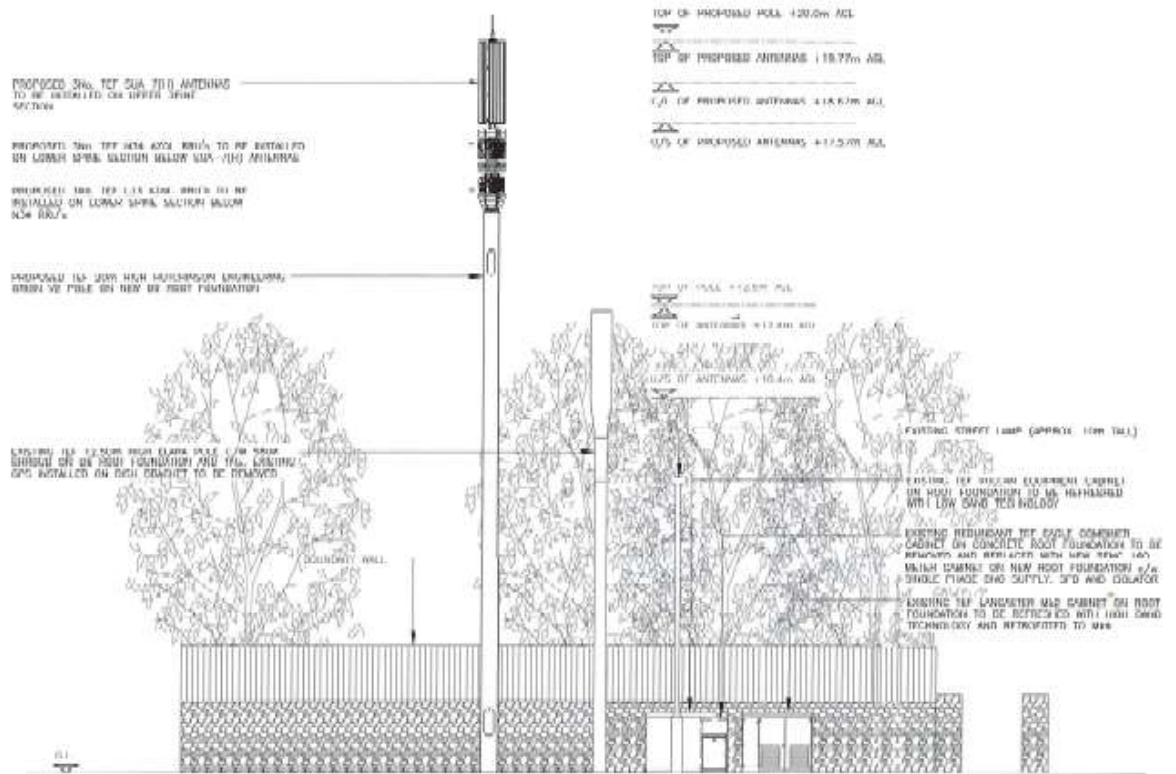
1.0 DESCRIPTION OF SITE

- 1.01 The application site is located at the junction of Tonbridge Road and Oakwood Road within the urban area of Maidstone. This general area is not the subject of any particular land use designations for example the site is not within the Conservation Area and there are not any listed buildings in the vicinity. The site involves a roughly triangular area of grassland, essentially surrounded by footways on all sides. There is another large area of grass verge separating the site and the adjacent footway from the busy Tonbridge Road junction. This area of grass contains two lampposts.
- 1.02 The land currently accommodates a 12.5m mast and associated paraphernalia, which includes two double cabinets and one smaller combiner cabinet and an inspection chamber (which is flush with the grass area). All current equipment is finished in dark green. To the northwest of the site is a ragstone wall with fence behind that marks the boundary between the highway and the curtilage of No. 236 Tonbridge Road, which has a significant tree boundary. There is a large bus stop layby and shelter to the west, which is the main drop off point for the adjacent school campus, which includes Oakwood, St. Augustine's, St. Simon Stock and Mid Kent College. The main entrance to the school complex and the grounds of Oakwood Park Grammar School are sited immediately to the north of the site and the Walnut Tree Pub to the east, beyond which terraced dwellings are sited.
- 1.03 There is a mix of business and residential properties located on the opposite side of the Tonbridge Road to the south. The property currently occupied by Bedroom and Kitchen Flair is sited immediately opposite the site and is separated from the Tonbridge Road by the footpath and a forecourt. There is a pair of semi-detached properties (nos.165-167) located to the east of Bedroom and Kitchen Flair, which are set back behind small front gardens. To the west of the business property, a row of terraced properties begins, most of which have front gardens that have been altered to areas of hardstanding, but which provide the properties with a set back from the footpath and main road.

2.0 PROPOSAL

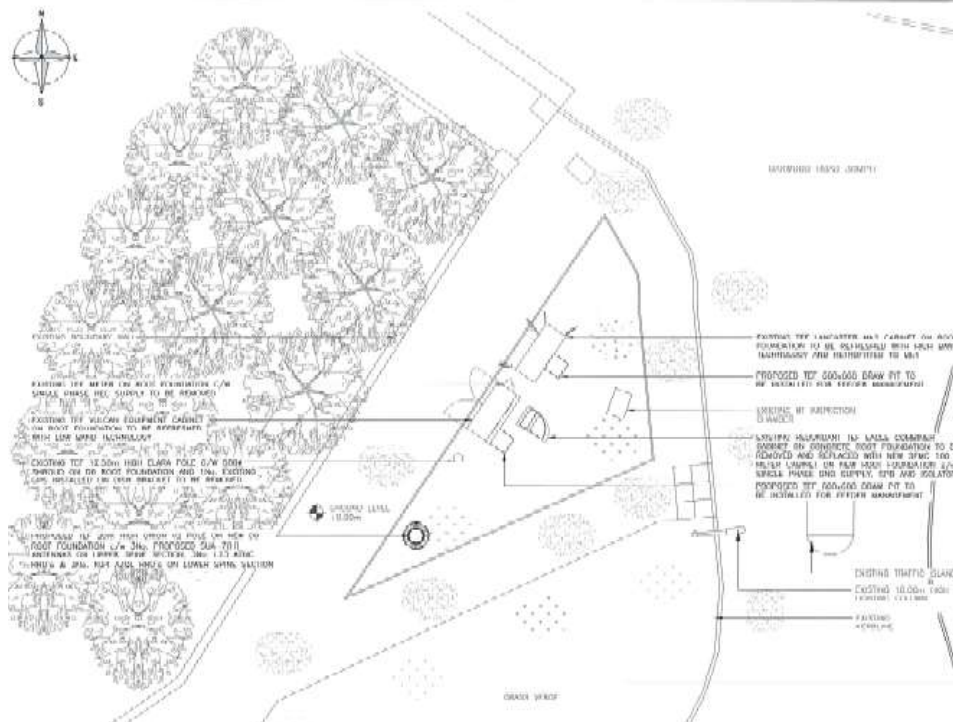
- 2.01 This planning application deals with the Replacement of 1no. 12.5m monopole with 1no. new 20m monopole supporting 3no. antennas and ancillary works thereto. This is to provide improved coverage and the latest technologies to this area, most notably in relation to providing, maintaining and enhancing 4G and 5G coverage and capacity. The ancillary works include the retrofitting of the two existing double cabinets, which externally will retain the same appearance. The replacement of the existing combiner cabinet with a new unit and the installation of 2 draw pits are

proposed adjacent to the rear of the cabinets, all of which are lower in height than the existing cabinets. The new monopole is proposed on the southern end of the grass triangle. All the equipment and mast is proposed to be finished in grey.



PROPOSED SOUTH EAST ELEVATION
(1/100)

2.02 The image below shows the proposed block plan for the siting of the monopole:



2.03 Planning permission has previously been granted for the same development, including a monopole of the same height. The location of this pole, however, was further to the north of the existing pole and cabinets, on the top end of the grass area nearer to the school campus entrance. Both the elevational and site plans for the approved monopole are shown below:

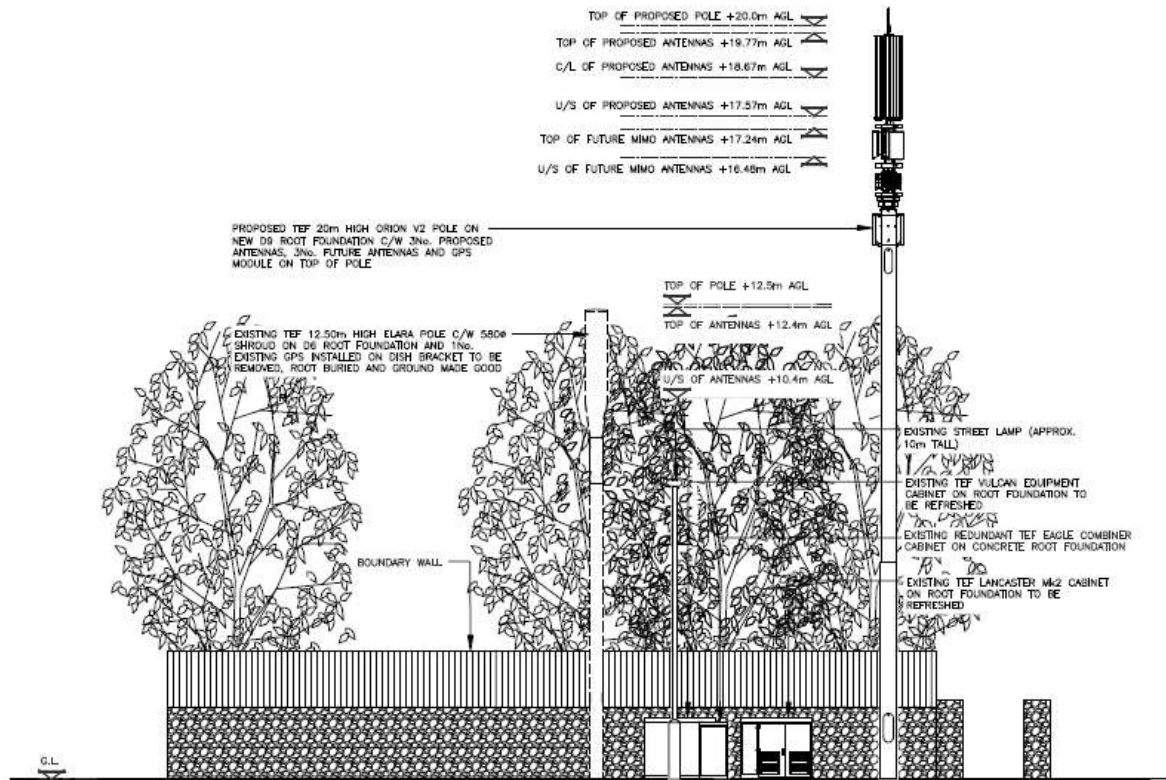
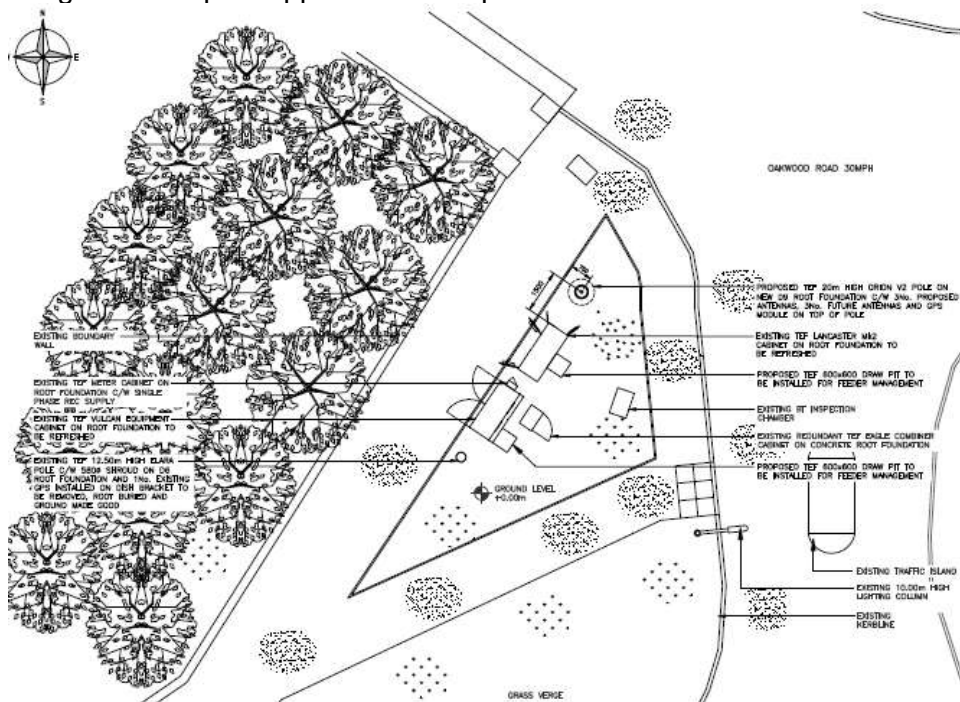


Image of monopole approved under permission reference 21/504396 – elevational view.



Location of monopole approved under permission reference 21/504396 – site plan.

- 2.04 In relation to the ancillary works, there is no difference between the approved scheme and the current proposal in relation to the retrofitting of the existing cabinets, erection of 2 new draw pits and the replacement of the TEF Eagle Combiner cabinet. As such, the remainder of this report, will focus solely on the proposed re-sited monopole, as the remainder of the scheme already has consent.
- 2.05 The proposed monopole would be sited approximately 2.7m further south than the existing 12.5m monopole and approximately 9.5m further south than the approved 20m monopole. The applicant has stated that a trial hole at the application site revealed underground utilities were present where the proposed replacement pole was located. As such an alternative design with a revised siting for the monopole has been put forward with this application. Conditions would be imposed to ensure the removal of the existing monopole within three months of the completion of the new monopole and to ensure that if planning permission was granted for this new location that only one of the new 20m monopoles could be constructed. However, in any event, the location of utilities effectively makes it very difficult for the approved pole to be constructed. A condition will also be imposed requiring the monopoles and cabinets to be finished in green, regardless of submitted details indicating grey, especially as all equipment on site is already finished in green.

3.0 SUMMARY INFORMATION

	Existing	Approved	Proposed	Change (+/-)
Site Area (ha)	21 sq.m	21sq.m	21 sq.m	0
Approximate Height (m)	12.5m	20m	20m	7.5m from existing (0m from approved scheme)
Approximate difference in location	Located 9.8m from northern most top of grass triangle	Located 3m from northern most top of grass triangle	Located 12.5m from northern most top of grass triangle.	Approximately 2.7m further south than existing monopole (9.5m further south than approved scheme)

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.1 The following policy documents are considered relevant to this proposal:
- Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 16, Class A Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO)
 - The National Planning Policy Framework (NPPF): Paragraphs 112 - 116 are relevant.
 - Development Plan: The following policies of the Adopted Maidstone Borough Local Plan (2017) are considered to be particularly relevant:
Policy DM1 – Principles of Good Design;
Policy DM25 – Electronic Communications;

- Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 19) dated October 2021.
Policy LPRSP15 – Principles of Good Design
Policy LPRINF4 – Digital communications and connectivity
The Regulation 19 draft is a material consideration and some weight must be attached to the document because of the stage it is at but its weight is limited, as it has yet to be the subject of an examination in public.

5.0 LOCAL REPRESENTATIONS

5.1 Two neighbours have sent two letters of objection in relation to the proposal. The issues raised have been summarised into the bullet points below:

- Siting and appearance of mast and associated paraphernalia would be of a height, scale and in a position that would be incongruous, out of character and harmful to local amenity, which is mainly residential in character.
- To minimise visual impact, poles should not be sited in a prominent position at a junction or on a bend in the road. Other prominent locations on grass verges should be avoided unless there is a technical justification. Although poles are often installed on highway land, operators can give due consideration to siting on private land, where it would be both commercially and technically feasible and result in less visual harm. Applicant not shown compliance with code of practice for siting.
- No specific details provided of alternate solutions using smaller antennae.
- Proposal is not only solution and additional effort required for alternate solutions do out outweigh detrimental impact to the amenity of the local area.
- Policy DM25 requires consideration be given to siting on existing buildings or appropriate structures; that every effort be made to minimise visual impact;
- No effort been made to camouflage the mast, it is proposed to have a bare metal finish. Applicant should do more to lessen visual impact.
- In an open and prominent position on a path with high usage due to nearby schools and will be visible from quite some distance.
- Will appear different from existing mast as bigger and less screened by trees.
- Health impacts not properly considered for previous proposal. Ofcom calculation of exclusion zones should be used.
- Existing mast should not take any part in decision for siting of the proposed mast.
- Incorrect documents, as one form appears to 6 no. antennas rather than the correct no. of antennas proposed, which is 3. (Officer note – description does refer to 3 antennas on monopole).
- Applicant failed to provide detailed plans of what groundworks were undertaken on when trial holes dug for both previous and current application.
- Applicant should have withdrawn previous application (21/504936) when it was apparent that the site was not appropriate due to underground utilities. (Officer note – the previous application was too near its target date to accept amended siting plans and the applicant was entitled to have that valid application determined).
- ICNIRP compliance of the ‘public zone’ should be scrutinised by the LPA. Occupation and exclusion zones should be provided.
- Applicant has advised that height of monopole is required to clear nearby trees. This does not allow for tree growth.
- Ultra fast broadband and communication services are well matured and universally available through existing providers in the area.
- Topography of the area means benefits of placing monopole at proposed site are negligible. A monopole has been approved at Gatland Lane which negates any benefit for a monopole on this site.

- Applicant has determined that upgrading current site is only and preferable option but has failed to consider other more appropriate sites.
- 236 Tonbridge Road is just 13 metres from proposal monopole with virtually no screening from nearby trees.
- Proposal will be visible from most windows on east and south aspects of building, views east from south facing garden will be dominated by monopole and sun in east will cast unwanted shadows across the garden and windows.
- Roadside views will be dominated by proposal. A prominent structure nearer to the roadside may contribute to road safety issues at junction.
- Proposed site will be overdeveloped. Grassed area will be destroyed.
- Application 19/502937/FULL (Minster on Sea) was refused on similar grounds to those outlined for Tonbridge Road.
- Application for a mast on Upper Fant Road was refused (21/500446) and virtually identical to this proposal.
- Refused application 21/504766/TNOT56 was refused and outlined factors relating to a grass verge that could equally apply to Tonbridge Road site.
- Refused application 21/505460/TNOT56 was refused as at odds with streetscene, again similar to Tonbridge Road. Proposal will not be obscured or sit within a backdrop of anything.
- Recent judicial review case against Brighton & Hove City Council at the High Court of Justice. The High Court of Justice quashed the decision made by Brighton and Hove City Council, resulting in the refusal of the original planning application due to failure to address health impacts due to proximity to school and failed to consider whether proposal could be sited on an existing building or structure.
- Good reason to believe that this proposal would cause harm to nearby residents and wildlife at radiation levels well below the ICNIRP guidelines, and I ask that the evidence contained in this objection be properly assessed by the Director of Public Health, Pollution Control Officer or someone with the expertise to evaluate it, so that an evidence-based determination of the material planning consideration "incompatible and unacceptable use of the site" can be determined.
- An evidence-based decision about the material planning consideration "unacceptable use of land" due to polluting effects under NPPF 185 and your EECC 2018 role needs to be made despite the conflicting instruction to rely on ICNIRP in NPPF para118.
- Site appears to have been chosen solely on its coverage potential. Object on grounds of siting and the harmful, cumulative, polluting effects from the proposal.
- Insufficient consideration given to long term health of nearby protected trees.
- Proposal incompatible with Local Plan Policy DM3 Natural Environment which seeks to protect positive landscape character.
- Green backdrop does not apply as trees themselves are 4m lower than monopole height.
- Ground could be unstable as sink holes have appeared further along the Tonbridge Road.
- Could upset stability of nearby wall.
- More cabinets could increase noise, littering and graffiti.

6.0 CONSULTATIONS

- 6.1 KCC Archaeology, KCC Highways and Environmental Health were consulted. The Environmental Health Officer commented on 6th February 2022 as follows:

"There are no matters arising from the main points of consideration and Environmental Protection is happy to approve this application."

INFORMATIVES

As the development involves demolition and / or construction, I would recommend that the applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected”.

- 6.2 No other consultee comments have been received. However, KCC Highways raised no objection to the previous application and the proposal is sited within the same triangle area of grass verge. Therefore, it is assumed that they did not wish to comment on this proposal as it is set a considerable distance back from the highway and is away from all sight lines for the junction of Oakwood Road and the Tonbridge Road, even with the monopole being proposed to be sited slightly forward of the previously approved position.

