

PLANNING COMMITTEE MEETING

Date: Thursday 26 May 2022
Time: 6.00 p.m.
Venue: Town Hall, High Street, Maidstone

Membership: To be appointed at the Annual Meeting of the Council to be held on 21 May 2022

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. Election of Chairman
4. Election of Vice-Chairman
5. Notification of Visiting Members
6. Items withdrawn from the Agenda
7. Date of Adjourned Meeting - Monday 30 May 2022
8. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
9. Disclosures by Members and Officers
10. Disclosures of lobbying
11. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
12. Minutes of the meeting held on 21 April 2022 1 - 9
13. Presentation of Petitions (if any)
14. Any Questions on Notice from Local Residents
15. Any Questions on Notice from Members

Issued on Wednesday 18 May 2022

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

16. Deferred Items	10 - 11
17. 21/506792/HYBRID - Land At Woodcut Farm, Ashford Road, Hollingbourne, Kent	12 - 33
18. 21/506790/OUT - Land At Woodcut Farm, Ashford Road, Hollingbourne, Kent	34 - 48
19. 22/501614/FULL - Land West Of Church Road, Otham, Kent	49 - 97
20. 21/506208/FULL - Ledian Farm, Upper Street, Leeds, Kent	98 - 118
21. 20/501427/OUT - Land To Rear Of Kent Police Training School Off St Saviours Road, Maidstone, Kent	119 - 139
22. 22/500192/FULL - Land At Oakhurst Lodge, Clapper Lane, Staplehurst, Kent	140 - 161
23. Appeal Decisions	162

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 ask a question at this meeting in person or by remote means, please call 01622 602899 or email committee@maidstone.gov.uk by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Tuesday 24 May 2022). You will need to provide the full text in writing.

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 25 May 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.

If you require this information in an alternative format please contact us, call 01622 602899 or email committee@maidstone.gov.uk

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MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 21 APRIL 2022

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

274. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillor Eves.

275. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Springett was substituting for Councillor Eves.

276. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

277. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

278. 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.

279. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Munford said that, with regard to the reports of the Head of Planning and Development relating to applications 21/506698/FULL and 21/506652/FULL (Boughton Mount Farm, Cliff Hill, Boughton Monchelsea, Maidstone, Kent) and 21/505105/FULL (River Farm, Chart Hill Road, Staplehurst, Tonbridge, Kent), he was the Chairman of Boughton Monchelsea Parish Council. However, he had not participated in the Parish Council's discussions on the applications and intended to speak and vote when they were considered.

Note: Councillor Cox entered the meeting during this item (6.05 p.m.). He said that he had no disclosures of interest.

280. DISCLOSURES OF LOBBYING

The following disclosures of lobbying were noted:

14.	21/506698/FULL - Boughton Mount Farm, Cliff Hill, Boughton Monchelsea, Maidstone, Kent	Councillor Munford
15.	21/506652/FULL - Boughton Mount Farm, Cliff Hill, Boughton Monchelsea, Maidstone, Kent	Councillor Munford
16.	21/505105/FULL - River Farm, Chart Hill Road, Staplehurst, Tonbridge, Kent	Councillors Cox, Munford and Perry
17.	21/504391/FULL - Mill House, Upper Street, Hollingbourne, Maidstone, Kent	No lobbying
18.	21/504393/LBC - Mill House, Upper Street, Hollingbourne, Maidstone, Kent	No lobbying
19.	21/506570/FULL - Brenchley Gardens, Station Road, Maidstone, Kent	Councillors Cox, English, Harwood and Perry
20.	21/506664/FULL - Rosehill, Vanity Lane, Linton, Maidstone, Kent	No lobbying
21.	21/505452/LBC - Mote Park, A20 Ashford Road Junction with Willington Street, Maidstone, Kent	Councillors Cox, Harwood and Perry
22.	21/505627/FULL - The Green Barn, Water Lane, Hunton, Maidstone, Kent	No lobbying
23.	20/505611/SUB - Dickens Gate, Marden Road, Staplehurst, Tonbridge, Kent	Councillor Perry

281. EXEMPT ITEMS

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

282. MINUTES OF THE MEETING HELD ON 24 MARCH 2022

RESOLVED: That the Minutes of the meeting held on 24 March 2022 be approved as a correct record and signed.

283. MINUTES OF THE MEETING HELD ON 31 MARCH 2022

RESOLVED: That the Minutes of the meeting held on 31 March 2022 be approved as a correct record and signed.

284. PRESENTATION OF PETITIONS

There were no petitions.

285. DEFERRED ITEM

21/503150/FULL - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF 3 NO. HOUSES WITH ASSOCIATED AMENITY SPACE, LANDSCAPING AND ACCESS - THE OLD FORGE, CHARTWAY STREET, EAST SUTTON, MAIDSTONE, KENT

The Team Leader (Development Management and Enforcement) advised the Committee that discussions with the agent for the applicant were ongoing. The revised details would be reported back to the Committee when they had been received and assessed.

286. 21/506664/FULL - DEMOLITION AND REBUILDING OF THE EXISTING BARN TO PROVIDE A 3 BEDROOM DWELLING INCLUDING REAR PAVILIONS LINKED BY GLASS LINK. RE-ROUTING AND ALTERATION OF EXISTING ROAD ACCESS TO ALLOW SEPARATE ACCESS TO HOUSE AND BARN AND ASSOCIATED LANDSCAPING - ROSEHILL, VANITY LANE, LINTON, MAIDSTONE, KENT

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

In introducing the application, the Team Leader (Development Management and Enforcement) drew the Committee's attention to the amended description set out in the urgent update report.

The Head of Planning and Development advised the Committee that this was an application for a new dwelling with its own curtilage in the countryside. This was contrary to the Development Plan and the application had been advertised as a departure with an expiry date of 28 April 2022. The structural survey showed that the existing building was incapable of conversion, and it was recommended that, if Members were minded to grant permission, a condition be imposed requiring that over 90% of the original building materials be salvaged and used in the replacement building.

Ms Altaras, agent for the applicant, addressed the meeting in person.

RESOLVED: That consideration of this application be deferred for further negotiations to bring forward an exemplar scheme with a design as close to the original building as possible, making as much use of the existing building materials as possible; this to include a re-examination of the design (in particular the glass link); the incorporation of renewable energy

generation measures; and above standard ecological measures such as boundary treatments (gaps under fences) and timber piles etc. in addition to those referenced in the report.

Voting: 12 – For 1 – Against 0 – Abstentions

287. 21/505105/FULL - RETROSPECTIVE APPLICATION FOR NEW WASTE TREATMENT PLANT TO REPLACE AND DECOMMISSION 2NO. UNDERSIZED EXISTING PLANTS (RE-SUBMISSION OF 21/500721/FULL) - RIVER FARM, CHART HILL ROAD, STAPLEHURST, TONBRIDGE, KENT

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

RESOLVED: That permission be granted subject to the conditions and informative set out in the report, as amended by the urgent update report, and the additional informative set out in the urgent update report.

Voting: 13 – For 0 – Against 0 – Abstentions

288. 21/505627/FULL - PERMISSION IS SOUGHT FOR EXTRA CAPACITY ON EXISTING GYPSY SITE TO INCLUDE 4NO. ADDITIONAL STATIC CARAVANS, 3NO. ADDITIONAL TOURING CARAVANS, WITH PARKING, A DAYROOM AND INFRASTRUCTURE (PART RETROSPECTIVE) - THE GREEN BARN, WATER LANE, HUNTON, MAIDSTONE, 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 the report referred to the application site falling within the Low Weald Landscape of Local Value. This was incorrect. If the Committee decided to approve the application, it would be necessary to remove the reference to this designation from conditions 3, 4, 5, 6, 8 and 9.