7.0 BACKGROUND PAPERS AND PLANS

- 7.1 The application comprises the following documents:

- Site Location Plans: 100 Rev. A;
- Existing Site Plan: 200 Rev. A;
- Proposed Site Plan: 201 Rev. A;
- Existing Site Elevation: 300 Rev. A;
- Proposed Site Elevation 301 Rev. A;
- Cornerstone Cover Letter, received 15th December 2021;
- Cornerstone ICNIRP Declaration with Clarification Statement;
- Cornerstone Supplementary Information;
- General Background Information for Telecommunications Development;
- Health and Mobile Phone Base Stations;
- Mobile Connectivity Brochure;
- Notice to Owner Letter & Planning Notice;
- Radio Planning and Propagation;
- Application Form.

8.0 APPRAISAL

Principle of Development

- 8.01 In terms of supporting high quality communications infrastructure, the National Planning Policy Framework (NPPF) states;

“Advanced, high quality communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.” (paragraph 114).

- 8.02 And that;

“The number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic

communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.” (paragraph 115).

8.03 Further, the NPPF states;

“Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.” (paragraph 118)

8.04 Paragraph 20 of the NPPF (2021) sets out that strategic policies should allow for the pattern, scale and design of quality of places for :

b) infrastructure for transport, **telecommunications**, security, waste management.....

8.05 This application would be assessed under DM25 (Electronic Communications) of the adopted Maidstone Local Plan. The policy supports new masts providing they comply with the following:

- 1.It is demonstrated that mast or site sharing is not feasible and the apparatus cannot be sited on an existing building or other appropriate structure.
- 2.A less environmentally harmful means of providing the same service is not feasible.
- 3.Every effort has been made to minimise the visual impact of the proposal.
- 4.Proposals adhere to government advice on the health effects of exposure to radio waves.
- 5.Consideration is given to future demands of network development.

8.06 The Local Plan Review is out to consultation and carries some, but limited weight. When considering the direction of travel of policies relating to telecommunications the policy sets out the following, albeit as this has yet to undergo scrutiny limited weight is attached :

3. Proposals for the enhancement of mobile connectivity including through the provision of mobile data networks (such as 5G mobile data), will be supported, subject to compliance with relevant policies in this Plan, and with national policy. Where permission is required, proposals for new masts and antennae by telecommunications and code systems operators will be supported provided:
 - i. It has been demonstrated that mast or site sharing is not feasible and that the apparatus cannot be sited on an existing building or other appropriate structure that would provide a preferable environmental solution;
 - ii. It has been demonstrated that an alternative, less environmentally harmful means of providing the same service is not feasible;
 - iii. Every effort has been made to minimise the visual impact of the proposal;
 - iv. Proposals adhere to current Government advice on the health effects of exposure to radio waves; and
 - v. Consideration has been given to the future demands of network development, including that of other operators.

Evidence Submitted by Applicant to Support the Application

Need

- 8.07 The need for a 20m monopole in this location to serve the Tonbridge Road area around Oakwood has already been accepted with the previous consent. The applicant explains in their statement that the need to relocate the pole slightly further to the south is based on the existence of utilities that were revealed as a result of a trial hole. It is set out in paragraphs 3.6 and 3.7 of the supplementary information document that:

“3.6 The 5G network is a unique technology and it requires a bespoke approach. It is not being rolled-out in the same manner as the previous 3G and 4G networks. We do appreciate that some Local Authorities have become accustomed to seeing a geographical coverage footprint of a new or upgraded site, where coverage plots were commonplace within applications. Unfortunately, the same is not available for the 5G network roll-out. There are no 5G network coverage plots being produced for individual cell sites as this is a very fast-moving project with the 5G network constantly evolving as more and more sites are added to the Operators’ networks.

3.7 These 5G networks will build upon the existing 4G networks which will effectively form the infrastructure “spine” for this next generation of mobile networks. We respectfully remind all Local Authorities of the direction provided by the Government within the NPPF, i.e. that they should not seek to prevent competition between Operators or question the need for an electronic communications system (para 118), and also that the expansion of next generation mobile technology should be supported (para 115)”.

- 8.08 The supporting statement also sets out that the proposal will provide additional capacity, whilst making use of an existing base station:

“4.1 This critical digital infrastructure will provide improved capacity for 4G and also new cutting-edge 5G coverage for Telefonica to the surrounding area. The applicant is able to introduce new services into the area, without the need for an additional base station, thus keeping the number of masts to a minimum. As the increase in height of the monopole is required to ensure the safe and effective operation of the site, traditional coverage plots will not illustrate the need and have not been produced.

4.2 The provision of poor communication services has well recognised economic and social impacts on communities and businesses. Importantly, the base-station would provide increased network capacity, allowing quality service provision to a higher number of people at the same time. Improving cellular connectivity is led largely by demand. The very high level of mobile phone use in the UK requires the installation of additional base stations to provide the necessary connections”.

Why site was chosen

- 8.09 The supporting statement sets out :

“5.1 In accordance with planning policy, a sequential approach to site selection was adopted. The applicant’s network rollout team investigated the following siting and design options using this sequential approach to site selection:

- 1. • Upgrading their own existing base stations;*

- 2. • *Using existing telecommunications structures belonging to another communications operator. i.e. Mast and/ or site sharing, co-location;*
- 3. • *Installations on existing high buildings or structures including National Grid pylons;*
- 4. • *Using small scale equipment; and finally*
- 5. • *Erecting a new ground-based mast site – (1st) Camouflaging or disguising equipment. (2nd) A conventional installation e.g. a lattice mast and compound.*

5.2 *The opportunity to upgrade an existing site was given preference over installation of an additional base station. The need to enhance the network means that coverage could be improved by upgrading apparatus at an existing communications site, in line with the NPPF and Code of Best Practice on mobile network development 2016”.*

- 8.10 The reason for the re-siting of the monopole further to the south on the grass verge than previously approved is also explained by the application that this section of land is the only area which is clear of any underground utilities, but it would also ensure that the monopole would be in line with all other equipment, allowing the general site layout to be maintained as a simple linear layout.

Reason for design

- 8.11 The supporting statement sets out the following rationale for design:

“3.8 *The equipment’s design is based on the principle of meeting operational requirements of the mobile operator Telefonica (trading as O2), whilst minimising the impact on the surrounding, as far as technical constraints allow.*

3.9 *The base-station has been designed to accommodate apparatus, allowing for improved provision 4G mobile connections to the surrounding area. It has also been designed to accommodate new 5G technology, introducing ultra-fast mobile connectivity capable of operating the ‘Internet of Things’. This proposed infrastructure will provide higher mobile down-load speeds and more reliable, quicker phone connections. There would be increased capacity to provide services to a higher number of people at the same time.*

3.10 *The number and scale of proposed antennas is informed by the number of communication services being provided (4G, 5G etc.) and because of the high technical capability of 5G services. The proposed antennas are wider than the existing antenna and physically cannot be accommodated into the existing monopole, thus a new structure type is required.*

3.11 *The antennas must be allowed to unrestrictedly emit a radio signal, meaning they can’t be shrouded or concealed and need to be sited at an elevated position, to enable the radio signal to clear surrounding structures, such as buildings and trees, with the aim of avoiding interference. The radio frequencies that 5G operates at is particularly sensitive to interference from solid objects, which necessitates securing the antennas at the height proposed. This is the lowest height required in order to achieve an antenna height which will enable the radio signal to clear the nearby trees and reach the areas where mobile reception is required whilst complying with standards set by the International Commission on Non- Ionizing Radiation Protection (ICNIRP) and therefore, cannot be reduced any further.*

3.12 *The monopole’s unfussy design ensures impact is minimal and does not cause*

unacceptable harm to the surrounding area. In all aspects of the design now put forward the smallest practical components have been utilised to ensure that the visual impact of the development is kept to the absolute minimum.

3.13 The aforementioned factors have informed the design of the proposed equipment which is of the minimum amount and scale possible, while still meeting structural and radio planning requirements.

3.14 As previously mentioned, the location of the monopole is proposed to be moved approximately 3.3m south west of the existing monopole. The replacement monopole cannot be built on the old root, and as such a section of highway which is clear of any underground utilities has been identified. The new location for the replacement monopole will remain in line with all other equipment, allowing the general site layout to be maintained, as a simple linear layout. As such, the visual change involved with the new location of the pole is limited and maintains the accessibility for the highways and pedestrians.

3.15 The aforementioned factors have informed the design of the proposed equipment which is of the minimum amount and scale possible, while still meeting structural and radio planning requirements.

3.16 All apparatus required will play a vital role in the provision of improved network services for O2's mobile network. The scale and amount of apparatus has been limited to the minimum with which this can be achieved at this site. Despite it being acknowledged that there will be some visual change to this site, due to technical constraints, the design cannot be reduced any further, and although it is acknowledged that the installation may cause some level of visual harm to the area, it is considered that the benefits to the network brought by this proposal will outweigh this harm".

- 8.12 The statement confirms that the height has been kept to the minimum necessary to provide the service required. It should be noted that a 20m monopole has already been approved on this site. The main issue therefore is the site layout, with the pole moving 3m to the south of the existing 12.5m monopole which is to be removed.

ICNIRP (telecommunications health impact assessment)

- 8.13 An ICNIRP certificate accompanies the application and therefore issues surrounding impact on health should not be given significant weight here and therefore Officers are satisfied that the development would not cause adverse harm to members of the public. The application is accompanied by the following information relating to health matters :

Health and mobile phone base stations
ICNIRP Declaration
Radio and Propagation
5G Masts and Health

- 8.14 No health matters were raised in relation to the previous approval and so it is still considered that the proposal is designed to be in full compliance with the requirements of the radio frequency (RF) guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) for public exposure, as expressed in the EU Council recommendation of July 1999, and the subsequent update in 2020.

- 8.15 The National Planning Policy Framework clearly sets out :

*“Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or **set health safeguards different from the International Commission guidelines for public exposure.**”*
(Para 118)

Overall

- 8.16 In line with paragraphs 114 - 118 of the NPPF, the applicant has sought to demonstrate the need for the mast and ancillary equipment and why the proposed site has been chosen.

Visual Impact

- 8.17 Policy DM1 of the Local Plan sets out that proposals shall :

‘Respond positively to, and where appropriate enhance, the local, natural or historic character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage – incorporating a high quality, modern design approach and making use of vernacular materials where appropriate.’

Policy DM25 sets out, firstly in the pre-amble :

‘Development should be sited, where possible, to minimise visual impact’ (para 6.108)

As part of the policy :

(i).It is demonstrated that mast or site sharing is not feasible and the apparatus cannot be sited on an existing building or other appropriate structure.

(ii).A less environmentally harmful means of providing the same service is not feasible.

(iii).Every effort has been made to minimise the visual impact of the proposal.

- 8.18 It is of course inevitable that the mast would have a visual impact, both due to its height and associated street furniture in terms of the extent of cabinets and paraphernalia. There is little that can be done to mask the visual impact of a pole mast, especially when it is proposed to be sited within an area which is an open verge. As such a pragmatic approach needs to be taken as to whether the siting would be significantly harmful, given the utilitarian appearance of the mast. As for the previous approval, it is considered that the application has been accompanied by sufficient information to justify the need and that the applicant has utilised best practice in upgrading an existing mast location rather than looking for a new site.

- 8.19 In this case it has already been considered acceptable and that a new 20m monopole to replace the existing 12.5m mast would not introduce such an alien feature that would cause harm to this main thoroughfare. Indeed the original assessment in the delegated report for the approved 20m monopole stated that the new mast:

“... would be higher than the existing 12.5m high mast, and inevitably will be visible within the street scene, both along Tonbridge Road, Oakwood Road and within the school complex to the north. Views would also be possible from neighbouring

residential properties. However the mast would be sited further towards the northern edge of the verge, thus being less prominent at ground level when approached from Oakwood Road (as it would not be directly central as is the case with the current mast), when viewing from Tonbridge Road it again would be further from the highway frontage, thus existing built form and to some extent vegetation (which can be relied upon to a lesser extent a permanent screening) would obscure some views at ground level. There maybe some longer range views of the mast due to the increase in height, however these are diminished by the surrounding topography and the dense surrounding urban environment”.

- 8.20 The issue which remains to be considered in this application is whether the re-siting of the approved mast further south towards the edge of the grass verge would result in an additional degree of visual impact so that the proposal would become unacceptable. It is considered that it would be difficult to refuse an application for the same 20m monopole that has just been approved on the same area of grass verge, due to the siting moving approximately 3m to the south of the existing 12.5m high mast. It would be approximately 12.5m south of the siting of the approved 20m mast. The overall amount of land laid to grass would remain the same. It is noted that there is another large grass verge between the grass verge of the application site and the Tonbridge Road, ensuring that the proposed re-sited monopole would still be set well back from the highway (approximately over 12m) and also no further forward than any of the adjacent front boundaries for the housing to the west or the public house to the east. As such, long distance views of the monopole from along the Tonbridge Road would still be limited by boundary treatments, the dense built form of the area and mature landscaping. Although it would be more visible than the existing 12.5m mast, it would still be set back far enough from the road frontage and adjacent boundary treatments so that its visual impact is sufficiently reduced.
- 8.21 The revised siting also retains the existing linear layout of the existing telecommunications equipment by ensuring that it does not project further forward towards Oakwood Road or towards the ragstone wall to the west. The height of the street lamps on the adjacent grass verge to the front also further blends the development into its surroundings. The ragstone boundary wall of 236 Tonbridge Road on the southern boundary extends nearer to the road than the proposed monopole, therefore, ensuring that the proposal would not be overly prominent, but well sited away from the road and away from the front grass verge on the junction. The finish of the mast and the cabinets in green (via condition) would also further blend the proposal into the green backdrop of trees. Even if the mast would be higher than the trees, the colour would still blend it into the backdrop, and the trees will also grow higher over time. It is therefore considered that every effort has been made to minimise the visual impact of the mast, whilst utilising an existing base station and avoiding the need to seek a new site.

Residential Amenity

- 8.22 In terms of residential amenity, the nearest residential property is number 236 Tonbridge Road and the neighbouring property to the north-west. To the east is the Walnut Tree Public House and is separated by a fairly wide road junction and to the south there are a mix use of properties, however these are separated by the road itself and a wide verge such that although there maybe glimpse views of the mast, the proposed siting and additional height is unlikely to have a greater impact than that of the existing 12.5m high mast, even with the location moving further forward.

1 Grosvenor Court

- 8.23 Number 1 Grosvenor Court is to the north-west of the site and is orientated with its rear elevation facing toward Tonbridge Road. The approved 20m mast would be approximately 40m from this property. The re-sited mast would be even further away (approximately 45m) and although some views of the approved and proposed mast may still be visible above the tree-line of the protected trees in the front garden of no. 236 Tonbridge Road, due to the slim-line nature of the mast and the distance, it is not considered that it would inherently harm residential amenity in terms of those matters which are set out in local or national policy, the fact that something is visible does not in itself make it harmful. It is considered that this current proposal would actually have less visual impact on this property than the approved monopole.

236 Tonbridge Road

- 8.24 Number 236 is the property in closest proximity to the site, the property takes access of the access road to the north of the site with the area immediately adjacent to the site forming the front garden of the property, providing the parking and turning area. This area is dominated by two protected trees. There are windows in the east and south facing elevations of the property. The approved mast would be approximately 20m from the dwelling itself, whilst the new mast measures approximately 16m from the corner of the dwelling. The existing mast is also in closer proximity to the property than the approved mast, and the existing and proposed mast would both be more exposed by being further south of the trees. However, that said, there is still a considerable distance between the proposal and No.236, which is also benefitted with a tree screen that is subject to TPO protection. Number 236 is in an elevated position, which minimises the impact of the height of the monopole. It is only the forward most window on the side (eastern) elevation of the property at first floor level that will have a more direct view of the proposed monopole and this would appear to be a secondary window to the main front window. The larger side first floor window is set further back and so would be screened by the protected trees.
- 8.25 However, as already stated, just because something is visible does not in itself make it harmful. For the application to be considered harmful in terms of affecting amenity, it would need to significantly impact on the outlook from the property. In terms of being overbearing, overshadowing or causing loss of light or affecting other aspects normally associated with amenity, the mast, although tall, would be relatively slim-line and could not be considered harmful in this regard. Overall, it is considered that the siting is located on an existing base station, it follows the existing linear pattern of the development and it blends in with the surrounding urban environment. The difference in siting is not considered to result in sufficient additional visual impact that could justify a reason for refusal based on harm to residential amenity. It is not considered that there would be any significant impact on residential amenity.
- 8.26 When assessing outlook, the Councils Residential Extension SPD sets out at paragraph 5.55 :

'The Borough Council is primarily concerned with the immediate outlook from neighbours' windows, and if a proposal significantly changes the nature of the normal outlook. For example, it would be unacceptable for the resulting outlook from a main window to be of a large wall of a residential extension.'

In this case it has been previously accepted that the 12.5m high mast is not harmful and any outlook from windows of this mast is considered acceptable. The moving forward of the proposed mast by 3m and the increase in height, would result in some

increase in visibility, but the proposal is still sited on a grassed area set well back from the highway by over 10m and from the nearest house by over 16m. Therefore, although it will become possibly slightly more visible from the upper side window of No.236, the resultant impact is not considered to be significantly harmful to outlook due to the distance, land levels, protected tree screen and the nature of the mast.

- 8.27 Overshadowing has also been raised as an issue by a neighbour, but it is not considered that the mast would cause any harmful overshadowing, on the dwelling or the garden area, not least due to its proposed siting to the east of the dwelling which would only affect morning light, but also due to the raised land levels of 236, the slimline design and also the mature tree screen, which would cause far more overshadowing and loss of light to the amenity and garden area of 236 in early morning than the proposed slimline monopole.

ICNIRP (telecommunications health impact assessment)

- 8.28 An ICNIRP certificate accompanies the application and therefore issues surrounding impact on health should not be given significant weight here and therefore members should be satisfied that the development would not cause adverse harm to members of the public. No objections have been raised by Environmental Health.
- 8.29 Both objections received from two local residents make reference to health grounds. However, it is considered that the necessary guidelines have been met and the application could not be refused on health matters. Furthermore, it must be noted that this site is an existing telecommunications site. The proposal would not increase the number of masts at the site, the existing 12.5m monopole would be replaced with a 20m monopole. There is already an existing consent for a 20m monopole at the northern end of the site. This is all relevant to the consideration of this application and highlights that, in terms of health and safety, the resiting of a mast would not have any material impact or difference on health.

Previous Decisions on Telecommunication Sites

- 8.30 Reference is made by one of the objectors to decision 21/500446/TNOT56 in Upper Fant. This proposal for a monopole was refused due to visual impact as it was sited along an actual pavement where no existing mast and no other point of height reference anywhere in the street scene. As such, it is not considered similar to the Tonbridge Road site which is an existing site and has other vertical street furniture around it and a backdrop of trees.
- 8.31 Refused application 21/504766/TNOT56 related to a site on Sittingbourne Road and was refused. An objector states that the refused proposal outlined factors relating to a grass verge that could equally apply to Tonbridge Road site. However, this site was a virgin site and so had no existing equipment and had a tree located immediately adjacent to works on same grass verge and on the same level, which raised tree protection issues.
- 8.32 An objector also refers to refused application 21/505460/TNOT56 was refused as at odds with streetscene, again similar to Tonbridge Road. However, this site was at Cumberland Rd and was once again on a very open and virgin site, with no existing monopole or equipment and with no backdrop or tree screen to aid assimilation of mast. This current application does have a backdrop and an existing mast and other street furniture with a strong vertical presence.

- 8.33 An objector refers to a recent judicial review case against Brighton & Hove City Council at the High Court of Justice. The High Court of Justice quashed the decision made by Brighton and Hove City Council, resulting in the refusal of the original planning application due to failure to address health impacts due to proximity to school and failed to consider whether proposal could be sited on an existing building or structure. Again, it must be highlighted that this application site is already used for telecoms and has an existing mast, which is to be replaced by proposed mast. It is making best use of an existing site and so it would be difficult to justify an alternative location rather than make use of an existing site. Health impacts would be unchanged as it would be sited on same grassed area and there would be no increase in number of masts proposed. Therefore, it not considered that this application has any great similarities to the Brighton & Hove City case and also each case must be considered on its merits. The examples of the refusals made by Maidstone Borough Council demonstrate that each application is considered carefully and its merits and that they are refused if they are assessed to be unacceptable. The government encourages the best use to be made of existing telecommunications site and it is considered that this is what this proposal would do. There would be the same amount of grass verge remaining, wherever the monopole would be sited, as all the replacement mast would have a slimline design with a narrow base and so would not take up any more space than the existing or approved mast.