RESOLVED:

1. That permission be granted subject to the conditions and informatives set out in the report, as amended by the Senior Planning Officer when introducing the application, with:

The amendment of condition 9 (a) (v) (Site Development Scheme) (Enhancement of Biodiversity) to specify the installation of bat tubes on the four additional mobile homes; and

An additional informative advising the applicant/agent to work with the Council's Landscape Team to make sure that the landscape scheme is right to meld in with the surrounding landscape.

2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended conditions and the

additional informative and to amend any other conditions as a consequence.

Voting: 12 – For 0 – Against 1 – Abstention

289. 21/506698/FULL - PART DEMOLITION AND CONVERSION OF AN EXISTING AGRICULTURAL BUILDING TO FORM 3NO. DWELLINGHOUSES WITH ASSOCIATED ACCESS, PARKING AND AMENITY SPACE - BOUGHTON MOUNT FARM, CLIFF HILL, BOUGHTON MONCHELSEA, MAIDSTONE, KENT

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

The Head of Planning and Development advised the Committee that the proposal was a clear departure from the Development Plan and the application had been advertised as such. However, the fallback position in the form of the extant prior approval, the reasonable likelihood of it being implemented and the opportunities for betterment as part of the current planning application subject to scrutiny of the structural survey etc. were material considerations. These comments were also applicable to application 21/506652/FULL.

The Democratic Services Officer read out a statement on behalf of Boughton Monchelsea Parish Council which was unable to be represented at the meeting.

Mr McSweeney, agent for the applicant, addressed the meeting remotely.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission for the following summarised reasons:

- The proposed conversion of the existing barn to three residential dwellings would result in harm to the amenity of future occupiers by its proximity to neighbouring commercial and agricultural buildings and by reason of noise, activity and vehicular movements contrary to the NPPF and policy DM1 of the Maidstone Borough Local Plan 2017.
- The proposed conversion of the existing barn to three residential dwellings as a result of the materials, appearance and loss of existing planting would result in visual harm to the open countryside and the Loose Valley Landscape of Local Value contrary to the NPPF and policies SP17, DM1, DM30 and DM31 of the Maidstone Borough Local Plan 2017 and policies RH1 and RH6 of the Boughton Monchelsea Neighbourhood Plan.

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: 13 – For 0 – Against 0 – Abstentions

290. 21/506652/FULL - CONVERSION OF OFFICE BUILDING TO FORM 1 NO. DWELLINGHOUSE, INCLUDING ERECTION OF SINGLE STOREY FRONT AND REAR EXTENSIONS - BOUGHTON MOUNT FARM, CLIFF HILL, BOUGHTON MONCHELSEA, MAIDSTONE, KENT

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

The Democratic Services Officer read out a statement on behalf of Boughton Monchelsea Parish Council which was unable to be represented at the meeting.

The Democratic Services Officer also read out a statement on behalf of Mr McSweeney, agent for the applicant, as there were connectivity issues.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission for the following summarised reasons:

- The proposed conversion of an office to a single dwelling, due to its siting and proximity to neighbouring commercial or agricultural buildings, would result in harm to the amenity of future occupiers by reason of noise, disturbance and vehicular movements contrary to the NPPF and policy DM1 of the Maidstone Borough Local Plan 2017.
- The application fails to demonstrate that the building is of substantial construction such that a conversion will be possible without significant reconstruction resulting in a new dwelling in the countryside in an unsustainable location harmful to the visual amenity of the open countryside and the Loose Valley Landscape of Local Value contrary to the NPPF and policies SP17, DM1, DM30 and DM31 of the Maidstone Borough Local Plan 2017 and policies RH1 and RH6 of the Boughton Monchelsea Neighbourhood Plan.

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: 13 – For 0 – Against 0 – Abstentions

Note: Councillor M Rose left the meeting after consideration of this application (8.05 p.m.).

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

RESOLVED: That the details submitted to discharge condition 18 of the original outline permission 14/502010 be approved.

Voting: 12 – For 0 – Against 0 – Abstentions

292. 21/506570/FULL - INSTALLATION OF 2NO. GATES (CHURCH ENTRANCE AND THE STEPS OPPOSITE THE MAIDSTONE EAST RAILWAY STATION) - BRENCHLEY GARDENS, STATION ROAD, MAIDSTONE, KENT

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

RESOLVED:

1. That permission be granted subject to the conditions set out in the report, as amended by the urgent update report, and the additional condition set out in the urgent update report, with an informative as follows:

The applicant is asked to have special regard to the Conservation Area status/value of Brenchley Gardens when deciding on any work or events within.

2. That the Head of Planning and Development be given delegated powers to finalise the wording of the informative.

Voting: 11 – For 0 – Against 1 – Abstention

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

Members were disappointed that KCC Transport Planners had declined the Committee's request that they be represented at the meeting to clarify the predicted capacity improvements arising from the junction works as they only attended Planning Committee meetings when there were large, strategically significant items on the agenda.

RESOLVED:

1. That Listed Building Consent be granted subject to the conditions and informatives set out in the report with the amendment of the first informative (Landscaping Scheme) to advise the applicant that the landscaping scheme should include a wildflower meadow on the highway side of the replacement wall to be maintained as such with an appropriate management regime to benefit wildlife.

2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended informative.
3. That a letter signed by the Chairman and Vice-Chairman of the Committee be sent to the KCC Cabinet Member for Highways and Transport emphasising (a) the need for a high standard of work in rebuilding the wall and (b) the Committee's expressed wish for there to be a sensitive landscape treatment including a wildflower meadow on the highway side of the replacement wall to be maintained as such with an appropriate management regime to benefit wildlife and to further mitigate the harm to the setting, and having regard to the historic and landscape significance of Mote Park as a historic park and garden and the heritage asset wall.

Voting: 8 – For 2 – Against 1 – Abstention

Note:

Councillor English was not present for the voting on this application.

Councillors Harwood and Kimmance requested that their dissent be recorded.

294. 21/504391/FULL - PROPOSED CONVERSION OF MILL INTO A HABITABLE SPACE ANCILLARY TO MAIN DWELLING. WORKS TO INCLUDE THE RENOVATION OF THE SINGLE STOREY REAR EXTENSION, ALTERATIONS TO ROOF, WINDOWS AND DOORS. ERECTION OF A NEW DOUBLE GARAGE - MILL HOUSE, UPPER STREET, HOLLINGBOURNE, MAIDSTONE, KENT

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

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

Voting: 12 – For 0 – Against 0 – Abstentions

295. 21/504393/LBC - LISTED BUILDING CONSENT FOR INTERNAL AND EXTERNAL ALTERATIONS - MILL HOUSE, UPPER STREET, HOLLINGBOURNE, MAIDSTONE, KENT

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

RESOLVED: That Listed Building Consent be granted subject to the conditions and informatives set out in the report.

Voting: 12 – For 0 – Against 0 – Abstentions

296. 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.

Members congratulated the Officers on their success at appeal.

RESOLVED: That the report be noted.

297. ENFORCEMENT TRACKER

The Committee considered the enforcement tracker report which provided the status of enforcement cases where formal notices had been served. The report also included a table showing Quarter 4 cases received/closed/live cases for 2021 and 2022 comparison and a chart showing Quarter 4 formal notices for 2021 and 2022 comparison.

In response to comments during the discussion, the Head of Planning and Development advised Members that:

Queries about specific enforcement cases should be raised with the Enforcement Team; and

There was a need to be more proactive in the approach to planning enforcement and the Council was currently in the process of recruiting a Landscape Conditions Compliance Officer.

It was pointed out that the tracker was incorrect in so far as Lested Farm, Plough Wents Road was in Chart Sutton, not Bearsted.

RESOLVED: That the enforcement tracker as amended be noted.

298. DURATION OF MEETING

6.00 p.m. to 9.35 p.m.