Other Issues

- 8.34 The proposal because of its location, scale and nature, would not have a significant impact on visibility splays or highway safety. It is not sited any where near any visibility splays for Oakwood Road or Tonbridge Road. It is sited on a second grass verge, away from both roads, with another grass verge and pavement between the proposal and the road. As such, road safety and other highway issues raise no issues of concern for this proposal.
- 8.35 Representations also raised concern that the works would result in a greater level of anti-social behaviour. This site already has a monopole and it is not considered that the replacement of one mast with another would result in any increase in graffiti, littering or other anti social behaviour.
- 8.36 Concerns are raised regarding the impact on existing retaining wall serving as a boundary for 236 Tonbridge Road. However, there is pavement between the proposal and the wall, providing sufficient distance that should ensure no disturbance to the wall or the trees behind it. Furthermore, the monopole is sited on the same run as the existing equipment and would not be any nearer the wall than the existing equipment. If any damage should occur, however unlikely, this would not be a material planning consideration, but it would be a civil matter between the applicant and owner.
- 8.37 Concern has been raised about the protected trees near to the site. The protected trees are located behind the retaining ragstone boundary wall of No.236 London Road and separated by a pavement. As the trees are also at a raised level, the proposal would not harm the root structure of the trees, with the existing wall containing the root structures to the garden area of 236. Again, as the monopole would be sited on the same run as the existing equipment and underground utilities, it would not be moving any nearer the trees or their roots.
- 8.38 An objection has also stated that the proposal is not needed in terms of coverage due to mast approved in Gatland Lane and that this would provide adequate coverage to the Tonbridge Road area. The issue of network coverage and need has

effectively been covered by the previous approval. However, it is still considered important to highlight that the Gatland Lane mast would not provide coverage for this part of Tonbridge Road. The application site currently serves as part of the existing network coverage. The increase in height is required to improve that network with the rollout of 5G, whilst preventing the requirement for an additional site. Improvement of existing sites will provide the spine for this improvement to the next generation of mobile networks. The government places a strong emphasis on supporting the expansion of the technology networks, becoming all the more important with the reliance on technology and home working.

9.0 CONCLUSION

- 9.01 Overall it is considered that the increase in height of the proposed mast, taken in conjunction with the proposed relocation, would be visually acceptable and would not be so harmful to outweigh planning policy which weighs in favour of the improvement in telecommunications which needs to be facilitated by new or replacement infrastructure. The proposal would also be acceptable in terms of the impact on neighbouring amenity and the replacement mast would not be significantly more harmful than the existing mast, the approved mast or when considered on its own merits. The proposal makes use of an existing base station and ensures mast sharing and so meets the objectives of both government and local plan policies.

10.0 RECOMMENDATION – Grant Subject to the following conditions:

CONDITIONS to include

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing Number 201 Rev A (Proposed Site Plan) - received 15/09/21
Drawing Number 301 Rev A (Proposed South East Elevation) - received 15/09/21
Supplementary Information - received 15/12/21

Reason: To clarify which plans have been approved.

3. Notwithstanding the submitted details, the finish to the monopole and cabinets hereby approved shall be steel with a dark green finish. Details of the colour finish shall be submitted to and approved in writing by the Local Planning Authority and the approved colour finish shall be applied prior to the first use of the monopole and cabinets and permanently maintained thereafter.

Reason: To ensure a satisfactory appearance to the development

4. Within 2 months of the erection of the mast hereby permitted, or a timescale submitted to and approved by the Local Planning Authority, the existing 12.5m mast shown to be removed on Drawing Number 301 Rev A (Proposed South East

Elevation) and Drawing Number 201 Rev A (Proposed Site Plan) shall be removed from the site and the ground made good.

Reason: In the interests of visual amenity.

5. Permission reference 21/504936/FULL (for the replacement of 1no. 12.5m monopole with 1no. 20m monopole, supporting 6no. antennas and ancillary works thereto) shall not be implemented, either in part or full, if this permission, under reference 21/506690/FULL, is implemented either in part or full or vice versa

Reason: In the interests of ensuring only one planning permission is implemented preventing a proliferation of masts and in the interests of visual amenity and ensuring mast sharing.

INFORMATIVES

(1) It is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

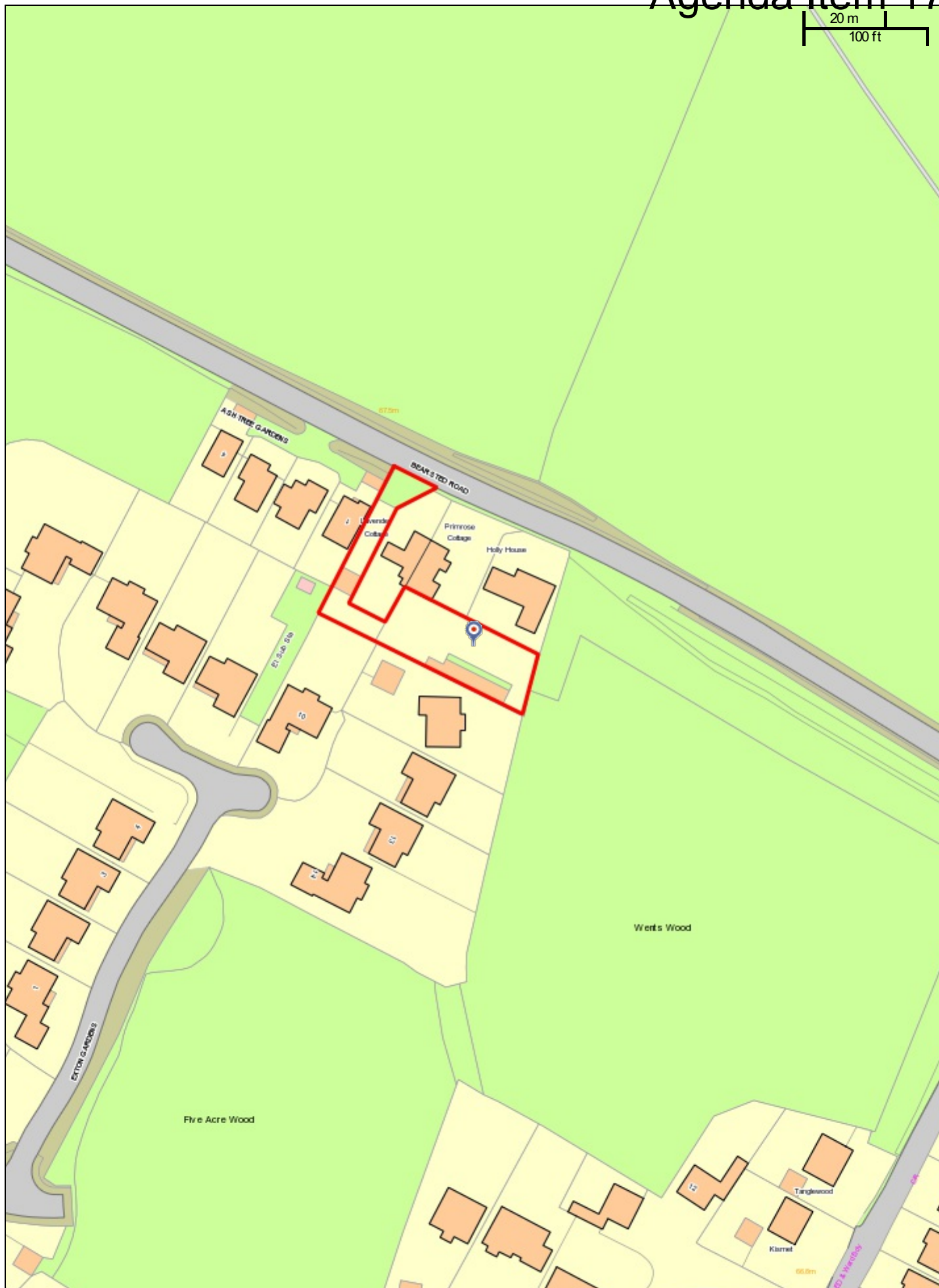
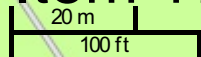
Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highwayboundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

(2) As the development involves demolition and / or construction, the applicant should refer to the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected.

Case Officer: Diane Chaplin

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



21/506322/FULL Rose Cottage, Bearsted Road, Weaving, Kent

Scale: 1:1250

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REPORT SUMMARY

REFERENCE NO - 21/506322/FULL			
APPLICATION PROPOSAL Erection of single storey rear extension to bungalow, construction of detached single garage and erection of shed in back garden.			
ADDRESS Rose Cottage Bearsted Road Weaving Kent ME14 5LD			
RECOMMENDATION : GRANT subject to the planning conditions set out in Section 8.0 of the report			
SUMMARY OF REASONS FOR RECOMMENDATION For the reasons set out below it is considered that the proposed extensions and alteration to the property would be acceptable and would not cause significant visual harm, harm to neighbouring amenity nor be unacceptable in terms of any other material planning considerations such as the proposed development is considered to be in accordance with current policy and guidance.			
REASON FOR REFERRAL TO COMMITTEE The recommendation is contrary to the views of Boxley Parish Council who have requested the application be presented to the Planning Committee			
WARD Boxley	PARISH/TOWN COUNCIL Boxley	APPLICANT Mr and Mrs Christopher and Deborah Le-Core AGENT JK Designs	
DECISION DUE DATE 25/01/22	PUBLICITY EXPIRY DATE 24/12/21	OFFICER SITE VISIT DATE 21/1/22	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
20/501279/REM	Approval of reserved matters following outline application 19/503191/OUT - Outline application for access, layout, and scale for the demolition of existing outbuildings and erection of a single storey detached dwelling with associated access and parking (Appearance and Landscaping being sort).	Permitted	11/5/2020
19/503191/OUT	Outline application for access, layout, and scale for the demolition of existing outbuildings and erection of a single storey detached dwelling with associated access and parking (including Lavender Cottage).	Permitted	16/9/2019
15/508305/OUT	Outline application for demolition of	Refused	14/3/2016

	existing cattery and outbuildings and the erection of a two storey detached dwelling with associated double garage, parking and turning. Shared access with Lavender Cottage. with access to be considered at this stage		
<p><i>Given: (i) the location and siting of the proposed two-storey dwellinghouse, (ii) its proximity to the properties to the north (i.e. Primrose Cottage and Holly House), (iii) orientation of the site and spatial relationship with the said curtilages; the proposed two-storey dwellinghouse would be likely to cause serious harm to residential amenities of occupiers of the affected curtilages; including loss of outlook and loss of daylight/sunlight; by reason of overshadowing and, being overbearing and intrusive.; this is unacceptable. The proposal is also contrary to the following material considerations: Sections 3 & 7 of the NPPF.</i></p>			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site relates to a single storey bungalow recently constructed on a backland site to the rear of the gardens of those dwellings fronting Bearsted Road (Lavender and Primrose Cottage and Holly House). The site was previously a cattery, however the redevelopment has taken place and the dwelling appears to be complete and occupied.
- 1.02 The site is access by a private driveway from Bearsted Road which leads to a large parking and turning area. The dwelling is situated in a fairly spacious plot for its location with a flat garden to the rear. A mix of hedging and close boarded fencing enclose the site.
- 1.03 The site is within the urban settlement boundary, adjacent to protected woodland which is sited to the east of the site and within the 500m buffer of a local wildlife site.

2.0 PROPOSAL

- 2.01 The proposal is for the erection of a single storey rear extension to the bungalow, construction of detached single garage and erection of shed in back garden.

Single storey rear extension

- 2.02 The extension would be to the rear of the existing dwelling and would extend approximately 3m rearwards, have a width of 6m (approximately half the width of the existing dwelling) and would have a pitched roof with an eaves height to match the existing dwelling (approximately 2.6m) and a ridge height of 4.1m. Materials would match the existing dwelling and a single rooflight would be present in both side facing roofslopes.

Detached single garage

- 2.03 The garage would be sited in the north-western corner of the site adjacent to the boundaries with Lavender and Primrose Cottages. It would have a length of

approximately 5.5m, width of 4m, with a pitched roof with an eaves height of 2.4m and a ridge of approximately 4m.

Shed

- 2.04 The shed would be sited in the south-eastern corner of the garden and would have a square footprint of approximately 3m and would have a shallow pitched roof with a maximum height of 2.5m. It would be timber clad with a felt roof.

Other matters

- 2.05 A flue is shown to project from the side facing roof of the extension. This would serve a log burner proposed in an existing part of the dwelling. Part 1, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), allows for flues to be permitted development provided they would not exceed the highest part of the roof by 1metre or above. The proposed flue would not exceed this criteria and is therefore not considered to require planning permission and could be inserted into the existing roof without the need for consent. As such no further consideration is given to the proposed flue. Matters are raised from neighbours regarding smoke and fumes, however these would be dealt with through other legislation, initially by building regulations compliance.
- 2.06 The site plan indicates that an existing part of the hedge to the rear of Primrose Cottage would be removed and replaced by 1.8m Close Boarded fencing. Due to the recent nature of the existing dwelling planting and boundary treatment does remain to be controlled by conditions, with the following conditions being pertinent :

Condition 4 of 19/503191/OUT

*(4) Within the area identified as garden land shown on drawing no: 7098-P-01 Rev C and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Classes A, D, E and F and **part 2 Class A** to that Order shall be carried out.*

Reason: In the interests of visual and residential amenity.

This condition removes permitted development rights for new boundary treatment.

Condition 5 of 19/503191/OUT

(5) Before first occupation of the approved dwellings, fencing shall be erected along the common boundary with the existing neighbouring dwellings shown on drawing no: 7098- P-01 Rev C that shall be no less than 1.8 metres in height and be of close boarded construction.

Reason: To safeguard the residential amenities of the occupiers of neighbouring buildings.

This intimates but does not explicitly show that the boundary treatment proposed with all neighbouring properties would be 1.8m close boarded fencing.

Conditions 9 and 10 of 19/503191/OUT

(9) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

(10) The submitted Landscaping details shall be implemented in the first available planting season following first occupation of the development hereby approved. Any part of the approved landscaping scheme that is dead, dying or diseased within 5 years of planting shall be replaced with a similar species of a size to be agreed in writing beforehand with the Local Planning Authority.

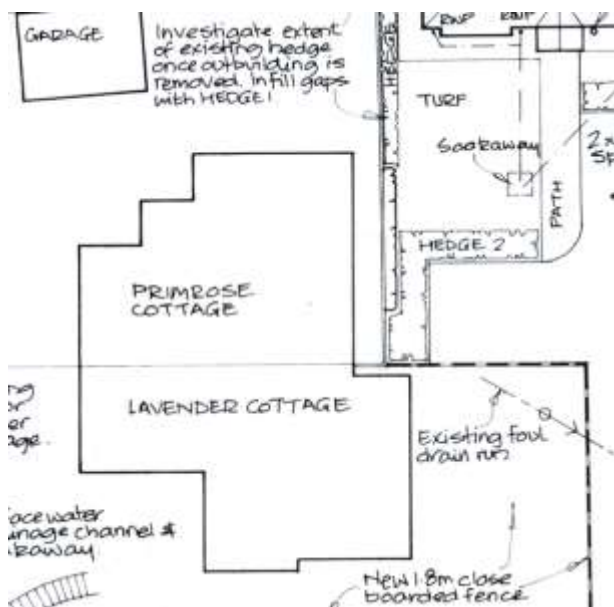
Reason: In the interests of visual amenity.

The landscaping details referred to in Condition 9 were submitted as part of the reserved matters application. This showed hedging along the boundary with Primrose Cottage (see extract below) and was further conditioned to be implemented by condition 2 of that consent (20/501279/REM).

The supporting statement accompanying 20/501279/REM with reference to the hedging set out :

To the boundary with Primrose Cottage. Investigate the nature of the existing hedge once the outbuilding is demolished. As required reinforce/infill gaps/install new Privet double staggered hedge planted 4no. per square metre pot grown (300mm pot size).

Around the turning head to the rear of Primrose Cottage. Double staggered hedge with a mix of 80% hawthorn, 10% beech and 10% field maple planted 4no. per square metre pot growth (300mm pot size)



Based on the above, although not explicitly referred to in the description, planning permission would be required for the replacement of the hedging with close boarded fencing as those works would be in breach of conditions relating to landscaping and the removal of permitted development rights relating to boundary treatment.

3.0 POLICY AND OTHER CONSIDERATIONS

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

Maidstone Borough Local Plan 2017 : Policies DM1, DM9 and DM23

Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 19) dated October 2021. : Policies Policy LPRSP15 – Principles of Good Design Policy LPRHOU 2 : Residential extensions, conversions, annexes and redevelopment in the built-up area

The Regulation 19 draft is a material consideration and some weight must be attached to the document because of the stage it is at but its weight is limited, as it has yet to be the subject of an examination in public.

Supplementary Planning Documents: Residential Extensions SPD

4.0 LOCAL REPRESENTATIONS

4.01 Three neighbour representations have been received, objecting to the proposals on the following grounds (summarised) :

- Rear extension due to roof line would overshadow garden and remove remaining light. Garden is shallow towards the bungalow.
- Rear extension would dominate view from living accommodation and block view of sky.
- Development recently completed and the proposal would make situation worse and wouldn't be in accordance with plans that were previously approved.
- Holly House is at a lower level than the application site (approximately 1m)
- Impact of flue shown on side elevation (smoke and fumes)
- Removal of hedge (not in applicants ownership)
- Garage would result in loss of light to kitchen and upstairs bathroom of Primrose Cottage
- Loss of privacy and overlooking due to velux rooflight and ground floor windows
- Overdevelopment
- Landscaping scheme not fully implemented

5.0 CONSULTATIONS

5.01 Boxley Parish Council

1. It is overdevelopment of the site.
 2. The original plans were approved with very stringent conditions. For the developer to put in an application for an extension before the building is completed is not acceptable.
 3. The plans for the first floor extension will have an adverse affect on the neighbouring properties by causing a dominant negative feature on their line of sight given that Rose Cottage is on higher ground. It will also block light causing overshadowing and loss of privacy.
 4. The positioning of the solid fuel flue facing towards Holly House is likely to cause harm to the occupants by emitting smoke and fumes into their lower level property.
 5. The proposed garage is too close to the neighbouring property. It will cause overshadowing and loss of privacy. The removal of the established hedge and replacement with a panel fence would have a negative visual impact for the neighbouring property.
- If the case officer is minded to approval Boxley Parish Council would like this application determined by the Planning Committee.

6.0 APPRAISAL

6.01 The key issues for consideration relate to:

- Site Background/Principle of development/Policy context
- Visual amenity
- Residential amenity
- Parking/Highway safety
- Other matters

Site Background/Principle of Development/Policy Context

- 6.02 The application site was recently redeveloped from a former cattery to that of a single detached dwelling, with outline consent approved under 19/503191/OUT and the subsequent reserved matters approved under application 20/501279/REM. This consent removed permitted development rights for extensions, outbuildings and boundary treatment, as highlighted in bold within the condition wording below. The reason for removing these rights was to protect visual and residential amenity. This does not mean that all proposals falling within those parts quoted would be unacceptable, solely that they require planning permission and as such more robust consideration.

Condition 4 of 19/503191/OUT

*(4) Within the area identified as garden land shown on drawing no: 7098-P-01 Rev C and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, **Part 1, Classes A, D, E and F and part 2 Class A** to that Order shall be carried out.*

Reason: In the interests of visual and residential amenity.

- 6.03 The application site is within the defined urban boundary, Policy DM9 of the local plan allows for residential extensions provided that :
- i) The scale, height, form, appearance and siting of the proposal would fit unobtrusively with the existing building where retained and the character of the street scene and/or its context;
 - ii) The traditional boundary treatment of an area would be retained and, where feasible, reinforced;
 - iii) The privacy, daylight, sunlight and maintenance of a pleasant outlook of adjoining residents would be safeguarded; and
 - iv) Sufficient parking would be provided within the curtilage of the dwelling without diminishing the character of the street scene.
- 6.04 Policy DM1 (ii) in terms of design refers to developments responding positively to the local character of the area, with regard being paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage. DM1 (iv) re-iterates consideration to be paid to adjoining neighbouring amenity.
- 6.05 The Residential extensions SPD in relation to rear extensions sets out that rear extensions should not normally exceed 3metres in depth and neighbouring amenity should be protected. Regarding detached garages the SPD sets out :
- ‘Garages and other outbuildings should not impact detrimentally on the space surrounding buildings. They must be smaller in scale and clearly ancillary to the property (para 4.45)*
- ‘In order to appear ancillary to the property, fit well within the street scene and prevent detrimental impact on neighbouring properties, such as excessive overshadowing of a garden or principal window, garages and outbuildings should not generally be located in front of the building line of domestic properties’ (para 4.46)*
- ‘The form (including roof pitches) and materials of garages and outbuildings should be in keeping with the existing and surrounding properties.’ (para 4.47)*
- ‘Garages and other outbuildings should be subservient in scale and position to the original dwelling and not impact detrimentally on the space surrounding buildings or the street scene by virtue of their scale, form or location. Garages or outbuildings set in front of the building line will not normally be allowed.’*
- 6.06 The principle of extensions to the property is acceptable, given its location within the urban area, however this is subject to consideration of the key issues set out above which are discussed below

Visual Impact

- 6.07 The application site is situated in a backland position and thus has no public visibility and is screened by the dwellings to the north and west which front Bearsted Road and the woodland and land levels to the east. As such the proposals, which are in themselves of a modest scale would not impact on the visual amenity of the street scene or the character and appearance of the surrounding area.
- 6.08 Concerns have been raised regarding the overdevelopment of the site. The proposed outbuildings are both modest in size and scale and are what could be reasonably be expected for outbuildings and meet policy criteria. The rear extension would be modest with a projection of 3m from the existing dwelling. There would

remain significant undeveloped space within the plot and it is not considered that the proposals could be considered as overdevelopment.