Agenda Item 16

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

26 MAY 2022

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

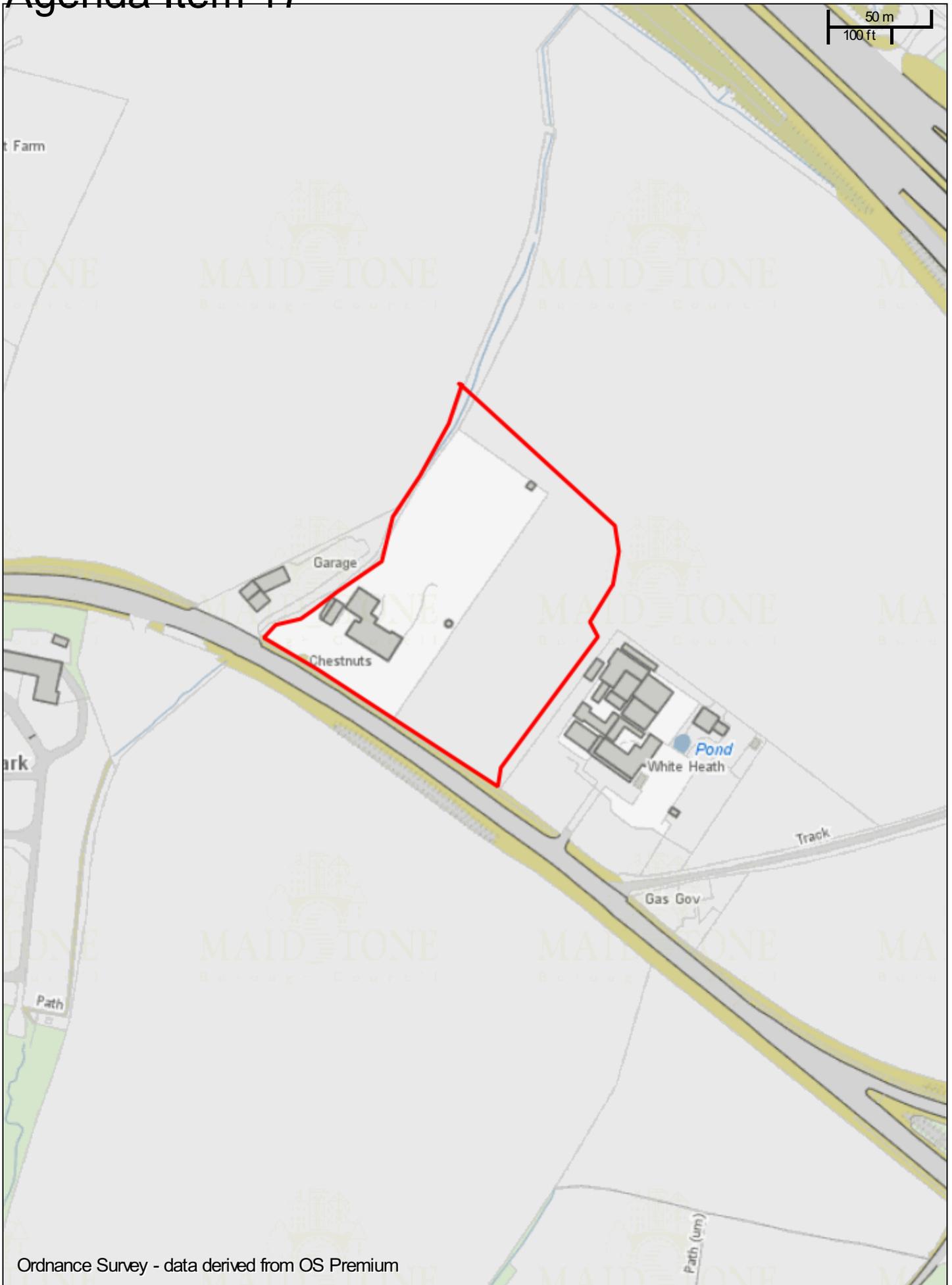
DEFERRED ITEMS

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>21/503150/FULL - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF 3 NO. HOUSES WITH ASSOCIATED AMENITY SPACE, LANDSCAPING AND ACCESS - THE OLD FORGE, CHARTWAY STREET, EAST SUTTON, MAIDSTONE, KENT</u></p> <p>Deferred for further negotiations to secure:</p> <ul style="list-style-type: none">• A fully worked up ecological and sustainable landscaping scheme to include investigation of how the southern parcel of land in the ownership of the applicant can be safeguarded as an ecological area such as a wood pasture, base-line ecological survey work, and details of the boundary treatments in respect of the property at the site frontage with a 10-year replacement period;• Good quality vernacular materials and detailing;• Energy efficient measures such as heat source pumps; and• A wet SUDS solution for ecological gain.	24 March 2022
<p><u>21/506664/FULL - DEMOLITION AND REBUILDING OF THE EXISTING BARN TO PROVIDE A 3 BEDROOM DWELLING INCLUDING REAR PAVILIONS LINKED BY GLASS LINK. RE-ROUTING AND ALTERATION OF EXISTING ROAD ACCESS TO ALLOW SEPARATE ACCESS TO HOUSE AND BARN AND ASSOCIATED LANDSCAPING - ROSEHILL, VANITY LANE, LINTON, MAIDSTONE, KENT</u></p> <p>Deferred for further negotiations to bring forward an exemplar scheme with a design as close to the original building as possible, making as much use of the existing building materials as possible; this to</p>	21 April 2022

<p>include a re-examination of the design (in particular the glass link); the incorporation of renewable energy generation measures; and above standard ecological measures such as boundary treatments (gaps under fences) and timber piles etc. in addition to those referenced in the report.</p>	
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Agenda Item 17



Ordnance Survey - data derived from OS Premium

REFERENCE NO - 21/506792/HYBRID		
APPLICATION PROPOSAL		
<p>Hybrid Planning Application for demolition of existing building (Use Class C3) and redevelopment for a mixed commercial scheme.</p> <p>Full planning application comprising of erection of 2 no. units (Unit E2 - light industry/B8 and Unit D1 - offices/coffee shop), HGV fast charge facility, bus stop, hard and soft landscaping, and associated infrastructure.</p> <p>Outline planning application comprising of erection of 1 no. unit (Unit E1 - offices) with appearance matter reserved.</p>		
ADDRESS Land at Woodcut Farm, Ashford Road, Hollingbourne		
RECOMMENDATION – APPROVE WITH CONDITIONS		
SUMMARY OF REASONS FOR RECOMMENDATION		
<ul style="list-style-type: none"> • The development proposed within the allocated east part of the site is acceptable and complies with the requirements of site policy EMP1(4). • The development proposed within the 'Chestnuts' west part of the site, which falls outside the site allocation, results in a low level of harm to the character and appearance of the area and therefore has some conflict with policy SP17 of the Local Plan. However, the impact of the development would be localised and seen in the context of the approved allocated site surrounding it. It would represent an infill between the allocation rather than an expansion or protrusion into open countryside and there is already a development presence within this part of the site (existing dwelling). • The proposals provide necessary 'amenity facilities' for the wider site (café, HGV welfare facilities and EV charging) and an internal bus stop, and through expansion of the site into 'Chestnuts' provide for displaced office floorspace within the allocated site, in addition to providing further B8 floorspace. It is considered that the provision of amenity facilities and the associated economic benefits of the expansion outweigh the low level of harm and are material considerations that outweigh the conflict with policy SP17. • Permission is therefore recommended subject to conditions and a legal agreement. 		
REASON FOR REFERRAL TO COMMITTEE		
<ul style="list-style-type: none"> • The recommendation for approval for the western part of the site is not explicitly allowed for under the Local Plan and has some conflict with policy SP17, and so has been advertised as a departure from the Development Plan. 		
WARD North Downs	PARISH COUNCIL Hollingbourne	APPLICANT Maidstone Investment Holding Ltd AGENT Savills
CASE OFFICER: Richard Timms	VALIDATION DATE: 25/01/22	DECISION DUE DATE: 10/06/22