- 6.09 The loss of a small portion of hedging to be replaced with fencing is considered visually acceptable.
- 6.10 Overall the proposed extension and outbuildings are of an acceptable design and appearance which would appear as subservient to the existing dwelling and would not harm visual amenity of the street scene or character of the surrounding area, nor would harm the site itself.

Residential Amenity

- 6.11 Representation has been received from three of the four adjoining neighbouring properties (Holly House, Primrose Cottage and 11 Exton Gardens). It is those properties together with Lavender Cottage which would be most likely be impacted upon by the proposed developments, other neighbouring properties are considered to be a significant distance away to be unaffected by the proposals.

6.12 *Holly House*

The proposed garage and shed would be a significant distance away to not impact on this property. The single storey extension would extend beyond the rear wall of the existing dwelling, but this would be of a modest scale, projecting no more than 3m and have a roofscape that would slope away from the neighbouring boundary and the overall height would be lower than the existing dwelling. It would be no closer to the boundary than the existing dwelling and separated by at least 1m, with a significant distance separating the extension from the south facing windows of Holly House.

The extension would not be overly overbearing, overshadowing or cause loss of outlook, light or privacy such that would be harmful to the amenity of Holly House.

6.13 *Primrose House*

The proposed single storey rear extension and shed would be a significant distance away to not impact on this property. The main impact would be from the proposed detached garage. This would be sited approximately 0.7m from the adjoining boundary, and to facilitate its construction a section of hedging would be removed and replaced by close boarded fencing to a height of 1.8m. The rear wall of the garage would then extend approximately 0.6m above this new fencing and would have a roofslope that would slope away from the boundary.

The property has a single storey rear extension with rooflights facing towards the application site (understood to serve the kitchen but are not the sole openings to serve the room) and a first floor facing window (understood to serve a bathroom). The extension brings the property in close proximity to the boundary with the application site and there is not usable amenity space between the extension and the boundary, with the garden serving Primrose House being predominantly to the east of the dwelling.

The proposed replacement of the existing hedge with fencing would not impact on the amenity of the neighbouring occupier. It is noted that representation suggests this would change the 'cottage' appeal of the site, however the new fencing would be for a small proportion of the boundary which encloses space which has limited usability and would not affect the wider character of the application site or its neighbour.

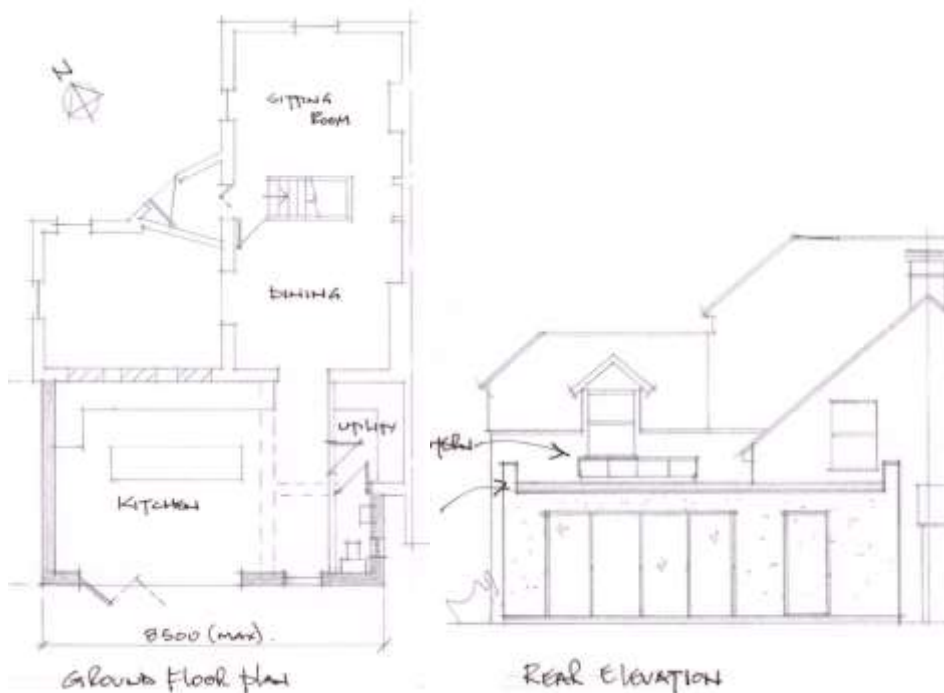
No windows or openings are proposed other than in the elevation facing towards the application site itself so no harm would result through overlooking or loss of privacy. The outlook from any fenestration would not be harmed detrimentally as the south elevation has the characteristics of secondary elevation and any outlook is currently compromised by thick hedging. No impact would occur to the principal outlook from rooms facing towards the east. Although the garage would extend above the height of the proposed fence, with the roof sloping away from the boundary, its single storey nature and proposed footprint it could not be considered to be significantly overbearing and loss of light and overshadowing would be limited due to the nature of openings, characteristics of the neighbouring site and the proposal itself.

It is noted that the garage would be sited fairly close to the boundary and introduce additional built form where there currently is none, however due to its size, proportions and relationship with the neighbouring dwelling it is not considered that the proposal would result in undue harm to amenity that would warrant refusal of the application.

6.14 *Lavender House*

The proposed single storey rear extension and shed would be a significant distance away to not impact on this property. The main impact would be from the proposed detached garage. This would be sited approximately 0.7m from the adjoining boundary, it would have an eaves height which would be approximately 0.6m above the existing close boarded fencing and would have a roofslope that would slope away from the boundary.

The roof and top part of the flank would be visible above the boundary fencing. Lavender House was extended to the rear by a single storey extension under application (16/504070/FULL), the plan extract below show that those ground floor openings nearest the boundary serve a back door to the kitchen, with another large opening serving the same room.



In terms of loss of light when assessed in relation to the 45 degree light test, the proposed garage would pass on both the elevation and floorplan test whereby any impact would be on the secondary opening to the kitchen which would not result in significant harm to amenity in terms of loss of light.

Although the garage would extend along a large proportion of the eastern boundary, it would not enclose the full boundary and the side wall would not extend significantly above the existing fence with the roof sloping away from the boundary such that it is not considered that the building would be unduly overbearing, overshadowing or result in loss of outlook. No loss of privacy would result.

On balance it is considered that the proposed garage building due to its design, position and height would not result in significant harm to the amenity of Primrose House.

6.15 *11 Exton Gardens*

The proposed garage would be a significant distance away to not impact on this property. The single storey rear extension would have a modest projection from the rear of the existing dwelling and would be a significant distance from the neighbouring boundary to not result in any harm through loss of outlook, light or be overshadowing or overbearing. Concerns have been raised regarding overlooking, however the extension would be single storey, the rear doors would look towards the amenity space of the application site and not towards the neighbouring property and the rooflights would not give rise to any direct overlooking due to their position and height above floor level. The proposed shed to the rear corner of the garden would be close to the neighbouring boundary but due to its size, scale and height would not result in any harm to neighbouring amenity.

6.16 *Overall*

The proposals both individually and cumulatively would not result in significant harm to neighbouring residential amenity that would warrant refusal.

Matters relating to boundary treatment ownership are a civil matter, there is nothing in this submission or previous submissions to suggest that the boundary hedge is not in the ownership of the applicant and there would be space to erect fencing within the red line of the application site.

Parking/Highway safety

- 6.17 Parking provision is sought to be protected by condition on the original consent for the dwelling, those parts of the proposal which would impact on current parking is the garage to the front of the dwelling. The proposal would however provide additional enclosed parking rather than preclude parking and there would remain sufficient parking and turning on the site. It is not considered any part of the proposed development would cause harm to parking arrangements or highway safety.

Other Matters

- 6.18 The site is adjacent to an area of woodland which is protected by a tree preservation order (TPO) (to the south-east of the site). The garage and rear extension are a significant distance away from the nearest trees to be unaffected by the proposed development. The shed would be in close proximity to the boundary, however due of the proposal it is not considered there would be any impact on protected trees.

- 6.19 The NPPF, Local Plan and residential extensions SPD all seek to promote biodiversity enhancements. It is not considered that there would be any material impacts on existing ecology as a consequence of the proposal, however due to the nature of the proposal, the site constraints and the encroachment into the existing garden it is considered that ecological enhancement are necessary and could be secure by condition.
- 6.20 The NPPF, Local Plan and residential extensions SPD all seek to promote the use of renewables and energy/water efficient buildings. The proposals by their nature are fairly modest and it is noted that original development did not require the use of renewable technologies, such that it would be unreasonable to seek to secure such measures for a small extension to the dwelling. However, energy efficiency can be secured through construction or water efficient for use of measures such as water butts, as such to secure such measure a condition is considered reasonable to ensure that the development incorporates appropriate measures.

7.0 CONCLUSION

- 7.01 For the reasons set out above it is considered that the proposed extensions and alteration to the property would be acceptable and would not cause significant visual harm, harm to neighbouring amenity nor be unacceptable in terms of any other material planning considerations such as the proposed development is considered to be in accordance with current policy and guidance.

8.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- (2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing no. 025.1318.03 Rev D (Proposed Site Plan)
Drawing no. 025.1318.04 Rev B (Proposed Garage Floor Plan, Roof Plans and Elevations)
Drawing no. 025.1318.07 Rev A (Proposed Floor and Roof Plans)
Drawing no. 025.1318.08 Rev A (Proposed Elevations)
Drawing no. 025.1318.09 (Proposed Shed Floor Plan, Roof Plans and Elevations)

Reason: To clarify which plans have been approved.

- (3) The materials to be used in the development hereby approved shall be as indicated on the approved plans and application form.

Reason: To ensure a satisfactory appearance to the development

- (4) No part of the development hereby approved shall commence above slab level until details of a scheme for the enhancement of biodiversity on the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through at least one integrated method into the design and appearance of the extension/outbuilding by means such as swift bricks, bat tubes or bee bricks, and through the provision within the site curtilage such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgehog corridors. The development shall be implemented in accordance with the approved details prior to first use of any part of the development hereby approved and all features shall be maintained thereafter.

Reason: To enhance the ecology and biodiversity on the site in the future.

- (5) The development shall not commence above slab level until details of how the proposal hereby approved shall be constructed to secure the optimum energy and water efficiency of the extension/building have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first use and maintained thereafter; The details shall demonstrate that consideration has been given to incorporating small scale renewable energy generation options have been considered first and shall only be discounted for reasons of amenity, sensitivity of the environment or economies of scale, installing new energy efficient products, such as insulation, energy efficient boilers, low energy lighting shall be considered as a secondary option if the use of renewables has been demonstrated to not be appropriate.

Reason: To ensure an energy efficient form of development.

- (6) The garage hereby approved shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and in a manner detrimental to highway safety and amenity.

INFORMATIVES

- (1) The grant of this permission does not convey any rights of encroachment over the boundary with the adjacent property in terms of foundations, eaves, guttering or external cladding, and any persons wishing to implement this permission should satisfy themselves fully in this respect. Regard should also be had to the provisions of the Neighbour Encroachment and Party Wall Act 1995 which may apply to the project.

Case Officer: Rachael Elliott

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

Agenda Item 18



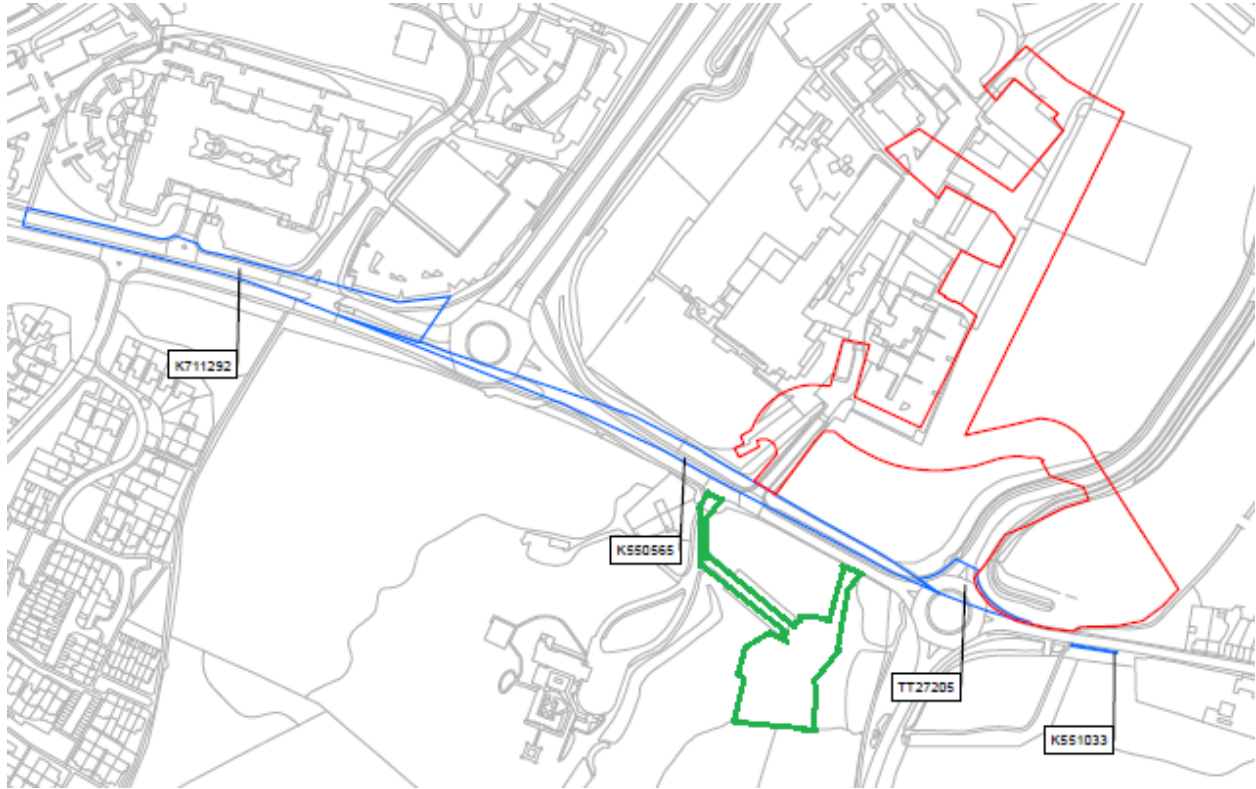
Ordnance Survey - data derived from OS Premium

REPORT SUMMARY

REFERENCE NO - 21/503615/FULL			
APPLICATION PROPOSAL The construction of surface water attenuation and settling lagoons with associated drainage infrastructure and landscaping.			
ADDRESS Vinters Park Crematorium, Bearsted Road, Weaving, Maidstone, Kent, ME14 5LG			
RECOMMENDATION GRANT PLANNING PERMISSION subject to planning conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The development would have minimal visual impact on the surrounding area and is required to support development relating to strategic policies SP1, SP23 and RMX1. The development would have a positive impact on pollution in the area by reducing hydrocarbons, silt and salt entering the unnamed tributary of the River Len from the existing highway runoff, which then flows into the VVNR.			
REASON FOR REFERRAL TO COMMITTEE The application has been submitted by Kent County Council on land owned by Maidstone Borough Council. The application is reported to members for transparency purposes.			
WARD Boxley	PARISH/TOWN COUNCIL Boxley	APPLICANT Kent County Council AGENT Mr Ralph Lewis	
TARGET DECISION DATE 25/02/2022 (EOT)		PUBLICITY EXPIRY DATE 31/08/2021	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
20/500047/COUNTY	Construction of a new Newnham Court Shopping Village access road and internal service road, highway improvements, associated new and replacement car parking, site compound area, installation and relocation of lighting columns, modification of the existing access, realignment of the existing drainage feature, removal and replacement tree planting and associated earthworks and landscape improvements.	No objections	30.01.2020

(NB: 20/500047/COUNTY is a consultation with MBC on an application that was submitted to KCC. The works outlined form part of wider highway improvements between Kent Medical Campus and the M20 J7 which did not form part of the application)

The below map is used to demonstrate the location of the application site (highlighted in green) in relation to this development. This application is relating to the highways improvements associated with the above application (shown in blue and red highlight) and is sought to mitigate the impacts of these works upon Vinters Valley Nature Reserve and downstream water bodies.



MAIN REPORT

1 DESCRIPTION OF THE SITE

- 1.01 The site is located in the north-eastern part of the Vinters Park Crematorium grounds, immediately south of Bearsted Road. The site consists of an existing car park associated with the crematorium, and an undeveloped parkland area, including woodland, and public amenity green spaces.
- 1.02 A semi-detached pair of residential properties (1 and 2 Lodge Cottages) are adjacent to the west side of the site entrance, with industrial units, and retail uses also present in the wider local area. The site is bounded by Bearsted Road and New Cut Road with the M20 present within the wider landscape, approximately 500m to the north.

Site location plan



Aerial view(google)

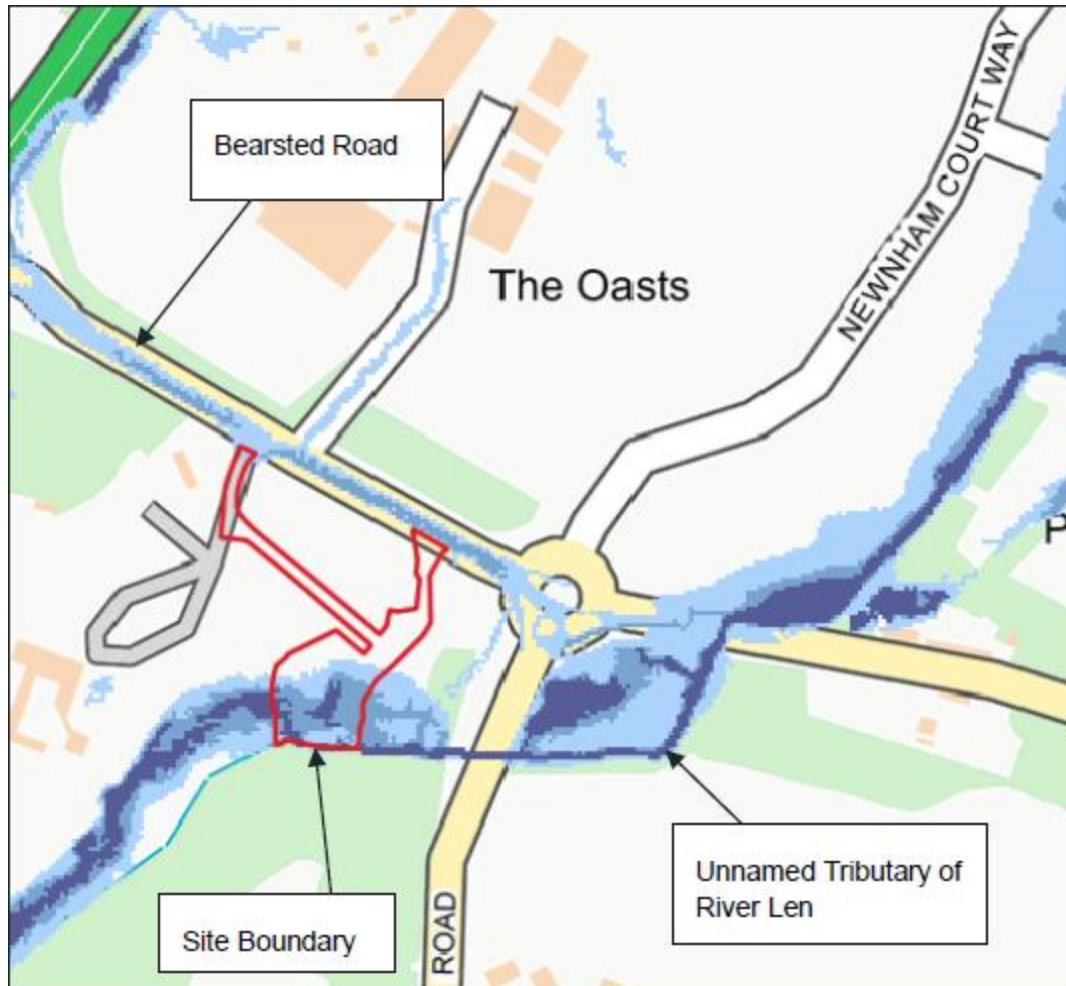


- 1.03 As detailed above the application is related to the 'developments' associated with policy RMX1 which states "Critical to the successful development of Newnham Park is the provision of appropriate transport infrastructure." RMX1(1) continues stating that Development will contribute to capacity and signalisation improvements of Bearsted roundabout and capacity improvements at New Cut roundabout.