ADVERTISED AS A DEPARTURE: YES			
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
21/506791	Approval of Reserved Matters for Phase 2 (Appearance, Landscaping, Layout and Scale being sought) to create 7,916 sqm of flexible Use Class E(g)(iii)/B8 employment floorspace, comprising of 4 units (A1, A2, A3 and A13) on Plot A, pursuant of 20/505195.	PENDING	
21/506790	Section 73 - Application for variation of condition 9 (office or research and development use floorspace) to require at least 7,500m2 of floorspace pursuant to 20/505195	PENDING	
21/502637	Approval of Reserved Matters Phase 1 (Layout, Scale, Appearance and Landscaping) to create the development platforms across the entire site, and 23,270 sqm of flexible Use Class B1(c)/B8 employment floorspace, comprised of 7no. units on Plot A totalling 5,450 sqm (Units A3-A9) and 4no. units on Plot B totalling 17,820 sqm (Units B1-B4) pursuant of 20/505195	APPROVED	06/08/21
20/505195	Section 73 - Application for Variation of Condition 3 to allow buildings on the eastern part of the site to have a footprint up to 10,000sqm, and variation of Condition 4 to allow buildings on the western part of the site to have a footprint up to 4,800sqm, a ridge height up to 10.5m, and to remove the requirement for buildings to be orientated end-on to the M20 motorway pursuant to application 17/502331	APPROVED	11/03/21
20/505182	Approval of Reserved Matters (Appearance, Landscaping, Layout and Scale being sought) for Phase 1 being landscaping, infrastructure work required to create development platforms across the site, and 22,884sqm of flexible Use Class B1(c)/B8 employment floorspace comprising of 7no. units on Plot A totalling 5,444sqm (Units A3- A9) and 4no. units on Plot B totalling 17,440sqm (Units B1-B4) pursuant to 17/502331	APPROVED	26/02/21
17/502331	Outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, with a maximum floor space of 45,295 square metres (Access being sought)	APPROVED	20/07/18

1.0 DESCRIPTION OF SITE

1.01 The eastern part of the application relates to part of the approved Woodcut Farm development and employment allocation in the Local Plan on the north side of the A20 near Junction 8 of the M20. The allocation benefits from outline planning permission for office, research and development, light

industry, and warehouse uses up to 45,295m². Under the approved permission this eastern part of the site has the access into the site and an area safeguarded for office use under the legal agreement.

1.02 The western part has a house (known as 'Chestnuts') and its large side and rear garden. The applicant has purchased this property and the house is no longer lived in. There is a car wash immediately to the west, and the wider employment allocation further west and north. To the east is the house 'White Heath'. The 'Chestnuts' site is outside the allocation and therefore falls within the 'countryside' for planning purposes. It does not have any special landscape designation but like the Woodcut Farm site it is considered to fall within the setting of the Kent Downs AONB, which is some 430m to the north.

1.03 On the wider allocation, reserved matters have been approved for around half the permitted floorspace along part of the west and the northern part of the site.

1.04 The site is outlined in red below with the pink colour showing the Woodcut Farm employment allocation and the green showing the 'Chestnuts' part of the site.



2.0 PROPOSAL

2.01 This a 'hybrid' application in that detailed full permission is sought for most of the site, and outline permission is sought for part.

2.02 Full permission is sought for two buildings (Unit E2 - light industry/B8 use and Unit D1 - offices/coffee shop) that would be two storeys. There would also be an HGV welfare building and electrical fast charge facility, bus stop, and car parking.

2.03 Outline permission sought for one building (Unit E1 - offices) with all matters being considered apart from the building's appearance that would be three storeys. This building is outlined in bright green on the plan below.

2.04 Part of the reasoning for the proposed expansion into the 'Chestnuts' site is to provide offices through Unit E1 in order to free up space for the café and HGV welfare area but also to free up land to the west of the site in the wider allocation for industrial/warehouse uses. Overall, the policy requirement for 10,000m² of office floorspace would not be reduced and just moved around. As such, there is a separate application (21/506790) which is also on this Agenda, where the applicant is seeking to amend the outline permission to essentially move around 2,500m² of the office uses into the 'Chestnuts' site subject to approval of this application. Members must make their decision on this application first and independent of the other.

2.05 The proposed layout plan is below with the outline part edged in bright green.



3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): SS1, SP17, SP18, SP21, SP23, EMP1, EMP1(4), ID1, DM1, DM2, DM3, DM4, DM6, DM8, DM16, DM21, DM23, DM30, DM37
- Kent Waste and Minerals Plan (amended 2020)
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- MBC Air Quality Guidance
- Kent Downs AONB Management Plan (2021-2026)
- Maidstone Local Plan Review (Regulation 19)

4.0 LOCAL REPRESENTATIONS

4.01 **Local Residents:** No representations received.

4.02 **Hollingbourne Parish Council:** **Do not wish to comment/object.**

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 **Natural England:** **Raise objections** for the following (summarised) reasons:

- Consider the proposals will have a significant impact on the purposes of designation of the Kent Downs AONB.
- Raise concerns about the impact the additional buildings outside the allocation will have on the setting of the Kent Downs AONB due to the introduction of further massing and height in this area.
- Consider the proposals fail to meet the criteria for policy EMP1(4), emerging policy LPREMP1(4), and policy SP17 due the height of buildings exceeding 12m.

Despite clarification by the applicant that the buildings heights complied with the outline permission/site allocation Natural England then requested further information and/or amendments (which they hadn't requested from the outset). They are concerned that the appearance of Unit E1 is a reserved matter and made some recommendations that a bund should be provided to the front, that more landscaping could be provided on the boundaries and internally, a more sympathetic colour palette should be used, question potential reflective materials, seek further details of lighting and parking, and that the LVIA should include views more specific to the expansion of the site.

5.02 **National Highways:** **No objections** subject to a construction management plan.

5.03 **Environment Agency:** **No objections** subject to conditions.

5.04 **KCC Highways:** **No objections** subject to conditions.

5.05 **KCC SUDs: No objections** subject to conditions.

5.06 **KCC Minerals & Waste: No objections.**

5.07 **KCC Archaeology: No objection** subject to condition.

5.08 **KCC Ecology: No objections** subject to conditions and securing the off-site biodiversity net gain.

5.09 **Kent Downs AONB Unit: Raise objections** based on harm to the setting of the Kent Downs AONB.

5.10 **MBC Conservation Officer: No objections.**

5.11 **MBC Landscape Officer: No objections** in terms of tree removals and landscape impact.

5.12 **MBC Environmental Health: No objection** subject to conditions.

5.13 **Southern Water:** Further off-site capacity is required and Southern Water are in the process of planning delivery of this.

6.0 APPRAISAL

6.01 The appraisal can be split into three parts as follows –

- a) Development within the allocated part of the site is acceptable in principle so whether the proposals comply with site policy EMP1(4) and any other relevant policies.
- b) Development within the 'Chestnuts' part of the site is outside the allocation and in the 'countryside' so what is the impact and are there any reasons why permission should be granted.
- c) Issues common for both including highways and parking, ecology, residential amenity, and surface water drainage.

Development within the Allocated Part of the Site (Eastern Area)

Layout & Landscaping

6.02 The site allocation policy and outline permission both have various requirements to guide the layout and landscaping, which can be summarised as follows where relevant for this part of the site:

- Substantial internal landscaping, including tracts of planting extending into the development to achieve clear visual separation between individual buildings and parking areas.
- At least a 25m woodland shaw to the A20.
- Avenue tree planting along the access road.

6.03 The layout in this part of the site follows the approved Masterplan and policy providing a 25m landscaped buffer at the front, and an avenue of trees (lime) alongside the access road and is acceptable. Planting includes lime, oak, and pine trees along the frontage with a woodland seed mix below, and yew hedging. Landscaped shrub areas would be provided on the internal boundaries to suitably soften the parking areas and HGV charging area. The layout and landscaping are considered to be in accordance with the site policy to provide a landscaped frontage and internal planting to break views of the development, and it follows the principles of the wider Masterplan.