2. BACKGROUND

- 2.01 External consultants WSP were appointed by KCC to prepare the detailed design for highway improvements works to improve traffic flows between the Bearsted Road area of Maidstone, Kent, and Junction 7 of the M20.
- 2.02 The detailed design includes amending the highway drainage to cater for the additional runoff generated from the increased carriageway. These works include providing attenuation storage with a flow control device to limit the outflow to the nearby watercourse.
- 2.03 During the Summer of 2019, the Vinters Valley Nature Reserve (VVNR) approached KCC to ask whether the proposed highway improvements could include measures to reduce the volume of silt entering the nature reserve in the highway runoff via the watercourse. VVNR are concerned that the build-up of sediment (silt) in the unnamed tributary of the River Len from the existing highway runoff, which then flows into the VVNR, will eventually harm local wildlife. The below image taken from the submitted flood risk assessment demonstrates the location of the unnamed tributary in relation to the application site.

River Len Tributary



- 2.04 The existing highway runoff is unattenuated and contains no pollution control measures other than trapped road gullies and catch pits. VVNR explained that they have a regular maintenance issue with silt accretion at culverts along the watercourse within the Nature Reserve, and they believe the highway discharges are a significant contributory factor in the silt accretion.
- 2.05 In summary, the proposed development seeks to resolve two issues. The first relates to improving capacity to enable the drainage system to accommodate the additional runoff generated from the proposed highway improvements.
- 2.06 The second issue relates to pollution and silt control. Surface water runoff generated on the existing highway is currently discharged unattenuated to the nearby watercourse. The existing highway drainage systems have no pollution control measures other than trapped road gullies and catch pits. The proposal seeks to introduce measures to reduce pollution and to reduce the volume of silt entering the nature reserve in the highway runoff.

Site and proposal selection process

- 2.07 A meeting was held in August 2019 with the KCC Project Manager, designers from WSP (the agent) and three representatives from the Nature Reserve. Following this meeting, WSP looked at proprietary systems available for silt removal and whether they could be incorporated within small areas of available highway land.
- 2.08 Keeping the proposed new drainage layout within the highway boundary would mean providing large diameter pipes beneath Bearsted Road to provide the required attenuation storage volume. This would be required as there is insufficient space for underground attenuation storage systems within the verges or roundabouts. This also applied to any sediment control measures included within the drainage system. Providing large diameter pipes in this location was found to be impractical as traffic lanes would need to be closed each time inspection and maintenance of the drainage system was undertaken with the resulting disruption to the highway network.
- 2.09 The highway land to the southwest of the KIMS roundabout was considered for an attenuation area, but it was found that this area lacks sufficient space to accommodate the required drainage structure. The land also includes a number of constraints such as several existing utilities and the presence of numerous trees both in the verge and immediately adjacent to the west.
- 2.10 Additionally, land to the southeast of KIMS roundabout was considered as an attenuation area, however there were issues gaining the consent of the landowner. The current design has avoided any encroachment on to this land which may not be suitable as an attenuation area in any case as it is prone to flooding. The runoff rate and volume were also a factor in the assessment because treating the runoff in a proprietary tank system would require a significant size of tank or multiple tanks. It was concluded that the best approach would be a settlement lagoon if a suitable location could be found.
- 2.11 The Vinters Valley Nature Reserve advised that they maintained a piece of land on behalf of Maidstone Borough Council at the southern end of the Vinters Park Crematorium site and that this land might be suitable for the proposal.
- 2.12 As well as the alternative 'locations' discussed above, the applicant considered a number of alternative proposals prior to the decision to proceed with the submitted solution. The reasons why these proposals were discounted are set out below.

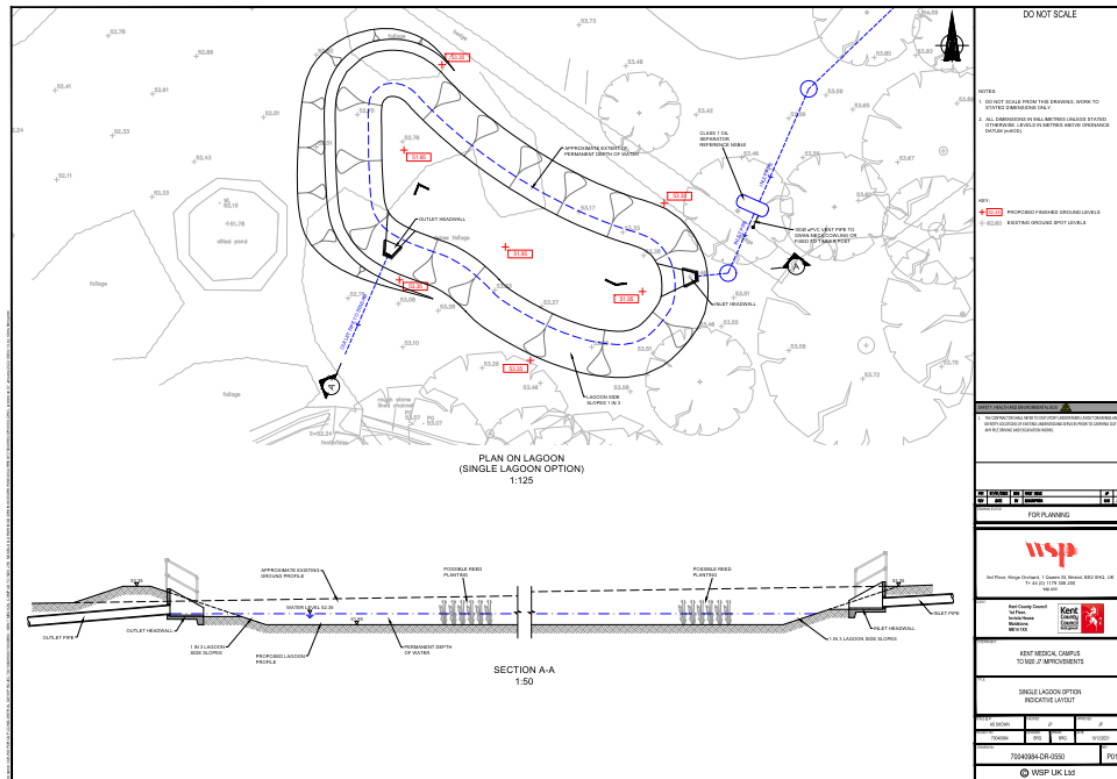
Open Channel Design

- 2.13 An open channel through the crematorium grounds was found to be unviable due to the depth and width of excavation required. The open channel would also have resulted in greater impact on the existing trees and their roots. The maintenance of the open channel in the Autumn and Winter (leaf and twig debris) and the potential silt accumulation and appearance of this area were further reasons why an open channel was discounted.

Single Lagoon Option

- 2.14 A single lagoon (which has been suggested in discussions by the ward councillor) with smaller inlet and outlet structures with reeds planted in the lagoon. An indicative

layout was produced in a subsequent technical note to demonstrate this option and this is shown below;



The lagoon would need to be of at least a similar size to the combined sizes of the current two lagoon option in order to provide sufficient attenuation storage volume. Entry and exit headwalls with associated safety fencing would also be required.

- 2.15 Providing both attenuation storage and sediment removal in a single lagoon is much less practical and ineffective than a twin lagoon option. The primary design requirements to achieve settlement in a lagoon are slowing the through flow velocity and providing a sufficient length of travel for solid particles to drop out of suspension in the water. Ultimately it is unlikely that the 'inlet velocity' of runoff into a single lagoon would be slowed sufficiently to allow for most sediment to drop out and whilst this solution may allow for a small degree of sediment to drop out of suspension, this would not be the same level that would occur in the currently proposed scheme. The drainage route through the Crematorium would be the same whether one or two lagoons are constructed.

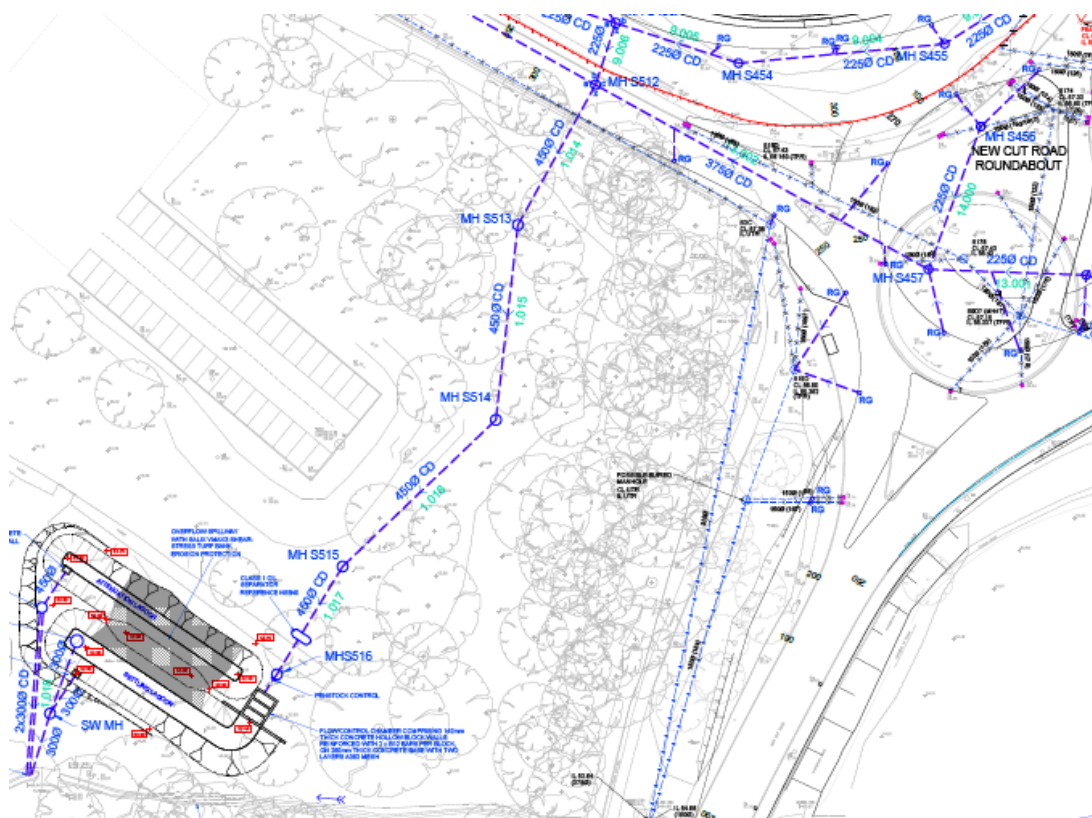
3. PROPOSAL

- 3.01 The application includes new drainage works consisting of two earthwork lagoons, a settlement lagoon and an attenuation lagoon with associated drainage infrastructure and landscaping. These works are sought in order to mitigate the impacts on Vinters Valley Nature Reserve from the increased highway runoff from the additional hard

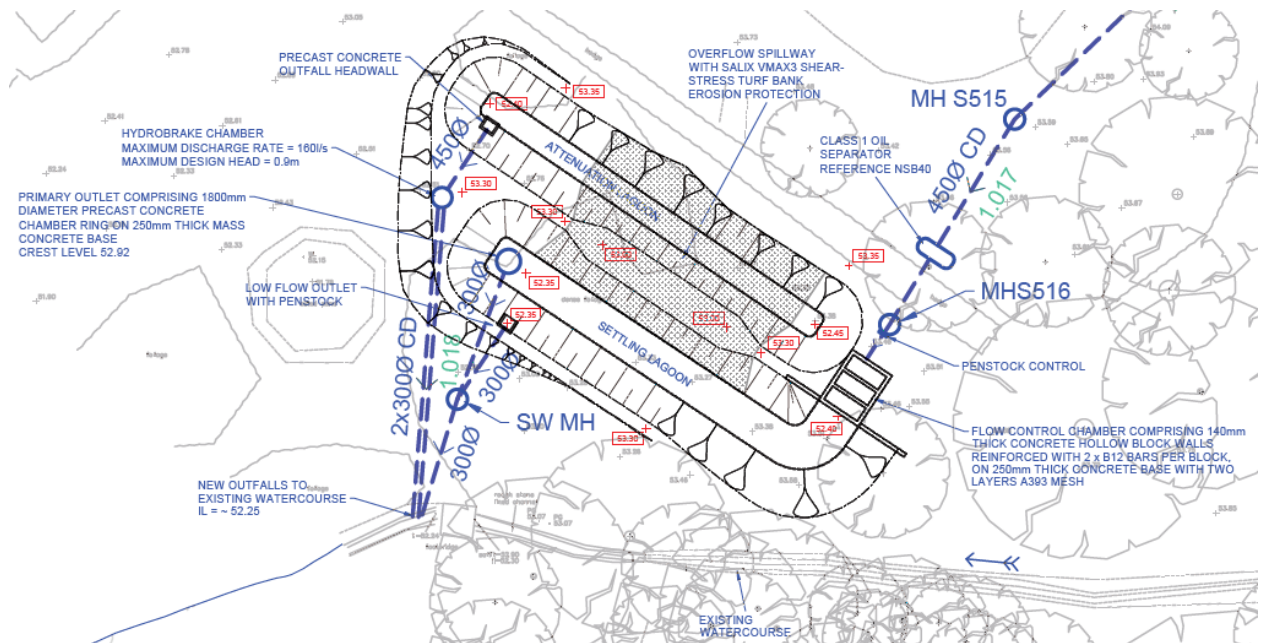
surfaces that would result following the completion of the works associated with 20/500047/COUNTY.

- 3.02 The settlement lagoon is designed to pass the runoff sufficiently slowly through the lagoon to allow sediment particles in the highway runoff to drop out of suspension in the water within the settlement lagoon. This will be of particular benefit in the wintertime when salts spread on the highway surfaces are washed into the lagoon in the highway runoff. In heavy rainfall, excess storm water will spill into the second lagoon, providing the storage volume to attenuate the runoff.
- 3.03 Pollution control of the highway runoff is further enhanced by the inclusion of an oil separator upstream of the lagoons to capture hydrocarbons. Reeds could also be planted which are effective at removing low levels of hydrocarbons and some of the heavy metals found in highway runoff. When used as a level of treatment for highway runoff, they are usually used as secondary or tertiary treatment, in a treatment train, to "polish" the final discharge following a primary method(s) of treatment, such as oil separators and/or settlement lagoons. This is particularly relevant if considering the removal of road salt in the highway runoff. Should permission be forthcoming this will be conditioned.

Site location with reference to the New Cut Road roundabout.



Detail of the proposed two lagoons and associated works



4. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017:

- SP1 - Maidstone Urban Area
- SP23 - Sustainable Transport
- RMX1 - Retail and mixed use site allocations
- RMX1(1) - Newnham Park, Bearsted Road, Maidstone
- DM1 - Principles of good design
- DM3 - Natural environment

The National Planning Policy Framework (NPPF 2021):

- Section 12 - Achieving well-designed places
- Section 15 - Conserving and enhancing the natural environment

Local Plan Review (2021)

The Council's Regulation 19 Local Plan has recently finished public consultation, and still focus on Maidstone urban area being the main focus for development in the borough and reiterates that infrastructure schemes that provide for the needs arising from development will be supported.

Whilst this document is a material planning consideration, at this time it is not apportioned much weight. The weight to be attached to individual policies will be adjusted upwards or downwards depending on whether objections have been received. The current programme involves submission to the Planning Inspectorate in Spring 2022.

Policy SP2 of the review states that key infrastructure requirements include "Improvements to highway and transport infrastructure, including junction improvements, capacity improvements to part of Bearsted Road, improved pedestrian/cycle access and bus prioritisation measures, in accordance with individual site criteria set out in policies H1(11) to H1(30).

5. LOCAL REPRESENTATIONS

Local residents:

- 5.01 In addition to the site notice, 41 neighbouring properties were consulted by direct mail regarding the proposed development. One representation was received in support of the development.
- 5.02 This letter is from a trustee of Vinters Valley Nature Reserve and supports the development on the basis that it addresses the following issue.
- Historically road water run-off from the nearby public highway has drained unchecked through the reserve, into the lake and on to the River Len. This has caused silt, sediment and pollutants flowing into the reserve to become deposited in the lake. As a result, the water quality in the lake has become compromised causing detriment to the aquatic and other wildlife within and around it, such as fish, amphibians and water birds. In addition, the silt and sediment build-up has caused the lake to become shallower.

6. CONSULTATIONS

Cllr Harwood

A detailed response to the application was received from Cllr Harwood in objection to the development as it was submitted. This representation is summarised as the following:

- a) That the development would have a harmful impact upon the flora and fauna of the application site, a site which is being utilised as a receptor site for reptile translocation.
- b) The submitted documents do not refer to any flora and fauna that would be protected.
- c) The development would result in the removal of trees planted using elected member budgets which utilised unusual native trees, arranged to reflect Humphrey Repton's Red Book. The removal of the trees appears to be far beyond what is required.
- d) Two functioning silt traps are already located at the northern extent of Vinters Park Lake, the application site shows no evidence of silt infiltration. The evidential underpinning and need for the works should be subject to greater scrutiny.
- e) Concern about the management of salt and heavy metals etc.
- f) The Environment Agency and Natural England should be consulted.

Officer response:

- a) The applicant has issued revised landscape plans which significantly reduces the number of trees that would be removed from the application site. 14 trees would have been removed, now 6 trees would be removed as a result of the development and 6 planted as mitigation. Mitigation for reptile species has been put in place in the form of a reptile management plan. The works will avoid the felling of trees that could be used by roosting bats.

All site habitats are common and widespread in the UK and the site has no ecological designation. The post-development landscaping proposals have been proposed to increase the species diversity of the grassland habitat and increase the length of the hedgerow.

Statements submitted by the applicant indicate that passing the highway runoff from the highways works relating to policy RMX1(1) through the proposed settlement lagoon arrangement will considerably reduce the passage of road salt downstream from which would reduce the harm to any molluscs (snails) found in rivers downstream.

- b) The applicant has submitted revised planting plans which detail the location and species of replacement trees. The plans indicate areas which would be disturbed by the works and 'made good', in addition to areas around the car park which would remain undisturbed and where replacement grass land planting would take place.
- c) As above, following comments, the number of trees removed by the proposal has been reduced. A detailed assessment of the landscape of the area including the 'Red Book' can be found in the below Landscape section.
- d) At a meeting with KCC, WSP and representatives of VVNR (Vinters Valley Nature Reserve), VVNR explained that they have a regular maintenance issue with silt accretion at culverts along the watercourse within the Nature Reserve.

The majority of surface water runoff generated in the area of the existing highway between Junction 7 of the M20 and New Cut Road Roundabout is currently collected via a system of gullies and kerb drains and discharges unattenuated to the unnamed tributary via an outfall at the western end of the culvert under New Cut Road. Surface water runoff generated in the part of New Cut Roundabout and the short length of Bearsted Road to the east of the roundabout is discharged at an unrestricted rate to the same watercourse via an outfall at the northern end of the Bearsted Road culvert crossing.

VVNR believe the highway discharges are a significant contributory factor in this silt accretion. The existing highway runoff is unattenuated and contains no pollution control measures other than trapped road gullies and catch pits. The rationale for the development and its design is detailed in the background section of this report and within the technical note included as an appendix to this report.

- e) Other than trapped gullies and catch pits, there are currently no proprietary pollution control measures on the existing drainage system. As advised previously at paragraph 2.03, an oil separator has been included upstream of the settlement lagoon, within the Crematorium land, where there is access away from the

highway. This will manage the hydrocarbons in the runoff. Salts and heavy metals will be removed in the silt that settles in the lagoons. The bulk of this will be in the primary settlement lagoon, making significant benefits to the untreated highway run-off that currently discharges into the stream.

The applicant has advised that the design of the silt trap has tried to be as sensitive as possible to its setting and is primarily an earthworks structure except for the buried chambers and the small entry feature which needs to be hard engineered to ensure the flow of water is slowed sufficiently to allow the suspended material to be deposited. It may be possible to enhance this area further with reed beds, although it will require maintenance from time to time to remove any silt build-up. Reeds are extremely robust when it comes to pollutants in the water where they are located and may provide some benefit as a secondary level of treatment. The area is also likely to re-establish its own biodiversity once the initial construction impacts have faded.

- f) The Environment Agency and Natural England have both been consulted on the application and have both raised no objections to the proposals.

Boxley Parish Council

No objection

MBC Landscapes

No objection subject to conditions covering the following:

- 1) The arb method statement and protection measures detailed within Arboricultural report Ref. 70040984-REP-0077, dated May 2021.
- 2) Tree protection plan (drawing No. 70040984-EV-312)
- 3) New landscaping as shown on Sheet 1(drawing No. 70040984-EC-3081-000) and Sheet 2 (drawing No. 70040984-EC-3081-000)

Natural England

No objection with reference to their standing advice,

KCC Ecology

No objection subject to conditions ensuring the application results in a net gain for biodiversity.

KCC Flood and Water Management

No objection subject to a condition requesting submission of a verification report.

Environment Agency

No objections issued; the Environment Agency refer to their standing advice.