Building Designs & Surfaces

6.04 Unit D1 to the front would have a café to serve people working at the site on part of the ground floor with the remaining ground floor and first floor providing office floorspace. The appearance is considered to be of a high standard as it uses a quality local material (ragstone) on the entire ground floor which provides a strong base to the building and this is broken up by glazing. The first floor would be finished in grey metal panels. Good interest would be provided through the outer wings projecting to the front; recessed glazing on the ground floor; the first floor set back slightly from the ground floor; and the use of copper aluminium louvers protruding from the first floor windows. The materials and detailing would provide good interest and layering to the building and these features are rightly provided on the three most prominent elevations of the building. The roof plant would be set back from the edges of the roof and screened by metal louvres.

6.05 This building would be 8.5m in height with the roof plant extending to 10.5m and so would be below the height limit within the site policy for this part of the site (12m).

6.06 The other buildings on this part of the site would be the HGV EV charging station which is essentially a metal roof canopy similar to a petrol station with PV panels on top. It is utilitarian in appearance but would have a low impact being open and at 7m in height. Aside this would be a single storey shower/welfare block which would be finished in ragstone and metal panelling which would ensure a high quality finish.

6.07 Both Natural England and the Kent Downs AONB Unit have raised concerns regarding materials in terms of the setting of the AONB in particular referring to the café/office building and HGV station. These buildings do have more light coloured materials but they would not be so bright or reflective as to significantly stand out in long distance views from the AONB.

6.08 Surfacing would be of a decent quality with block paving for the car parking area outside the café/office building and resin bound gravel for the footways. Tarmac would be used for the main roads and concrete for the HGV charging area which is acceptable.

Development within the 'Chestnuts' part of the site (Western Area)

6.09 This part of the site is outside the employment allocation and so within the 'countryside' for Local Plan purposes. Policy SP17 states that,

"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."

- 6.10 Related policies in the Local Plan are policies SP21 and DM37. Policy SP21 (Economic Development) offers support for proposals for the expansion of existing economic development premises in the countryside in accordance with policy DM37. Policy DM37 can allow for the expansion of existing businesses in rural areas. This is aimed at 'existing rural businesses' that wish to expand or diversify but in the supporting text reference is made to weighing the advantages to the rural economy of job creation or an improved industrial/business facility against the potential for adverse impact on the rural environment.
- 6.11 There are no 'existing businesses' at the site but the applicant is seeking to deliver facilities that were not provided in the outline consent (café for workers, HGV layover area with fast charging and welfare block, and a bus stop), and then expand the site to provide for the displaced office floorspace approved under the allocated site. The eastern part of the site was identified for approximately 2,500m² of office floorspace and 1,034m² would still be provided here. The remainder would be provided in the 'Chestnuts' site, in addition to extra B8 floorspace to make full use of the site.
- 6.12 It is considered that the provision of café facilities for workers, the HGV layover over and welfare building are necessary for an employment site of this scale and the HGV fast charging is a positive facility in the context of improving air quality and the environment. For these reasons there is logic to providing these facilities and expanding the site to accommodate the displaced office and additional B8 floorspace in a cohesive manner. The supporting text to policy DM37 refers to 'industrial and business enterprises' in rural areas, and whilst there are no existing business on site, the proposed amenity facilities will support the overall business enterprise at the wider Woodcut Farm site and therefore all future businesses and are considered to align in part with policy DM37.

Landscape Impact

- 6.13 In terms of the impact upon the character and appearance of the area, the proposed development would see a three-storey office building (up to 12m in height) to the front and a B8 use building, 10.5m high, at the rear. These heights align with the restrictions on the allocated site (12m east of the stream). The proposed buildings would clearly have a greater impact than the existing situation but the site does feature some development being the driveway, dwelling and garage, which cover a large part of the front third of the site. Whilst not highly prominent, the dwelling does have a presence from the A20.
- 6.14 In close range views from the A20, the front building would be the most prominent due to its location but would be partly screened from the east by proposed Unit D1 and the 25m landscape buffer to the front on this 'allocated' part of the site which sits on a bund. From the west, it would be partly visible through the adjacent car wash site. A similar 25m landscape buffer with tree

planting to the front is proposed, along with tree planting along the west boundary. This would serve to significantly screen/break views of the front building when the planting is fully established from immediately in front of the site and from the west. Unit E2 is set much further back into the site and would be seen more in the context of the allocation but again tree planting along the west boundary would help to screen/soften any views.

- 6.15 In medium range views, which are mainly from Old Mill Road around 450m to the south, the buildings will be visible but will be very much seen in the context of the allocation, which will see development to either side and behind. The development would not be seen as a projection of development into the countryside but rather an 'infill' between the allocation.

Levels

- 6.16 The proposed land levels would be similar to existing on the east part, and the majority of the front of the site (+ or - 0.5m). The eastern levels and main access roads have already been approved under the allocated site and so the western part is proposed to tie in with these levels but is set just over 1m lower. Along the western edge and in the northwest corner levels would mainly be raised between 1m and 1.5m, and 2.5m in one place and retaining walls are proposed along the west edge. Some of this raising is because of existing dips in the land where outbuildings are and the slope down to the stream. The slab levels of the buildings would be lower to those approved on the wider site and so the impact would not be any greater than the approved site in terms of height. The applicant is also agreeable to lowering the levels on the west part of the site slightly further (around 0.3m) as this has the tallest building, and this is welcomed to further reduce the impact. Overall, the levels are considered to be acceptable.

Setting of the Kent Downs AONB

- 6.17 In long range views from the AONB, due to the distance and/or the effect of intervening landform and vegetation, the two buildings would not have any significantly different impact beyond the development already approved on the surrounding employment site. Much of the 'Chestnuts' site is screened by rising land and its development would not be highly visible or prominent from the AONB. The proposed landscaping would also break up the development's impact.
- 6.18 Section 85 of the Countryside and Rights of Way Act 2000 requires a relevant authority, when exercising any functions in relation to, or affecting land in, an AONB to have regard to the purpose of conserving or enhancing the natural beauty of the AONB. For the above reasons, I do not consider the proposed development of the 'Chestnuts' would harm the setting of the AONB in accordance with policy SP17 and so the setting of the AONB would be conserved.
- 6.19 Whilst the site is not within the AONB, Natural England (NE) have been consulted due to potential impacts upon its setting and to be consistent with consultations on the allocated site. They originally raised objections for the following (summarised) reasons:

- Considered the proposals will have a significant impact on the purposes of designation of the Kent Downs AONB.
- Raised concerns about the impact the additional buildings outside the allocation will have on the setting of the Kent Downs AONB due to the introduction of further massing and height in this area.
- Considered the proposals fail to meet the criteria for policy EMP1(4), emerging policy LPREMP1(4), and policy SP17 due the height of buildings exceeding 12m.

6.20 Despite clarification by the applicant that the building heights complied with the outline permission/site allocation NE then requested further information and/or amendments, which they hadn't requested from the outset. They are concerned that the appearance of Unit E1 is a reserved matter and made some recommendations that a bund should be provided to the front, that more landscaping could be provided on the boundaries and internally, a more sympathetic colour palette should be used, question potential reflective materials, seek further details of lighting and parking, and that the LVIA should include views more specific to the expansion of the site.

6.21 The applicant stated they will not be responding to NE's further consultation response or suggestions. They reviewed the comments and considered the information submitted with the application to adequately address the points raised. In my view, the applicant is entitled to make an outline application and I do not consider there is an issue with the appearance being a reserved matter, at which stage it can be fully assessed. I do not consider a bund is necessary to the front of the site and the proposed landscaping will sufficiently mitigate any impact. Assessment of the materials and colours for the café/office building are set out at paragraphs 6.04 to 6.07 and the materials and colours for Unit E2 are the same as approved on the wider site. Lighting will be controlled by condition as per the rest of the site and I do not consider amendments to the LVIA are required to properly assess the development.