APPRAISAL

- 6.01 The key issues for consideration relate to:
- Principle of development
 - Landscape and visual impact
 - Biodiversity and arboriculture

- Surface water flooding
- Character and appearance

Principle of development

- 6.02 The application site is in the Maidstone urban area. As the largest and most sustainable location Local Plan policy SP1 states that Maidstone urban area will be the focus for new development in the borough. In support of this new development in the urban area, policy SP1 outlines that key infrastructure requirements should include improvements to highway and transport infrastructure and junction improvements and capacity improvements to part of Bearsted Road. The Infrastructure Delivery Plan (IDP) which underpins the Local Plan identifies the need for capacity enhancements at the New Cut and Bearstead roundabouts and the dualling of the Bearstead Road.
- 6.03 Local Plan policy SP23 states that the Council will “ensure the transport system supports the growth projected by Maidstone’s local plan and facilitates economic prosperity” and will seek improvements in highway network capacity and function at key locations and junctions across the borough.
- 6.04 The application is related to policy RMX1 and development at Newnham Park. It is required to mitigate potential flooding and reduce highway run-off pollutants discharging into the River Len, which forms part of the VVNR (Vinters Valley Nature Reserve). Failure to provide this supporting drainage infrastructure will result in unacceptable flood risk associated with the Main Development to which alternative options have been considered and discounted and harm to local wildlife in the VVNR Vinters Valley Park - Local Nature Reserve.
- 6.05 The application seeks the construction of surface water attenuation and settling lagoons with associated drainage infrastructure and landscaping. The development forms part of a wider development which seeks to improve traffic flows between the Bearsted Road area of Maidstone and Junction 7 of the M20. The ‘main development’ consists of widening sections of the existing highway, alterations to the existing New Cut Road Roundabout, relocation of existing gullies and kerb drains to suit the new highway layout, and provision of new gullies and carrier drains where required.
- 6.06 The current application with its role in facilitating and supporting the wider works to improve the infrastructure in the Maidstone urban area is in accordance with Local Plan policies SP1 and SP23 and the Infrastructure Delivery Plan.

Landscape and visual impact

- 6.07 In order to achieve high quality design, Local Plan policy DM1 sets out the expectation that proposals will positively respond to and, where appropriate, enhance the character of their surroundings. It is important that development contributes to its context. Key aspects of built development will be the scale, height, materials, detailing, mass, bulk and site coverage.
- 6.08 The application site is located within the Maidstone urban area and not covered by any local or national landscape designation. The site is however located within what is known as the ‘Repton Landscape’ and concerns have been raised regarding the proposals impact on this ‘Repton Landscape’.

- 6.09 Humphrey Repton (1752-1818) was the leading landscape architect of his time. He presented his plans to his clients in the form of 'Red Books'. A typical album contained his observations on the present state of a client's property and in addition his recommendations on how it might be improved. Vinters was purchased by James Whatman in 1783 and he commissioned Repton to produce a Red Book for the estate.
- 6.10 The Red Book for Vinters includes a number of water colour paintings of the property with the "site map" included below. The full book is available to view at the following link: (<https://collections.britishart.yale.edu/catalog/orbis:9292982>).

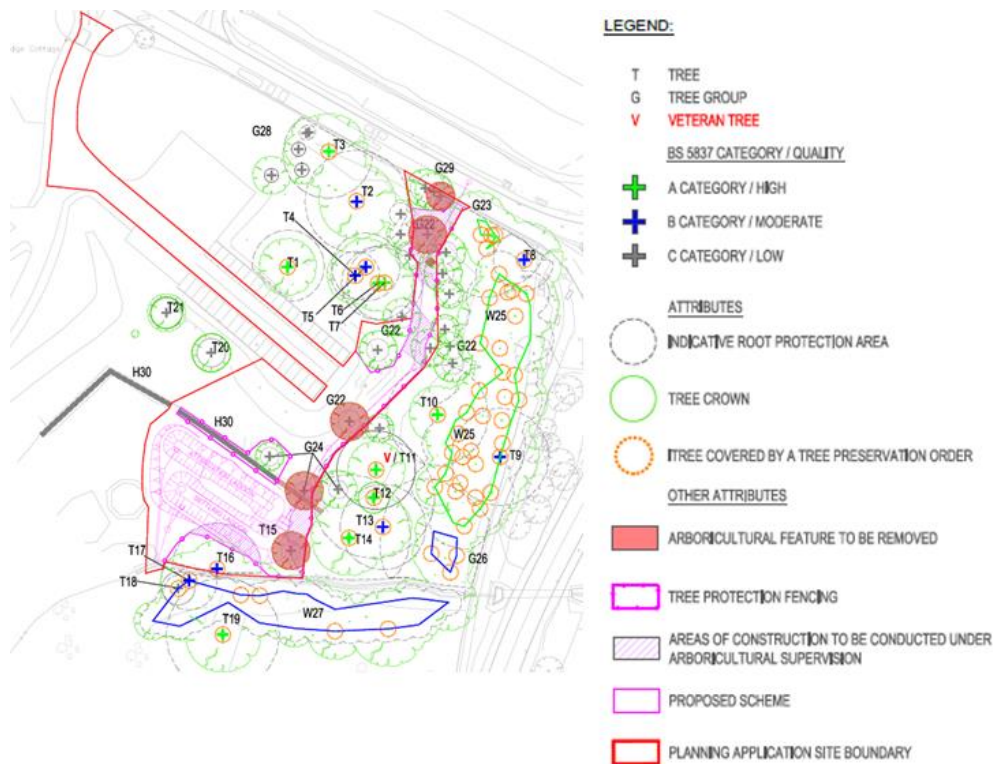
Repton Landscape Vinters Red Book Site Map



- 6.11 The 'site plan' depicted within the Red Book appears to show what would now be Bearsted Road and the A20 which are to the north and south of the Vinters Landscape. In this respect it seems reasonable to conclude that the current application site is within the Repton Landscape as depicted on the site plan.
- 6.12 It is highlighted that Repton was not employed with the intention of preserving any existing landscape value of the land some of which was in agricultural use. The purpose of the work by Repton was to 'improve' the setting of the Manor. James Whatman died before the suggested improvements were carried out.
- 6.13 The starting point for considering impact is assessing what character currently exists on a site. The character of the area and the landscape itself around the application site has changed significantly since the 'Red Book' was produced.
- 6.14 The most significant of these changes is the introduction of the Vinters Park Business Estate and housing development located in the middle of the 'Repton landscape'. Maidstone Science and Technology school is now also at the southern end (outside the Repton Landscape) and the crematorium and car park at the northern end.
- 6.15 The proposed lagoons will measure approximately 45m long and 18m wide with a maximum depth of 1.15m below existing ground level. The lagoons will comprise two

excavated lagoons and an overspill weir between the lagoons with reinforced turf mats to provide long term erosion protection and vegetation establishment assistance.

Arboricultural Plan



- 6.16 The proposal involves drainage works and much of the development is below ground, however, there would be some built form visible above ground. Runoff would pass through the lagoon inlet structure comprising a reinforced brickwork brick structure projecting approximately 0.3m above ground and finished with approximately 1m high galvanised mild steel handrails with welded mesh infill.
- 6.17 After passing through the inlet structure, the surface water runoff will flow into the settling lagoon, where there will be an overflow spillway into an outlet chamber. This chamber comprises a precast concrete manhole ring forming a circular overspill weir and a concrete pipe that discharges to the watercourse. A concrete surround to the pipe forms a walkway to the overspill weir to facilitate maintenance. Both elements will be surrounded by 1.1m high handrails.
- 6.18 The main part of the application site is set back from both Bearstead Road (north) and New Cut Road (east) with views significantly screened by landscaping and views of the wider landscape not possible from the application site. This contrasts with Repton's proposals which intended to open up the landscape and increase views of the then Manor House. With the nature of the development with little development above ground and the small scale of development that is above ground, any impact is restricted to the immediate surrounding the application site. Whilst it is acknowledged that the form of the works currently proposed is more engineered than say the alternative option considered above, it should be recognised that the current proposals are the optimum solution put forward by the applicant to deal with pollution control and only result in a very low level of visual harm to the immediate surrounding

landscape as viewed from within the Crematorium grounds and principally as a result of the above ground structures and engineered nature of the lagoons.

- 6.19 This low-level visual harm of the above ground work will be mitigated by new planting that will help integrate the works into the existing landscape. The low-level visual harm also needs to be balanced against the benefits (as outlined above) arising from the current proposals in the form of providing for a controlled discharge to the watercourse which will improve the quality of highway runoff passed downstream.
- 6.20 It is also important to note that the application site is not recognised in any local or national designation as a landscape that has any particular value or character and there is no protection provided to the landscape of the site in the adopted local plan. In addition, the Local Plan does not place any value on a 'Repton Landscape' and the Repton Landscape' it is not mentioned in the Local Plan. Notwithstanding the lack of any designation the 'Repton Landscape' could be a material consideration and it has been assessed as such. It is concluded that with the presence of many other contemporary buildings in this area that are more significantly visible than the currently proposed development and the very enclosed nature of the site, that the proposal is acceptable in relation to landscape and visual harm and meets the objectives of policies SP1, SP23 and DM1 of the Local Plan.

Biodiversity and arboriculture

- 6.21 Local Plan policy DM1 states that all new development shall protect and enhance any on-site biodiversity features or provide sufficient mitigation measures. In order to retain a high quality of living and to be able to respond to the effects of climate change, policy DM3 states that developers will ensure that new development protects and enhances the natural environment. This protection and enhancement is achieved by controlling pollution to protect ground and surface waters and where necessary, mitigate for and adapt to the effects of climate change.
- 6.22 The area around the application site retains a significant amount of tree cover when considering the amount of development that has taken place, with a row of trees along both sides of Bearsted Road as well as around the Newham Court roundabout and along New Court Road. The trees on site are covered by a Tree Preservation Order (Trees at Vinters Park, Boxley).
- 6.23 Concerns have been raised regarding the loss of trees specifically on the basis of the MBC maintained area around the car park. This area was landscaped some 20 years ago using elected member devolved budgets, utilising unusual native trees, including sessile oak and small-leaved lime. The trees were arranged to reflect Humphrey Repton's Red Book proposals for this 'focal point' apex of the Vinters Valley.
- 6.24 Addressing these concerns, the applicant has submitted a revised arboricultural report identifying arboricultural features and the effect of the development upon them. The report now indicates that 6 trees will be lost including tree T15, 3 trees in group G22 (as opposed to the originally proposed 14), 1 tree in group G24 and 1 tree in group G29. A 15m length of hedge H30 would be lost as opposed to the originally proposed 46m length.
- 6.25 A total of six replacement trees have been proposed. Species have been chosen to ensure suitability to the location of the site in terms of its context; Alder suitable close to the river, Common Oak/ Lime are large native species, contribute to biodiversity

and already exist on site. No objections were raised to the proposal from MBC landscape or KCC Ecological consultees subject to conditions.

- 6.26 Concerns have also been raised regarding the impact upon grass lands within Vinters Park, specifically that the area shown to be excavated for the hard-engineered attenuation structure includes species rich grassland. The concern is that the grassland is characterised by uncommon plants including harebell (*Campanula rotundifolia*) and hosts uncommon invertebrates (mollusc populations are particularly notable and include striped snail *Cerithium virgata*, which is currently in evidence within the application area aestivating on stems) as well as legally protected reptiles.
- 6.27 KCC Ecology's initial response in August 2021 noted "trees, scrub and grassland are being lost to the development. As such, we advise that habitat creation within the wider site, along with long-term management prescriptions, should be proposed and submitted (as recommended within the ecology reports)", showing that concerns were shared and noting that the lost trees should be replaced.
- 6.28 In response, the applicant has submitted revised planting plans which detail the location and species of replacement trees, areas which would be disturbed by the works and 'made good', areas around the car park which would remain undisturbed and where replacement grassland planting would take place. As detailed above trees removed as a result of the works would be replaced.
- 6.29 As stated by the applicant "Mitigation for reptile species has been put in place in the form of a reptile management plan, and avoidance of the felling of trees that could be used by roosting bats has been achieved, with only trimming of branches of such trees required. Thus, there will be no effect on protected or notable species ... All site habitats are common and widespread in the UK and there is no ecological site designation for the Site. The post-development landscaping proposals have been proposed to increase the species diversity of the grassland habitat and increase the length of the hedgerow."
- 6.30 No objections have been raised from KCC Ecological consultees on this additional information or the Environment Agency.
- 6.31 Concern has been expressed about the potential impact on the Desmoulin's whorl snail in the River Len, downstream of the VVNR, and the impact of road salts in the River Len. Notwithstanding that there are many highway (and other) outfalls discharging to the River Len and tributaries, and that the River Len is circa 1.5km downstream of the Bearsted Road location, it is considered that passing the highway runoff from the proposed development through the proposed settlement lagoon arrangement will considerably reduce the passage of road salt downstream from this area. Overall, the proposed lagoons, control structures and pollution control measures will provide a controlled discharge to the watercourse and greatly improve the quality of the highway runoff passed downstream.
- 6.32 The proposed lagoons and pollution control measures reduce salt in the highway runoff water which would have a positive impact on any mollusc species found downstream. It is highlighted that the existing highway runoff is unattenuated and contains no pollution control measures other than trapped road gullies and catch pits and the proposal would introduce pollution control measures. Whilst there 'could' be a temporary negative change in water chemistry downstream during construction, the

long-term benefits of a vegetated filtration system to the downstream ecology should be realised.

- 6.33 Conditions will be imposed requiring the applicant to carry out the Ecological work in accordance with details contained in table 4 of the Preliminary Ecological Appraisal (WSP May 2021). The presence of this pre-commencement condition requires that all necessary mitigation detailed will be carried out, including translocation for those species found to be present.
- 6.34 Subject to conditions it is assessed that the development is in accordance with local planning policies.

Surface water flooding

- 6.35 Policy DM1 details the need to avoid inappropriate new developments with areas at risk from flooding.
- 6.36 The submitted flood risk assessment undertook a review of the historic flood events and indicates that there are no known records of flooding in the area of the site, the application site is entirely within Flood Zone 1, a low-risk area.
- 6.37 The flood risk assessment confirms "Construction of the proposed highway improvement works to the existing highway will add approximately 3,400m² of additional impermeable paved area to the highway drainage catchment, resulting in increased surface water runoff generated in this area, which could increase the risk of flooding in the local area or downstream. Surface water runoff generated on the existing highway is currently discharged to the nearby watercourse with an unrestricted discharge rate. The proposed drainage strategy includes attenuation lagoon and flow control devices to mitigate potential increase in the risk of flooding. The proposed discharge rate provides a reduction of approximately 36% in comparison to the existing discharge rate."
- 6.38 The proposed works would reduce the risk of flooding in the area. No objections have been raised by KCC Flood and Water Management consultees subject to conditions, or the Environment Agency.

Character and Appearance

- 6.39 Policy DM1 states that development must respond positively to and enhance the local and natural character of the area.
- 6.40 Assessing the physical works, the majority of the works are below ground. Handrails and other 'built' elements proposed would be obscured by proposed replacement planting and as such their impact would be minimised once planting has established itself. Views into the site from Bearsted Road are heavily restricted due to the lay of the land and mature vegetation along the roadside. Most of the 'impact' would be on the crematoriums parking area, but this would be minimised once replacement planting had established.
- 6.41 It is not considered that the development would have a harmful impact upon the character and appearance of the wider area.

Conclusion

- 6.42 The development is required to mitigate the impacts from significant development associated with local plan policy RMX1 to the north as well as vehicle traffic in the area

which is required to be improved to accommodate the delivery of the Maidstone Local Plan. These infrastructure improvements are part of a package of measures to deliver the Council's Strategic aims and are clearly identified in the Maidstone Local Plan and Infrastructure Delivery Plan. It is assessed that any impacts from the development are balanced against the need to provide infrastructure required to support development in the area.

- 6.43 The need for highways infrastructure is detailed within policies SP1 and SP23. Policy DM3 also states "protection and enhancement (of the local environment) is achieved by controlling pollution to protect ground and surface waters and where necessary, mitigate for and adapt to the effects of climate change." This proposal would achieve the objectives associated with these policies.
- 6.44 Following the submission of revised drawings, it is assessed that any localised low level harm to the landscape can be successfully mitigated with the benefits arising from the proposals in terms of significantly improved water quality from the improved highway network outweighing the very low level landscape harm that arises from the proposals on its immediate setting. On the basis of the above there are no policy grounds to refuse this application and an approval with conditions is recommended.

7. RECOMMENDATION

Grant Permission subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

70040984-PL-0080 Rev P01Location Plan
70040984-PL-0081 Rev P02Existing Block Plan
70040984-PL-0082 Rev P01Proposed Block Plan
70040984-DR-0504 Rev T03Proposed Surface Water Drainage Layout Sheet 4
70040984-DR-0533 Rev T03Proposed General Arrangement Plan
70040984-DR-0534 Rev T02Proposed Cross Sections
70040984-DR-0535 Rev T02Proposed Lagoon Inlet Structure Plan
70040984-DR-0536 Rev T02Proposed Lagoon Primary Outlet Structure Plan
70040984-DR-0537 Rev T02Proposed Lagoon Outlet Flow Structure Plan
70040984-DR-0538 Rev T02Attenuation Crate Storage System
70040984-DR-0539 Rev T02Cellular Crate Type Soak away 1
70040984-DR-0540 Rev T02Cellular Crate Type Soakaway 2
70040984-DR-0546 Rev T02Proposed Lagoon Access Platform Plan
70040984-EC-3081-0001 Rev P03Proposed Planting Key Plan
70040984-EC-3081-0002 Rev P03Planting Plan Sheet 1
70040984-EC-3081-0003 Rev P03Planting Plan Sheet 2
70040984-EV-3122 Rev P04Tree Protection Plan
70040984-A25 Addendum to Historic Environment Desk Based Assessment

Planning Committee

17 February 2022

Historic Environment Desk-Based Assessment
70040984-REP-0077KCC - Arboricultural Statement (submitted 20/10/2021)
KCC - Biodiversity Net Gain Report
KCC - Flood Risk Assessment
Preliminary Ecological Appraisal – Part 1
Preliminary Ecological Appraisal – Part 2
Preliminary Risk Assessment - Part 1
Preliminary Risk Assessment - Part 2
Preliminary Risk Assessment - Part 3
Preliminary Risk Assessment - Part 4
Preliminary Risk Assessment - Part 5
Cover Letter
Planning Statement
Technical Note

Reason: To ensure a satisfactory visual appearance to the proposal and to safeguard the amenity of the area.

- 3) Upon commencement of the development, a working group comprising the ward members and political group spokespersons of the Planning Committee shall be set up to discuss with the applicant the details relating to conditions 5 and 10 of this consent and to monitor the development. Details relating to terms of reference and frequency of meetings shall be agreed and the development shall be carried out in accordance with the approved details and the monitoring of the permission and conditions shall be carried out in accordance with the terms of reference.

Reason: To ensure that conditions are adhered to given the local sensitivities of the site and to allow for a system of monitoring the permission

- 4) Prior to the commencement of works (including site clearance), all precautionary mitigation measures for protected species will be carried out in accordance with the details contained in table 4 of the Preliminary Ecological Appraisal (WSP May 2021). These measures shall be retained for the duration of the build works on site.

Reason: To safeguard the presence of protected wildlife located on the application site.

- 5) Within three months of works commencing, details of how the development will enhance biodiversity shall be submitted to, and approved in writing by, the local planning authority. This will include recommendations in section 4.5 of the Preliminary Ecological Appraisal (WSP May 2021) and section 4.1.3 of the Biodiversity Net Gain Assessment (WSP June 2021). The approved details shall be implemented prior to the first use of the development and thereafter retained.

Reason: To safeguard the presence of protected wildlife located on the application site and to ensure the development results in a net gain for biodiversity.

- 6) Prior to the completion of the development a drainage system Verification Report, pertaining to the approved works and prepared by a suitably competent person, shall be submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including

photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 159 of the National Planning Policy Framework.

- 7) The development shall be carried out in accordance with the submitted arboricultural method statement.

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

- 8) The development shall be carried out in accordance with the submitted Tree Protection Plan, Tree protection plan 70040984-EV-312, dated 28 April 2020. No equipment, plant, machinery, or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

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

- 9) Landscaping shall be implemented in accordance with the submitted landscape scheme and associated landscape and arboricultural details comprising drawings 70040984-EC-3081-000 (Planting Plan Sheet 1) and 70040984-EC-3081-000 (Planting Plan Sheet 2) both dated June 2021. The landscaping scheme shall implemented in full by the next available planting season unless the local planning authority gives written consent to any variation.

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

- 10) Within three months of the permission hereby issued a planting scheme addressing the need to seed both lagoons with reeds shall be submitted for approval by the local planning authority. There shall be no use of the development hereby approved until such time as the landscaping scheme is implemented in full unless the local planning authority gives written consent to any variation.