6.22 Natural England were then asked for their final response on the application and advised that on the basis of no further changes being made to the application, they maintain their original objection.

6.23 I have carefully considered the views of Natural England and the Kent Downs AONB Unit but I do not agree that the proposed expansion of the site would harm the setting of the AONB for the reasons set out above.

6.24 Overall, the impact of the development would be localised and seen in the context of the approved development surrounding it. It would represent an infill between the allocation rather than an expansion or protrusion into open countryside and there is some development already at the site. It would however increase visible development at the 'Chestnuts' site and cause some harm but for the above reasons it is considered that this would be a low-level of harm to the character and appearance of the countryside. This nonetheless represents some conflict with policy SP17 as this states that development should not cause any harm.

Economic Benefits

- 6.25 There is some conflict with policy SP17 so it needs to be considered whether there are any material considerations to warrant a decision that is not strictly in accordance with this policy. The applicant refers to the NPPF's support for economic growth, productivity, and flexibility; considers there is an increased need for industrial and logistics development than is being provided for in the Local Plan Review; and points to the economic benefits.
- 6.26 The Council does not consider there is a 'deficiency in employment floorspace case' for expansion into the 'Chestnuts' site but there will be economic benefits associated with the new/additional uses beyond the outline permission, (café and new B8 industrial building). The applicant estimates that these will generate additional employment during the construction and operational stages including an uplift of 157 additional construction jobs, and 204 additional operational jobs. They predict this increased economic activity would generate an estimated net additional Gross Value Added (GVA) of £16.8 million from on-site jobs on top of the wider economic contribution at the Woodcut Farm site.
- 6.27 In view of the proposals providing appropriate amenity facilities for the wider site in addition to further B8 floorspace with associated economic benefits, it is considered that these benefits outweigh the low level of harm and are material considerations that outweigh the conflict with policy SP17.

Layout, Landscaping, and Design

- 6.28 This part of the site would provide the same 25m buffer to the front of the site with existing trees and hedging along the frontage retained and new native tree planting. Buildings and parking areas would be set back from the boundaries of the site with trees and landscaping along the west boundary and within the development areas to break up buildings and surfacing.
- 6.29 The office building is in outline so no details of its appearance are provided but this should follow the café/office building style and quality and conditions will guide/ensure this is the case. The rear building follows the same design approach as other industrial buildings already approved at the site and so is acceptable.

Other Matters

Highways

- 6.30 KCC Highways have raised no issues with the road layout, access arrangements or parking. Despite being positive about moving the bus stop into the site prior to submission of the application, the bus operator 'Stagecoach' is now questioning the suitability of the access. KCC Highways have raised no objections to buses accessing the site in terms of the suitability and safety of the approved access. The applicant is still negotiating with the bus company and is maintaining the bus stop within the site to futureproof the development. Should agreement not be reached with the bus

company, the bus stops and crossing facilities would be provided on the A20 as already approved and a condition secures one or the other.

Ecology

- 6.31 The ecological information submitted has indicated that dormouse, breeding birds, reptiles, and bats are present or likely to be present at the site. KCC Ecology are generally satisfied with the details of mitigation to avoid impacts on the protected/notable species subject to a detailed ecological mitigation strategy being provided by way of condition. On site enhancements in addition to the proposed landscaping are proposed in the form of bird and bat bricks/boxes, and I consider habitat piles and retention of cordwood should also be provided and these can be secured by condition.
- 6.32 The application is proposing to secure biodiversity net gain (BNG) and a strategy has been submitted. BNG is measured using 'habitat', 'hedgerow', and 'river' units. The report concludes that the proposals will exceed a 10% BNG threshold for hedgerow units and river units on site. In order to reach a 10% threshold for habitat units, habitat enhancement will need to be delivered off site. This will be through a financial contribution of £36,000 to deliver habitat creation and restoration at a site known as 'Campfield' to the north of Boughton Monchelsea and owned by the Boughton Monchelsea Amenity Trust Estate (BMAT). This has been worked up with the Kent Wildlife Trust and will be delivered by them with BMAT through the creation and restoration of broadleaved woodland, mixed scrub and other neutral grassland habitat. There will be a 30 year management plan and the financial contribution has been justified. KCC Ecology have reviewed the details and advise these measures are sufficient to demonstrate that the proposed development can achieve the anticipated 10% BNG. This will be secured by a legal agreement.
- 6.33 Quantified BNG of at least 10% is not a requirement of development in advance of secondary legislation from the Environment Act 2021 (expected in 2023) so this is a positive aspect of the proposals.

Surface Water Drainage

- 6.34 This will be dealt with through a system of attenuation with a restricted discharge into the adjacent water course as per the wider site and no objections are raised by KCC LLFA subject to conditions.

Energy Strategy

- 6.35 Air source heat pumps, PV panels, and battery storage are proposed as part of the energy strategy as per the wider site and this can be secured by condition.

Residential Amenity

- 6.36 Development of the 'Chestnuts' site would not have any additional impact upon the amenity of the dwelling 'White Heath' to the east beyond the permitted site, or any other residential properties in the wider area in accordance with policy DM1. Plant and extraction details have been provided

for the café and Environmental Health raise no objections in terms of noise or disturbance.

Sequential Test

6.37 As the quantum of office floorspace is not exceeding that allowed under the wider site allocation in the Local Plan there is no requirement for a sequential test.

Legal Agreement

6.38 A legal agreement is required to ensure the same safeguards as for the allocated site namely, that the office floorspace is 'serviced' prior to the occupation of any other units on this application site or the allocated site, and that it is safeguarded for office use until April 2026 or a Local Plan Review. It would also secure the BNG requirements.

7.0 CONCLUSION

7.01 The development proposed within the allocated east part of the site is acceptable and complies with the site policy requirements.

7.02 The development proposed within the 'Chestnuts' west part of the site, which falls outside the site allocation, results in a low level of harm to the character and appearance of the area and therefore has some conflict with policy SP17 of the Local Plan. However, the impact of the development would be localised and seen in the context of the approved allocated site surrounding it. It would represent an infill between the allocation rather than an expansion or protrusion into open countryside and there is some development already within this part of the site (existing dwelling).

7.03 The proposals provide necessary 'amenity facilities' for the wider site (café, HGV welfare facilities and EV charging) and an internal bus stop, and through expansion of the site provide for displaced office floorspace, in addition to providing further B8 floorspace. It is considered that the provision of amenity facilities and the associated economic benefits of the expansion outweigh the low level of harm and are material considerations that outweigh the conflict with policy SP17.

7.04 Permission is therefore recommended subject to conditions and a legal agreement.

8.0 RECOMMENDATION

Subject to:

The conditions set out below, and the prior completion of a legal agreement to secure the heads of terms set out below;

the Head of Planning and Development BE DELEGATED POWERS TO GRANT PLANNING PERMISSION (and to be able to settle or amend any

necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee).

Heads of Terms:

1. Securing that the office floorspace (3,643m²) is at least provided with necessary services including drainage and electrical power supply prior to the occupation of any other units on allocated site EMP1(4).
2. Securing that the office floorspace (3,643m²) is safeguarded for that use and not used for any other uses until April 2026, or if allocated for other uses through a Local Plan Review (whichever is the earlier).
3. Securing a financial contribution of £36,000 to be used to deliver off-site habitat creation and restoration to achieve at least 10% biodiversity net gain including on-going management for at least 30 years.

Conditions:

Time Limit (Full Permission)

1. The full detailed element of 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.

Time Limit (Outline Permission)

2. The outline element of the development hereby approved shall not commence until approval of the following reserved matters has been obtained in writing from the local planning authority:

(a) Appearance

Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun 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;

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

3. The details of appearance submitted pursuant to condition 2 shall show a building not exceeding 12m in height and follow the principles of approved Unit D1 including the use of ragstone, glazing, and coloured aluminium detailing.

Reason: To ensure a high-quality appearance of to complement the approved development.