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

- 11) Any tree or hedge planted in accordance with the conditions attached to this permission, or in replacement for such a tree, which within a period of five years

Planning Committee

17 February 2022

from the date of the planting is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, shall, in the same location, be replaced during the next planting season (October to February) by another tree of the same species and size as that originally planted, except where an alternative proposal has been submitted to and approved in writing by the local planning authority prior to that planting season;

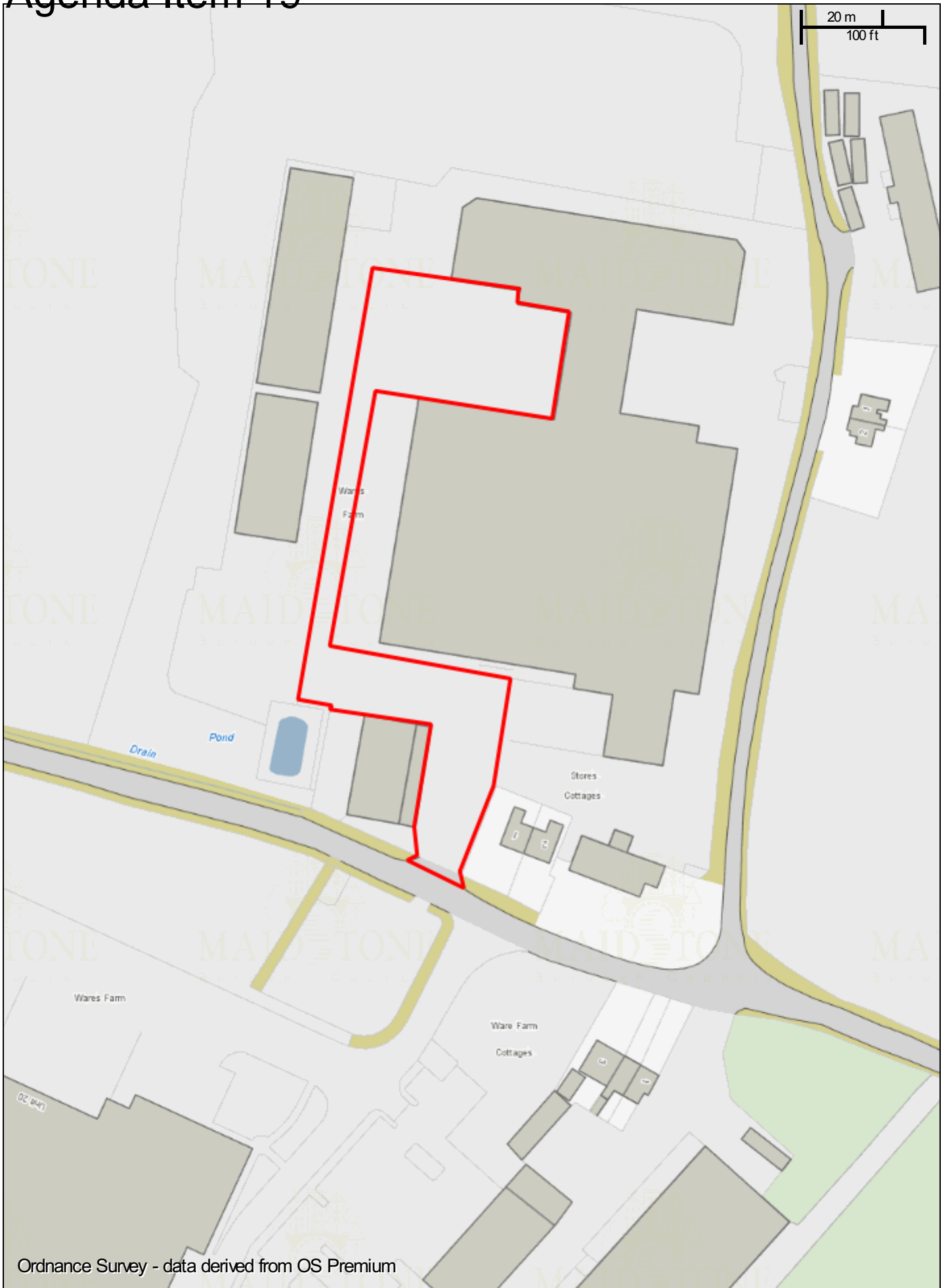
Reason: To safeguard the amenity and nature conservation value of the tree/s that has/have been removed and to maintain and enhance the character and appearance of the local area

- 12)The developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority and shall allow him/her to observe the excavations and record items of interest and finds. The developer shall inform the County Archaeologist of the start date of construction works on site not less than two weeks before the commencement of such works. Works shall subsequently be carried out in accordance with details within 70040984-A25 (Addendum to Historic Environment Desk Based Assessment), dated June 2021.

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

Case officer: William Fletcher

Agenda Item 19



Ordnance Survey - data derived from OS Premium

REFERENCE NO - 21/505932/FULL		
APPLICATION PROPOSAL Retrospective application for erection of a temporary single storey extension to existing packhouse including access, parking and associated works.		
ADDRESS Wares Farm, Redwall Lane, Linton, Kent, ME17 4BA		
RECOMMENDATION GRANT TEMPORARY PLANNING PERMISSION subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The application which seeks a temporary extension would have minimal visual impact on the surrounding area and is compliant with local and national planning policies.		
REASON FOR REFERRAL TO COMMITTEE The application has been called in by Linton Parish Council on the grounds that development would have a harmful impact upon the character and appearance of the area, the wider landscape, have a harmful highway impact and impact detrimentally upon the amenity of neighbouring properties.		
WARD Coxheath and Hunton Ward	PARISH/TOWN COUNCIL Linton	APPLICANT Integrated Service Solutions Ltd AGENT Mr Alexander Payne
TARGET DECISION DATE 25/02/2022 (EOT)		PUBLICITY EXPIRY DATE 21/12/2021

Relevant Planning History

- 0.1 04/0297 - Extension of existing industrial building to provide for a loading bay, canopy and loading dock to serve unit 2 including the change of use of agricultural land to provide for vehicle circulation and the provision of revised parking, as shown on dwg nos PKD033724, PKD033724/1 received on 11/02/04 and DHA/4816/01A, DHA/334/03 received on 19.02.04.

Permitted – 31/03/2004
- 0.2 04/2034 - Erection of new warehouse to provide the relocation and expansion of existing businesses including the provision of revised vehicle circulation and parking as shown on dwg nos. PKD043729, DHA/5114/01 received on 18.10.04.

Permitted – 15/02/2005
- 0.3 05/1172 - Extension of existing industrial building to provide for a loading bay, access ramp and loading dock to serve units 2 and 3 including the provision of revised parking and vehicle circulation as shown on PKD053731, 53731/2, 537311, DHA/4816/02, received on 15/06/05.

Planning Committee

17 February 2022

Permitted – 08/08/2005

- 0.4 08/0694 - Erection of industrial/warehouse building and extension to loading bay to provide for the relocation and expansion of existing businesses including revised parking and landscaping as shown on drawing numbers 083701/1, 083701/2, 083701/3, 083701/4, 083701/5083701/6, DHA/6620/01 and DHA/6620/02 received on 1/4/08.

Permitted – 22/05/2008

- 0.5 12/0153 - Erection of two single storey extensions to existing industrial/warehouse building to provide an ancillary chill store and office for the existing packhouse as shown on drawing nos. 1400/1, 1400/2b, 1400/3 and DHA/9266/01 received on 31st January 2012.

Permitted – 26/03/2012

- 0.6 16/508659/FULL (Berry Gardens) - Demolition of existing dwelling and erection of B8 warehouse building with ancillary offices, dock levellers, access, parking and landscaping including the creation of new woodland and attenuation pond.

Permitted – 06/07/2017

1 DESCRIPTION OF SITE

- 1.01 The site is located at Wares Farm to the north of Redwall Lane and west of Laceys Lane. The proposed extension would be located entirely within the recessed area adjacent to the north of the main building and adjacent to the east of the connection between the main building and the northern section. This area currently comprises of hard standing and car parking.

- 1.02 The site is accessed via the existing access from Redwall Lane.

- 1.03 The site is located in the countryside by virtue of being outside any defined settlement boundary but consists of entirely previously developed land within Wares Farm. The Wares Farm complex itself is entirely surrounded by land in agricultural use with a fruit packhouse and other agricultural buildings and uses located to the south including the Berry Gardens facility, with agricultural land to the west, north and east. There also a few dwellings sporadically set out in proximity to the site.

2. PROPOSAL

- 2.01 The application seeks temporary (3 years), retrospective planning permission for the 'Extension to existing packhouse and associated access, parking and associated works'

- 2.02 The proposed extension is 35m in length and 20m in width. The height of the eaves is 7.2m with a ridge height of 10.2m and provides 700m² of floorspace which would be used as a coldstore for storing fruit prior to distribution or transportation to a distribution centre.

- 2.03 The proposed extension is a rectangular building with a dual-pitch roof. It comprises an aluminium frame clad with insulated steel sandwich cladding with polymer composite insulated wall panels and roof consisting of translucent plastic-coated membranes which are inflated to provide insulation for the cold store. The external appearance of the building is white as shown below.

- 2.04 The extension would operate on a 24 hour 7 day a week basis as per the operation of the existing premises and would result in a maximum of up to 12 additional HGV vehicles visiting the site with around 80 new additional employees working in shifts that are split over 4 shifts (2 days/2 nights) resulting in a maximum of up to 40 additional employees coming and going to the site each day with the start/end shift times being 6a.m to 6 p.m.
- 2.05 As taken from the applicants supporting statement; "The proposed development includes seven additional parking spaces adjacent to the west of the site and a further eight spaces have been allocated to the applicant in the wider Wares Farm complex. In addition, the applicant has access to the overflow car park to the southwest corner of the Wares Farm complex which comprises 53 spaces. The applicant has access to a minimum of 68 car parking spaces on the Wares Farm site.



3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017:

SP17 – Countryside

SP21 – Economic Development

DM1 – Principles of good design

DM6 – Air Quality

DM21 - Assessing the transport impacts of development

DM23 – Parking Standards

DM30 – Design principles in the countryside

DM37 – Expansion of existing businesses in the rural area

The National Planning Policy Framework (NPPF 2021):

Local Plan Review (2021)

The Council's Regulation 19 Local Plan has recently finished public consultation and provides assessment criteria for economic development proposals in the countryside.

Whilst this document is a material planning consideration, at this time it is not apportioned much weight. The weight to be attached to individual policies will be adjusted upwards or downwards depending on whether objections have been received. The current programme involves submission to the Planning Inspectorate in Spring 2022.

Policy SP11 of the review states that the Council will support the economy of the borough by "Supporting proposals for the expansion of existing economic development premises in the countryside, including tourism related development, provided the scale and impact of the development is appropriate for its countryside location, in accordance with policy CD7."

Policy CD7 (Expansion of existing businesses in rural areas) states that planning permission will be granted where;

- i. New buildings and proposed access thereto are small appropriate in scale and provided the resultant development as a whole is appropriate in scale for the location and can be satisfactorily integrated into the local landscape;
- ii. The increase in floorspace would not result in unacceptable traffic levels or types on nearby roads or a significant increase in use of an existing substandard access;
- iii. The new development, together with the existing facilities, will not result in an unacceptable loss in impact on the amenity of the area. In particular the impact on nearby properties and the appearance of the development from public roads will be of importance; and
- iv. No open storage of materials will be permitted unless adequately screened from public view throughout the year.

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.1 In addition to the site notice, 35 neighbouring properties were consulted by direct mail regarding the proposed development. Three representations were received in objection to the development.

5. CONSULTATIONS

Linton Parish Council

Linton Parish Council have submitted an objection to the development and requested that it be brought before planning committee.

The material planning considerations raised are summarised as follows:

Planning Committee

17 February 2022

- That the development has a harmful impact upon visual amenity – Specifically that the building is not in keeping with surrounding development, it is overly visible from long distance views and is 'overly' lit at night.
- Highway issues - Specifically traffic generation, vehicular access and highway safety
- Noise or disturbance resulting from use, including proposed hours of operation
- Vehicle movements impacting upon conservation areas.
- Capacity of Infrastructure, specifically highways. The bulk of the comments issued relates to highways safety, damage to the highway network as a result of HGV movements and the number of HGV movements taking place in the area, which the Parish state should be reduced.

A number of non-material planning considerations are also raised. These are as follows:

- That the proposal is not a temporary addition.
- Matters controlled under other legislation i.e. traffic incidents.

KCC Highways

Development is accessed from Redwall Lane, the ingress is sufficient in width and provides good visibility sight lines in both directions when exiting the site.

Proposed extension is for 700sqm storage. Vehicular Parking has a total number of 68 spaces, which is sufficient for the whole site. Shift change takes place at 6am and 6pm, which is outside of the conventional peak traffic hours and will not cause a severe impact as set out within NPPF.

I can confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

Submission of a Construction Management Plan before the commencement of any development on site.

Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing.

Environmental Health

A noise impact assessment was submitted to the application by RSK Acoustics (Report No. 206/0429/R1 dated 29th Sept 2021). This assessment, using worst-case scenarios for the purpose of calculations, found that the impact for the new development would not increase noise levels from the existing use and thus I am satisfied a noise condition would not be required.

An air quality impact assessment was submitted with the application by SLR consulting (Ref: 403.12171.002 dated October 2021). Section 7.1 of this document determined during construction air quality impacts can be mitigated through specific measures and I would recommend the applicant adhere to these. The air quality impact assessment considered the impacts from operational phase trips of the development to have an insignificant effect. I would recommend the installation of EV charging points to encourage the use of sustainable travel methods.

The site is on potentially contaminated land due to its use as a packhouse but as the proposed development is erected on top of a concrete slab with no ground breaking activities involved in the process, I am satisfied this would not cause significant harm to receptors.

Natural England

No comments issued.

6. APPRAISAL

6.01 The key issues for consideration relate to:

- Principle
- Character, appearance, and scale
- Landscape
- Neighbouring amenity
- Highways
- Ecology
- Other matters

Principle

6.02 The application is for retrospective permission for the erection of a temporary single storey extension to the existing packhouse including access, parking and associated works.

6.03 Local Plan Policy SP17 states "Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area."

6.04 Local Plan Policy SP21 states that the Council will support the economy of the borough by "Supporting proposals for the expansion of existing economic development premises in the countryside, including tourism related development, provided the scale and impact of the development is appropriate for its countryside location, in accordance with policy DM37."

6.05 Local Plan Policy DM37 details the assessment criteria for this type of development. It states the following:

6.06 Planning permission will be granted for the sustainable growth and expansion of rural businesses in the rural area where:

- i. New buildings are small in scale and provided the resultant development as a whole is appropriate in scale for the location and can be satisfactorily integrated into the local landscape;
- ii. The increase in floorspace would not result in unacceptable traffic levels on nearby roads or a significant increase in use of an existing substandard access;
- iii. The new development, together with the existing facilities, will not result in an unacceptable loss in the amenity of the area. In particular the impact on nearby properties and the appearance of the development from public roads will be of importance and;

- iv. No open storage of materials will be permitted unless adequately screened from public view throughout the year.
- 6.07 Where significant adverse impacts on the rural environment and amenity would result from expansion, rural businesses requiring expanded premises should look to relocate to one of the Economic Development Areas identified in Policy SP22 or to a site within Maidstone urban area or one of the rural service centres.
- 6.08 The principle of an extension to the existing 'complex' is considered acceptable, subject to the development meeting the specific requirements of policies SP17 and DM37 which are discussed below.

Character, appearance, and scale

- 6.09 Policy DM1 states that development must not result in, or is exposed to, excessive noise, vibration, odour, air pollution, activity, or vehicular movements, it requires development to incorporate a high-quality design which responds to areas of heritage, townscape and landscape value or uplifts an area of poor environmental quality. Policy DM30 has similar requirements.
- 6.10 Policy DM37 also has design criteria i.e., that development must be appropriate in scale for the location and that development must not result in harm to the amenity of the area "and the appearance of the development from public roads will be of importance"
- 6.11 The application site is within the Yalding Farmlands landscape character area. The Maidstone Landscape Character Assessment notes that this landscape is in 'Very Good' condition and of 'High' sensitivity. The Character Assessment notes that the landscape consists of low-lying landscapes, reservoirs and water bodies, enclosed pastures, orchards, parkland and historic settlements. An identified action is to soften the impact of agricultural buildings and fruit equipment storage areas with native planting. To summarise the assessment concludes that this landscape must be conserved.
- 6.12 Assessing these points, the proposed new extension building is small in scale relative to the existing building and the Wares Farm complex. The proposal provides a logical infill of a gap between two existing buildings within an existing industrial and warehousing complex. Whilst in policy terms the application site is in the countryside, the immediate surround area is very much seen as a semi-industrial/warehousing complex.



- 6.13 Concerns have been raised regarding the visual impact of the extension particularly from short and long-distance views, however the extension has to be viewed in the context of its surroundings. It does not look out of place associated with the existing 'industrial and warehouse' buildings, as the photo below demonstrates it is of a similar scale to the existing buildings on site and is "seen" in the context of the existing Wares Farm buildings. Views of the development are possible when traveling towards the site along Red Wall Lane from the west and the east of the site but these are glimpsed views in accordance with policy DM37 (iii), the appearance of the development is acceptable when viewed from public roads. The below photo is taken from the roadside to the front of 'The Oast', a property approximately 200m to the west of the application site. The white building relating to this application is just visible through the tree line, above the surrounding buildings.



- 6.14 It is not considered that the white colouration or that it is visible over the top of the existing buildings results in such significant harm that a refusal would be warranted on these grounds as the building is read in the landscape against the wider complex of buildings at the Wares Farm site.. Whilst landscaping is not necessarily a permanent feature, equally once the trees pictured above have come into leaf the building would not be as visible from this view point.
- 6.15 Concerns have also been raised regarding the 'visibility' of the proposal from the Bull Inn public house on Linton Hill. The Bull Inn is within the Greensand Ridge Landscape character area, and the application site is within the Yalding Farmlands. The below photo was taken from the car park of the Bull Inn which is approximately 2km to the north of the application site, the Bull Inn overlooks both landscape areas.



- 6.16 Whilst the white building can be discerned from the green 'existing' buildings, the building is seen in association with these buildings and the Berry Gardens complex to the south. It is not considered that the proposed building (which is temporary) is so glaring that it causes such an impact on the wider landscape that would warrant a refusal on landscape grounds. This being especially so as the application proposes a temporary permission for three years.
- 6.17 The proposal seeks a temporary building and as such on the basis of this the landscape would be restored to its present state once the temporary permission expires. Additionally, the building is contained amongst the existing industrial and storage buildings, is of a similar scale to the existing buildings and is "read" in the context of those existing buildings. Whilst the roof of the extension can be readily identified from medium range views, this is not so harmful over a three-year period to warrant a refusal of the application on landscape harm. Short distance views are limited to glimpses or are not readily visible from public roads. Overall, it is not considered that the extension causes a degree of landscape harm that would warrant a refusal of the application

Neighbouring amenity

- 6.18 Policies DM1 and DM37 (iii) both require development to safeguard the amenity of neighbouring properties.
- 6.19 The nearest properties to the proposal are the two dwellings located approximately 70m to the east of proposed building, east of Laceys Lane (nos. 1 and 2 Spring Cottages). However, there is existing screening along the eastern boundary of Wares Farm adjacent to Laceys Lane which minimises the visual impact. In addition, only a small section of the extension would be visible above the existing building that connects the building to the north to the main building from the east but any views of this would again be seen within the context of the extensive existing built form of Wares Farm.

- 6.20 The proposed activities associated with the proposal involve the storage of fruit in an atmosphere-controlled store and all activities would be internal. A Noise Impact Assessment and Air Quality Assessment has been submitted with the application and this demonstrates that there would be no detrimental impacts on noise or air quality.
- 6.21 The Councils Environmental Health Officer has raised no objection to the Noise Impact Assessment or Air Quality Assessment and has suggested the use of conditions in terms of installation of EV charging points to encourage the use of sustainable travel methods. Whilst the operation of the cold extension covers a 24 hour period, it is not considered that there will be an impact on the amenity of nearby residents as a result of this 24 hour activity.
- 6.22 Overall, there is not considered to be an impact on amenity to neighbouring properties as a result of the temporary extension.

Highways

- 6.23 Local Plan policies DM1 and DM37 both detail the need to ensure proposals do not result in vehicle movements, that could have a harmful effect on the amenity of residents and the wider highway network.
- 6.24 A Transport Statement (TS) has been submitted in support of the application and confirms that the site is expected to generate approximately one additional HGV movement per hour on average over the 24-hour period (12 movements onto and 12 off the site, 12 vehicles total) and a maximum of 40 two way car movements over the shift change over periods around the hours of 6am and 6pm.
- 6.25 A number of objections on highways grounds have been received including one from Linton Parish regarding vehicle movements associated with the site. KCC Highways who are the Local Planning Authorities expert consultees regarding this issue have not objected to the proposal subject to conditions.
- 6.26 One representation refers to vehicle movements at 'Berry Gardens' the site immediately to the south of the application site being restricted to 32 lorry movements. A specific application where this condition has been imposed has not been provided, but condition 10 associated with 16/508659/FULL imposed a condition restricting vehicle movements to 8 overnight.
- 6.27 18/501181/FULL associated with the above application then amended this condition to allow additional vehicle movements. No more than "32 in or out movements to the site by HGVs between the hours of 2300hrs and 0700hrs." To summarise this, this was on the basis of the reasonable nature of the 'business' and to provide some flexibility which could otherwise lead to a situation of vehicles parking on the highway rather than entering the site.
- 6.28 As taken from the applicant's transport assessment, in relation to HGVs the following is indicated "Over the course of a temporary 26-week period, an additional 24 two-way HGV arrivals (12 vehicles in total) and departures per day for 17 weeks and 12 per day (6 vehicles) for the remaining 9 weeks will occur." Approximately one additional HGV movement an hour during the 26-week period. When considering the comments from highways consultees, it is not considered that an additional 12 HGVs visiting the site results in such a detrimental intensification of vehicle movements that a refusal on this ground alone would be warranted.