Approved Plans & Details

4. The development hereby permitted shall be carried out in accordance with the plans as shown on the Drawing List dated 9th May 2022, excluding drawing nos. B20139-PPL-CHES-DR-C-0600 P03, B20139-PPL-CHES-DR-C-0610 P03, B20139-PPL-CHES-DR-C-0611 P03, and B20139-PPL-CHES-DR-C-0620 P03 (levels plans).

Reason: To clarify which plans have been approved, to ensure a high-quality development, and to protect residential amenity.

5. The development shall be carried out in accordance with the landscaping details as shown on drawing nos. 5501-LLB-EE-E1-DR-L-0001 P06, 5501-LLB-EE-E2-DR-L-0001 P06, 5501-LLB-ED-E1-DR-L-0001 P09, and 5501-LLB-ED-E2-DR-L-0001 P09.

Reason: To ensure a high-quality development and sufficient softening and screening of the development.

6. The development shall be carried out in accordance with the hard surfaces as shown on drawing no. 11417 PL 202 and maintained thereafter.

Reason: To ensure a high-quality development.

7. The development shall be carried out in accordance with external building materials as shown on the approved plans and documents, including the use of ragstone on buildings and in walling.

Reason: To ensure a high-quality development.

8. The development shall be carried out in accordance with Tree Protection Plan drawing no. 5501-LLB-XX-XX-DR-Ab-0014 P03.

Reason: To ensure retained trees are protected.

9. The approved details of the vehicle and cycle parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them.

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

10. The construction of the development shall be carried out in accordance with the Construction Environmental Management Plan approved under application 20/505159/SUB.

Reason: In the interests of biodiversity.

11. The approved details of the access to the site as shown on drawing no. PL_4.3 RevB approved under application 20/505195/OUT shall be completed prior to the occupation of the site and thereafter maintained to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

Pre-commencement

12. Notwithstanding the levels plans submitted under this application, no development shall take place until amended plans showing a reduction in the slab levels for the buildings on the western part of the site from those shown on the levels plans by between 0.25m and 0.35m, have been submitted to an approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To minimise the impact of the development.

13. No development shall take place until a detailed Ecological Mitigation Strategy has been submitted to and approved in writing by the local planning authority. The Strategy must include the following:

- a) Updated Preliminary Ecological Appraisal.
- b) Any recommended updated species surveys.
- c) Overview of mitigation required.
- d) Detailed methodology to implement mitigation.
- e) Timings of works.
- f) Plans showing the habitats to be lost, retained, and established.

The Strategy must be implemented as approved.

Reason: To ensure mitigation to protected species and in the interest of biodiversity.

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 Assessment and Drainage Strategy dated December 2021 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.

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.

15. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a phased programme of archaeological building recording and landscaped garden survey in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined, recorded, reported and disseminated.

16. No development shall take place until the applicant, or their agents or successors in title, has secured:

(i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority.

Following approval of (i) no development above slab level shall take place until the following has been submitted to and approved by the Local Planning Authority:

(ii) further archaeological investigation, recording and reporting, if determined necessary by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority;

(iii) programme of post excavation assessment and publication if determined necessary by the results of (i) or (ii).

Reason: To ensure that features of archaeological interest are properly examined, recorded, reported and disseminated.

Pre-Slab Level

17. No development of each building above slab level shall take place until a sample panel of the ragstone for the buildings and walls has been constructed for inspection on site and has been approved in writing by the Local Planning Authority. Such details as approved shall be fully implemented on site.

Reason: To ensure a high-quality design and finish.

18. No development above the slab level of Unit D1 shall take place until written details and images of the metal panelling and aluminium louvres 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.

Reason: To ensure a high-quality design and finish.

19. No development beyond slab level of each building shall take place until full details of the energy measures (heat pumps, PV panels, and battery storage) have been submitted to and approved in writing by the local planning authority. The approved details shall be provided prior to occupation of any buildings and maintained thereafter.

Reason: To secure the proposed energy strategy measures.

20. No development beyond slab level shall take place until details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter. The boundary treatments shall follow the principles within the Design & Access Statement and include the use of ragstone walling along the site entrance.

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

21. No development beyond slab level of each building shall take place until details of any external lighting has been submitted to and approved in writing by the local planning authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution and in the interests of biodiversity. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area and biodiversity.

22. No development beyond slab level shall take place until details of the provision and location of on-site ecological enhancements which shall include bird and bat bricks/boxes, habitat piles and retention of cordwood, have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: In the interests of biodiversity.

Pre-Occupation

23. No building shall be occupied until the car EV charging points (active and passive) as detailed at Section 9 of the Energy and Sustainability Report

prepared by Hannan Associates and as shown on the approved site plan have been installed and made available for use. The charging points shall be maintained thereafter.

Reason: To reduce impacts upon air quality.

24. No building shall be occupied until the final details of the HGV EV charging points (active and passive) have been submitted to and approved in writing by the local planning authority. These details shall include four 150kW speed HGV EV Chargers unless it can be demonstrated that this speed cannot be supported by the electricity utility infrastructure, in which case passive duct infrastructure shall be installed to future proof for this speed. Otherwise the submitted details shall provide for HGV charging of at least 22kW speed. The approved charging points details shall be installed prior to the occupation of any buildings and maintained thereafter.

Reason: To reduce impacts upon air quality.

25. No building shall be occupied until the arrangements for bus access at the site (internal bus stop or bus stops on the A20 including crossing facilities as previously approved) have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to the occupation of any buildings and retained thereafter.

Reason: To clarify the bus arrangements.

26. No occupation shall take place of Unit D1 until details of the seating area to the south of this Unit 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.

Reason: To ensure the seating area does not compromise the design quality and entrance to the site.

27. No building shall be occupied until the off-site footway/cycleway enhancements approved under application 21/502690/SUB have been carried out in full.

Reason: In the interests of highway safety and to promote sustainability.

Compliance/Restrictions

28. 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 re-commence 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 (if necessary) 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 build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To protect human health.

29. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season (October to February) following the occupation of any buildings. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of that phase or from planting of the wider site boundary 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 as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

Reason: To ensure a satisfactory setting and external appearance to the development.

30. All buildings shall achieve a Very Good BREEAM UK New Construction 2014 rating. A final certificate shall be issued to the Local Planning Authority for written approval to certify that at a Very Good BREEAM UK New Construction 2014 rating has been achieved within 6 months of the first occupation of each building.

Reason: To ensure a sustainable and energy efficient form of development.

31. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to Controlled Waters. The development shall be carried out in accordance with the approval details.

Reason: For the protection of Controlled Waters and in the interests of pollution prevention.

32. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: For the protection of Controlled Waters and in the interests of pollution prevention.

33. No open storage of plant, materials, products, good for sale or hire or waste shall take place on the site.

Reason: To safeguard the character and appearance of the surrounding area.

34. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no extensions to any buildings shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area.