- 6.29 A number of representations received refer to specific incidents involving HGVs. Highway safety is covered by legislation outside of the planning system, the Local Planning Authority does not have the remit to ensure drivers obey highway legislation and as such this is not a ground to refuse an application on. Between 2017 and 2020 a total of two traffic incidents were recorded in the vicinity, both of which were classified as 'slight' in severity, neither of these involved HGVs.
- 6.30 Comments submitted also discuss what is best described as "unnecessary HGV journeys" as a result of how the business operates. How a business operates is not a planning consideration, KCC Highways have not objected to the proposal on this basis. Conditions can be imposed regulating vehicle movements to and from the site.
- 6.31 In terms of parking arrangements as taken from the submitted transport statement: "As noted, a total of 80 additional staff have been employed as a result of the expansion. Daily shift patterns comprise two 12-hour shifts, with a maximum of 20 staff per shift. It is therefore anticipated that a maximum of 20 vehicles will utilise the on-site parking at any one time."
- 6.32 The proposed development includes seven additional parking spaces adjacent to the west of the site and a further eight spaces have been allocated to the applicant in the wider Wares Farm complex. In addition, the applicant has access to the overflow car park to the southwest corner of the Wares Farm complex which comprises 53 spaces. The applicant has access to a minimum of 68 car parking spaces on the Wares Farm site.
- 6.33 The transport assessment includes a review of the overflow car park which was undertaken to assess its utilisation on Tuesday 12th October 2021 at 14:00. During this time, it was seen that the car park is seen to be operating with spare capacity, with up to seven free bays during this peak operational period and no overspill on to the local highway network
- 6.34 Based on the above, the arrangements are assessed as being acceptable, no objections have been received by highways consultees relating to the parking arrangements on site.

Ecology

- 6.35 The proposal seeks retrospective permission for a temporary building on the sites existing car park. On this basis it would not be reasonable to impose conditions requiring enhancements integrated to the building, it will be conditioned that enhancements be placed elsewhere around the site.

Other Matters

- 6.36 Impacts on air quality and climate change are also raised, as taken from the applicants Air Quality assessment. "In accordance with the EPUK & IAQM Guidance, developments located outside an AQMA (Air Quality Management Area) require consideration of potential air quality impacts where additional development trips are in excess of 500 AADT as LDV trips or 100 AADT as HDV trips.
- 6.37 Based upon the trip details and distribution outlined above, the maximum number of predicted development trips (as 24-hour AADT) are below the relevant criterion. Therefore, in accordance with the EPUK & IAQM Guidance no further detailed assessment is required and the 'impacts can be considered as having an insignificant effect'."

- 6.38 No objections have been received from Environmental Health consultees, subject to conditions. The applicant has submitted an air quality impact assessment, this 'concludes' that the maximum number of predicted developmental movements is below the relevant indicative criteria for a more in-depth assessment. "As such, road traffic impacts associated with the operational of the site can be considered as having an 'insignificant' effect on local air quality and have therefore been screened out." As the application is retrospective conditions are suggested requiring the applicant to install electric vehicle charge points, to encourage the use of electric vehicles and reduce carbon emissions.
- 6.39 Policy DM2 states that Non-residential development, where technically feasible and viable, should meet BREEAM Very Good including addressing maximum water efficiencies under the mandatory water credits and should achieve BREEAM Very Good for energy credits where technically and financially viable.
- 6.40 The building is temporary and on this basis it is not assessed as being reasonable to require sustainable technologies on a temporary building. Requiring BREEM standards on an already constructed temporary building would not be reasonable either given its temporary nature.

Conclusion

- 6.41 The development which is seeking temporary permission for a temporary building would not have a harmful impact upon the character and appearance of the immediate area or the wider landscape with short range views of the building restricted to glimpses. Whilst within medium range views the extension is visible and of a differing colour to the main complex, it is read against the complex as a whole and is seen as such. On this basis, it does not cause landscape harm sufficient to warrant a refusal of the application.
- 6.42 The development would not harmfully impact upon the amenity of neighbouring properties.
- 6.43 It is not assessed that the development would have such a significantly harmful impact upon the wider highway network that a refusal would be warranted. The temporary proposal has resulted in the creation of 80 additional jobs supporting the rural economy in accordance with policy SP21. Conditions are suggested limiting the number of HGVs visiting the site. The development is in accordance with local and national planning policies and is recommended for approval.

7. RECOMMENDATION

Grant temporary permission subject to the following conditions:

- 1) The extension hereby permitted shall be removed and the land upon which it is sited restored to its former condition on or before 25/02/2025.

Reason: To enable the local planning authority to review the special circumstances under which this permission is granted.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Application for planning permission
Air Quality Assessment

Planning Committee

17 February 2022

DHA_15889_01 Site Location Plan
DHA_15889_02 Existing Site Layout Plan
DHA_15889_03 Proposed Site Layout Plan
DHA_15889_04 Existing Building Floor Plan
DHA_15889_05 Existing Building Elevations
DHA_15889_06 Proposed Building Floor Plan
DHA_15889_07 Proposed Building Elevations
Noise Impact Assessment
Transport Statement
Planning Statement
Agent Response

Reason: To ensure a satisfactory visual appearance to the proposal and to safeguard the amenity of the area.

- 3) Within one month of the date of the application hereby approved details of 5 (10% of proposed parking provision) electric vehicle charging points, including a programme for their installation, maintenance, and management, have been submitted to and approved in writing by the local planning authority. The electric vehicle charging points as approved shall be installed within three months following the approval of the details and shall thereafter be retained and maintained in accordance with the approved details.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with the NPPF.

- 4) Within one month of the date of the application hereby approved a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through provision within the site curtilage of measures such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgerow corridors. Within three months the approved scheme shall be implemented in accordance with the approved details and all features shall be maintained thereafter. Reason: To provide a net biodiversity gain.
- 5) Within one month of the date of this decision hereby issued a scheme for the control and monitoring of the movement of HGV's shall be submitted to the Local Planning Authority. On approval of the scheme by the Local Planning Authority, this scheme should be implemented and operated at all times and shall be available for review by the Local Planning Authority. No more than 8 HGVs shall enter or leave the site during the hours or 2300hrs and 0600hrs.

Reasons: In the interests of Local amenity

- 6) The parking provision within the overflow car park to the southwest corner of the Wares Farm complex comprising of 53 spaces as well as the additional parking detailed within DHA_15889_03 Proposed Site Layout Plan (received on 03 Nov 2021) amounting to a total of 68 spaces shall be retained and maintained for parking purposes in connection with Integrated Service Solutions Ltd (Wares Farm) for the duration of the three-year temporary permission.

Reasons: In the interests of ensuring adequate parking provision on site.

Planning Committee

17 February 2022

Case officer: William Fletcher



Ordnance Survey - data derived from OS Premium

21/506183/FULL Pinelodge Cottage, Somerfield Road, Maidstone, Kent

Scale: 1:1250

Printed on: 8/2/2022 at 12:40 PM by JoannaW



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REFERENCE NO - 21/506183/FULL		
APPLICATION PROPOSAL Retrospective application for the erection of a side link extension to garage, conversion of garage to gymnasium and erection of a summer house.		
ADDRESS Pinelodge Cottage Somerfield Road Maidstone Kent ME16 8JJ		
RECOMMENDATION GRANT subject to the planning conditions set out in Section 8.0 of the report		
SUMMARY OF REASONS FOR RECOMMENDATION The retrospective development by reason of its design, scale and appearance is considered to be in keeping with the character of the original building and character of the area including the streetscene and would not result in significant adverse harm to neighbouring occupiers by way of a loss of light, overlooking or overshadowing or other harm which could not be mitigated by conditions. All other material planning considerations are considered acceptable and in accordance with current policy and guidance.		
REASON FOR REFERRAL TO COMMITTEE Councillor Jonathan Purle requested that the application be considered by the Planning Committee if Officers are minded to recommend approval.		
WARD Bridge	PARISH/TOWN COUNCIL Unparished	APPLICANT Mr S Yadave AGENT MCIAT
TARGET DECISION DATE EOT 25/2/22		PUBLICITY EXPIRY DATE 31/12/21

Relevant Planning History

16/502943/FULL - Change of use and conversion of existing two storey garage outbuilding into a single dwellinghouse with the insertion of dormer windows, replacement of garage door with two double doors and installation of a new window to the front and side elevations. Approved 24 10 2016

18/502245/FULL - Erection of an Orangery, detached garage and detached garden shed. Approved 09.07.2018

19/500902/FULL - Erection of first floor extension to form third bedroom and extension to garage to provide additional garage space. Approved 24.04.2019

20/502780/FULL - Single storey side extension to existing garage. Refused 17.09.2020

20/505343/FULL - Single storey side extension to existing garage. (Resubmission of 20/502780/FULL) Refused 31.12.2020

21/506184/FULL - Retrospective application for erection of garden fence and entrance gates. Approved 14.01.2022

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 Pinelodge Cottage is a detached property within the urban settlement boundary of Maidstone. This property is situated within the grounds of Pinelodge. Pinelodge Cottage was converted to a separate dwelling under planning application reference: 16/502943/FULL.

- 1.02 Pinelodge Cottage is a one and half storey dwelling with dormer windows to the front elevation. The detached double garage was approved under planning application reference: 19/500902/FULL. The link extension adjoining the garage and hostdwelling has been built since at least 2020.

2. PROPOSAL

- 2.01 The applicant seeks planning permission for this retrospective development consisting of converting the garage into a gymnasium, a link extension adjoining the garage and hostdwelling and the erection of a detached summer house in the rear garden.
- 2.02 The link extension adjoining the garage to the hostdwelling has a width of 1.8m, a depth of 2.65m and a height of 2.5m. The link extension has a flat roof, a window to the rear elevation and a door to the front elevation.
- 2.03 The summer house is situated in the rear garden to the east of Pinelodge Cottage and has a depth of 3m, a width of 2.45m, an eaves height of 2.3m and a ridge height of 2.5m as the roof slopes slightly. The summerhouse has a door to the southwest elevation, two windows to the northwest elevation and a window to the northeast elevation. The summerhouse is set back from the Somerfield Road by at least 3m.
- 2.04 The garage was a double garage, and the garage has been converted into a gymnasium for the residents of Pinelodge Cottage. The garage previously had two garage doors to the front elevation and the garage conversion alterations include replacing the two garage doors with two windows and replacing the window and door to the side elevation with double doors to access the rear garden.
- 2.05 The works are retrospective with the link extension and summerhouse complete and the garage conversion has commenced.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Maidstone Borough Local Plan 2017 – DM1 – principles of good design, DM9 - Residential extensions and conversions and re-development within the built up area.

Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 19) dated October 2021. : Policies Policy LPRSP15 – Principles of Good Design Policy LPRHOU 2 : Residential extensions, conversions, annexes and redevelopment in the built-up area

The Regulation 19 draft is a material consideration and some weight must be attached to the document because of the stage it is at but its weight is limited, as it has yet to be the subject of an examination in public.

Supplementary Planning Documents - Maidstone Residential Extensions SPD (2009) and SPG 4 - KCC Parking Standards (2006)

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 Objection received from one neighbouring property has raised the following (summarised) objections:

- The link between house and garage now makes them read and be occupied as one larger building which has resulted in an elongated and overdeveloped street frontage
- The conversion of the adjacent house into flats has put significant pressure on parking and safety on the very narrowest point of the street and the further loss of these two garages for a gym has compounded the problem.
- The garage section is also extremely close to the road which now joined to the house further increases the perceived scale and massing
- The new garage windows are also uncomfortably close to the road, on a street that is otherwise characterised by properties set well back from the kerb to respect the scale, massing, and amenity of the street.
- The addition of the summerhouse and new hardstanding further erode the original openness of this site to a point where it now reads as one long overdeveloped elongated frontage of a very poor quality

5. CONSULTATIONS

5.01 Cllr Purle

I have read through this planning application and must say that I do not believe the application really reflects the development that has been occurring at this plot. In my view, it does not appear to pass the pertinent tests in DM9/11.

6. APPRAISAL

Main Issues

6.01 The key issues for consideration relate to:

- Background to the site and Principle of the development
- Impact on visual amenity
- Neighbouring residential amenity
- Car Parking and Highways
- Other matters

Background to the site and Principle of the development

- 6.02 As above, Pinelodge Cottage was converted into a separate dwelling under planning application reference: 16/502943/FUL, having previously been a detached garage in association with Pinelodge. A single garage and shed in the rear garden was approved under planning application reference: 18/502245/FULL. A garage extension was approved under planning application reference: 19/500902/FULL to build the second adjoining garage. The link extension which this application seeks to regularise has been built since 2020 has not been part of a previous planning application. The summerhouse and garage conversion works are understood to have taken place during 2021.
- 6.03 The site has been subject to a number of enforcement investigations and this application, together with a recent approval for front boundary treatment seeks to regularise all the unauthorised works.
- 6.04 Planning permission is required for the link extension and the outbuilding as Condition 4 of application 16/502943/FULL removed permitted development rights for extensions and outbuildings.

- 6.05 With regard to the garage conversion, the footprint of the garage is not proposed to be extended in any way and the use of the space remains ancillary to the main dwelling (Pinelodge Cottage), and there are not any conditions restricting its use as a garage/parking. Condition 4 of 19/500902 does require that the use of the space to remain as *purposes ancillary to the domestic use of that dwelling*, however its use as a gym is considered to fulfil that requirement. As such in itself planning permission is not considered to be required for the conversion of the garage, as such its conversion is considered acceptable in principle.
- 6.06 The application site is within the defined urban boundary, Policy DM9 of the local plan allows for residential extensions provided that :
- i) The scale, height, form, appearance and siting of the proposal would fit unobtrusively with the existing building where retained and the character of the street scene and/or its context;
 - ii) The traditional boundary treatment of an area would be retained and, where feasible, reinforced;
 - iii) The privacy, daylight, sunlight and maintenance of a pleasant outlook of adjoining residents would be safeguarded; and
 - iv) Sufficient parking would be provided within the curtilage of the dwelling without diminishing the character of the street scene.
- 6.07 Policy DM1 (ii) in terms of design refers to developments responding positively to the local character of the area, with regard being paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage. DM1 (iv) re-iterates consideration to be paid to adjoining neighbouring amenity.
- 6.08 Regarding detached outbuildings the SPD sets out :
- 'Garages and other outbuildings should not impact detrimentally on the space surrounding buildings. They must be smaller in scale and clearly ancillary to the property (para 4.45)*
- 'In order to appear ancillary to the property, fit well within the street scene and prevent detrimental impact on neighbouring properties, such as excessive overshadowing of a garden or principal window, garages and outbuildings should not generally be located in front of the building line of domestic properties' (para 4.46)*
- 'The form (including roof pitches) and materials of garages and outbuildings should be in keeping with the existing and surrounding properties.'* (para 4.47)
- 'Garages and other outbuildings should be subservient in scale and position to the original dwelling and not impact detrimentally on the space surrounding buildings or the street scene by virtue of their scale, form or location. Garages or outbuildings set in front of the building line will not normally be allowed.'*
- 6.09 The principle of extensions to the property is acceptable, whereby its location within the urban area, however this is subject to consideration of the key issues set out above which are discussed below.

Impact on visual amenity and neighbouring residential amenity

- 6.10 The flat roof of the summerhouse is slightly visible from the streetscene through the existing boundary treatment. The summerhouse is timber framed and is set back from the streetscene by at least 3m and the boundary treatment consists of a wall, vegetation and a fence behind the wall and vegetation.

- 6.11 The alterations to the front elevation of the garage consist of changing the garage doors to windows. The top of the window is barely visible above the entrance gate, approved under planning application reference: 21/506184/FULL. Converting the garage is a minor and common alteration and would not negatively affect visual amenity.
- 6.12 The link extension from the garage to the host dwelling is set back from the streetscene by at least 10m and the link extension is set back from the principal elevation of Pinelodge Cottage by 1.75m. The link extension has a flat roof and does not dominate or overwhelm the front elevation of Pinelodge Cottage. The link extension would not negatively affect visual amenity.
- 6.13 Overall the proposed works are subservient to the existing dwelling and do not harm visual amenity of the street scene or the character of the area or result in significant overdevelopment of the site which would warrant refusal.

Impact on residential amenity

- 6.14 Due to the nature of the proposals and the sites relationship with the closest neighbouring dwelling it is not considered that the proposals would negatively impact on the amenity of any neighbouring residential properties.

Car Parking and Highways

- 6.15 The double garage would become a gymnasium and there is capacity for 3 parked cars in front of Pinelodge Cottage. The parking along Somerfield Road is not restricted with yellow lines.
- 6.16 Pinelodge Cottage has two bedrooms on the first floor and Appendix B of the Local Plan, associated with Policy DM23 sets out that properties should have 1 car parking space per dwelling (for dwellings within a edge of centre location). The site retains 3 parking spaces in front of Pinelodge Cottage and as such there is considered sufficient alternative provision
- 6.17 It is not considered the loss of the double garage as parking would result in significant harm to highway safety or result in insufficient parking to serve the dwelling, notwithstanding this the garage is not restricted to be retained as use for parking.

Other matters

- 6.18 There are protected trees to the north-west of the site, however these are a significant distance from the proposed works to be unaffected and it is not believed that these trees have been affected as a result of the works that have taken place.
- 6.19 The NPPF, Local Plan and residential extensions SPD all seek to promote biodiversity enhancements, due to the nature of the site with a backdrop of protected trees and the further encroachment into the garden it is considered reasonable to require biodiversity enhancement, however due to the application being retrospective these enhancement shall be required by condition to be within the curtilage rather than integral to the extension.
- 6.20 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

7. CONCLUSION

- 7.01 The link extension, garage conversion into gymnasium and summerhouse, by reason of the design, scale and appearance, the development is considered to be in keeping with the character of the original building and character of the area including the streetscene and would not result in significant adverse harm to neighbouring occupiers by way of a loss of light, overlooking or overshadowing or other harm which could not be mitigated by conditions. All other material planning considerations are considered acceptable and in accordance with current policy and guidance.

8. 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:

Site Location Plan 21-842-01

Retrospective Block Plan 21-842-02

Previously Existing Floor Plans 21-842-03

Previously Existing Elevations 21-842-04

Previously Existing Garage Plans 21-842-05

Retrospective Floor Plans 21-842-06

Retrospective Roof and Sectional Elevations 21-842-07

Retrospective Elevations 21-842-08

Retrospective Summer House Plans 21-842-09

Retrospective Summer House Plans 21-842-11

Reason: To clarify which plans have been approved.

- (2) Within 2 months of the date of this decision details of a scheme for the enhancement of biodiversity on the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through the provision within the site curtilage such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgehog corridors. The development shall be implemented in accordance with the approved details within 2 months of the approval of the submitted details and all features shall be maintained thereafter.

Reason: To enhance the ecology and biodiversity on the site in the future.

Case Officer: Summer Freeman-Smith

Agenda Item 21

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 17th February 2022**

APPEAL DECISIONS:

- 1. 20/504141/FULL** Erection of a 1 no. 3-bedroom detached dwelling. (Resubmission of 20/502166/FULL)

APPEAL: DISMISSED

Domus Corrodian
Priory Close
East Farleigh
Maidstone
Kent
ME15 0EY

(Delegated)

- 2. 19/500452/CHANGE** Change of use of the land for a car hire business (S and B Car Hire).

APPEAL: DISMISSED

Forstal Farm
Forstal Lane
Coxheath
Kent
ME17 4QF

- 3. 21/500807/FULL** Erection of a garage.

APPEAL: ALLOWED

13 Gresham Road
Coxheath
Maidstone
Kent

ME17 4EY

(Delegated)

- 4. 21/502490/FULL** Erection of a 1.9m fence (Retrospective).

APPEAL: DISMISSED

2 Boxley Close
Maidstone
Kent
ME14 2DJ

(Delegated)

- 5. 18/500016/CHANGE** 'General Purpose/Tractor Shed' is being converted into a house - Windows being added, tractor shed doors removed.

APPEAL: DISMISSED

Tanner Farm Caravan Park
Goudhurst Road
Marden
Tonbridge
Kent
TN12 9ND