35. The approved buildings shall only be used as follows and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or permitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any statutory instrument revoking and re-enacting those Orders with or without modification):

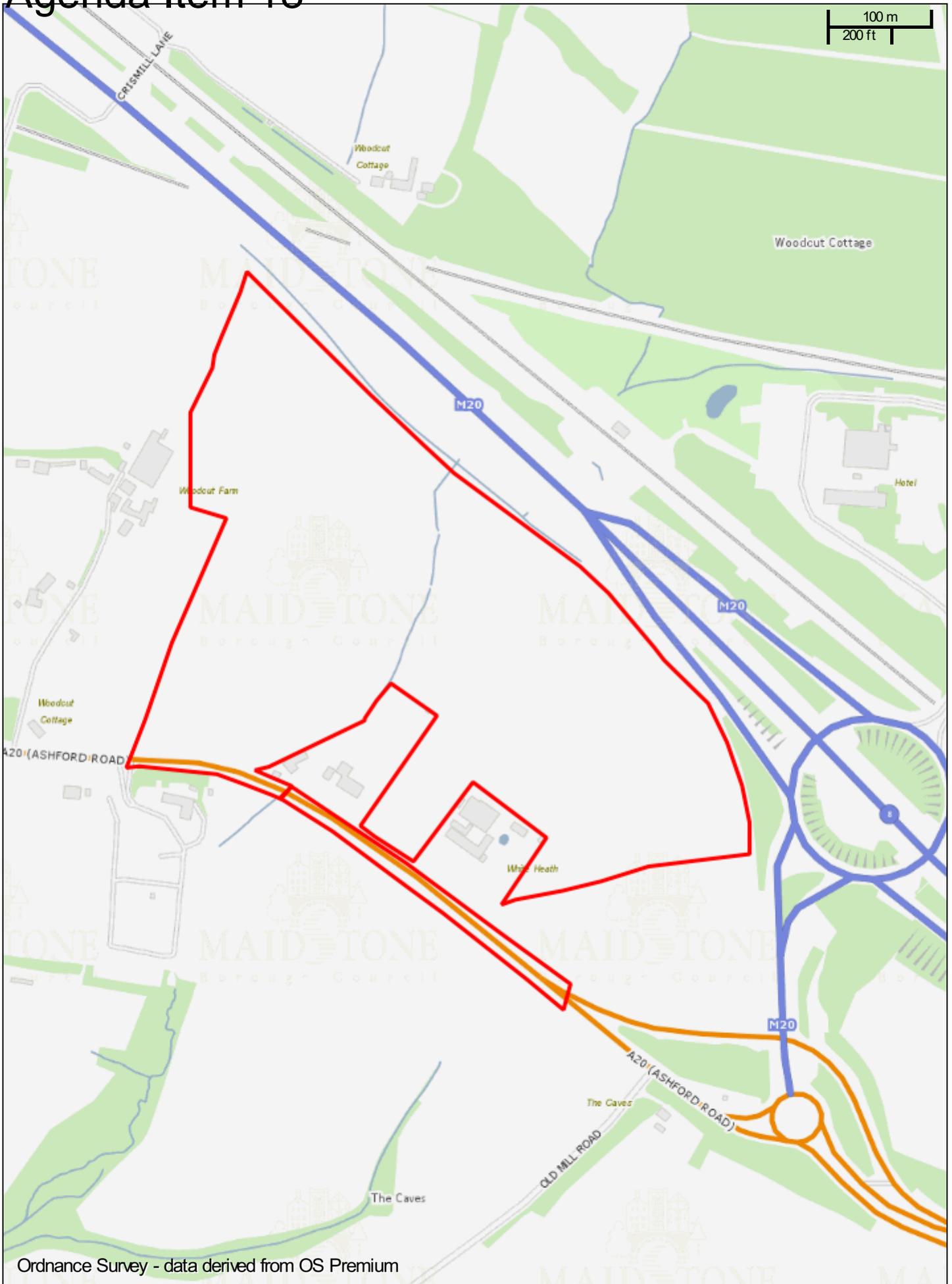
Unit E1: At least 2,608m² floorspace for Class E(g)(i) use

Unit E2: Class E(g)(iii) and/or B8 use

Unit D1: At least 1,035m² floorspace for Class E(g)(i) use

Reason: To comply with the site allocation policy and in order to deliver the specific types of employment the site was allocated for.

Agenda Item 18



Ordnance Survey - data derived from OS Premium

21/506790/OUT - Land At Woodcut Farm, Ashford Road, Maidstone

Scale: 1:5000
N

Printed on: 17/2/2021 at 9:17 AM by StevieH

REFERENCE NO - 21/506790/OUT			
APPLICATION PROPOSAL			
Section 73 - Application for variation of condition 9 (office or research and development use floorspace) to require at least 7,500m ² of floorspace pursuant to 20/505195/OUT (Outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, with a maximum floor space of 45,295 square metres).			
ADDRESS Land at Woodcut Farm, Ashford Road, Hollingbourne			
RECOMMENDATION – APPROVE WITH CONDITIONS			
SUMMARY OF REASONS FOR RECOMMENDATION			
<ul style="list-style-type: none"> The proposed reduction in office floorspace is contrary to policy EMP1(4) of the Local Plan. However, if separate application 21/506792/HYBRID is approved, the proposals are acceptable because the office floorspace would be replaced under that application. 			
REASON FOR REFERRAL TO COMMITTEE			
<ul style="list-style-type: none"> The recommendation for approval is contrary to policy EMP1(4) of the Local Plan but the proposals are connected to application 21/506792/HYBRID, which is on the same agenda. 			
WARD North Downs	PARISH COUNCIL Hollingbourne	APPLICANT Maidstone Investment Holding Ltd AGENT Savills	
CASE OFFICER: Richard Timms	VALIDATION DATE: 05/01/22	DECISION DUE DATE: 10/06/22	
ADVERTISED AS A DEPARTURE: NO			
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
21/506792	Hybrid Planning Application for demolition of existing building (Use Class C3) and redevelopment for a mixed commercial scheme. Full planning application comprising of erection of 2 no. units (Unit E2 - light industry/B8 and Unit D1 - offices/coffee shop), HGV fast charge facility, bus stop, hard and soft landscaping, and associated infrastructure. Outline planning application comprising of erection of 1 no. unit (Unit E1 - offices) with appearance matter reserved.	PENDING	
21/506791	Approval of Reserved Matters for Phase 2 (Appearance, Landscaping, Layout and Scale being sought) to create 7,916 sqm of flexible Use Class E(g)(iii)/B8 employment floorspace, comprising of 4 units (A1, A2, A3 and A13) on Plot A, pursuant of 20/505195.	PENDING	

21/502637	Approval of Reserved Matters Phase 1 (Layout, Scale, Appearance and Landscaping) to create the development platforms across the entire site, and 23,270 sqm of flexible Use Class B1(c)/B8 employment floorspace, comprised of 7no. units on Plot A totalling 5,450 sqm (Units A3-A9) and 4no. units on Plot B totalling 17,820 sqm (Units B1-B4) pursuant of 20/505195	APPROVED	06/08/21
20/505195	Section 73 - Application for Variation of Condition 3 to allow buildings on the eastern part of the site to have a footprint up to 10,000sqm, and variation of Condition 4 to allow buildings on the western part of the site to have a footprint up to 4,800sqm, a ridge height up to 10.5m, and to remove the requirement for buildings to be orientated end-on to the M20 motorway pursuant to application 17/502331	APPROVED	11/03/21
20/505182	Approval of Reserved Matters (Appearance, Landscaping, Layout and Scale being sought) for Phase 1 being landscaping, infrastructure work required to create development platforms across the site, and 22,884sqm of flexible Use Class B1(c)/B8 employment floorspace comprising of 7no. units on Plot A totalling 5,444sqm (Units A3- A9) and 4no. units on Plot B totalling 17,440sqm (Units B1-B4) pursuant to 17/502331	APPROVED	26/02/21
17/502331	Outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units, with a maximum floor space of 45,295 square metres (Access being sought)	APPROVED	20/07/18

1.0 DESCRIPTION OF SITE

1.01 The application relates to the approved Woodcut Farm development and employment allocation in the Local Plan on the north side of the A20 near Junction 8 of the M20. The allocation benefits from outline planning permission for office, research and development, light industry, and warehouse uses up to 45,295m². Reserved matters have been approved for around half the permitted floorspace along part of the west boundary and the northern part of the site.

2.0 PROPOSAL

2.01 This is a section 73 application which seeks to reduce the requirement for 10,000m² of office floorspace required under condition 9 of permission 20/505195/OUT to 7,500m². The original permission/legal agreement secures three areas where office floorspace must be provided as shown in the areas labelled A1/A2, C1/C2 and D1/D2 below. The application is essentially proposing to remove the A1/A2 area in the southwest corner and reduce D1/D2 as shown below.



2.02 However, the applicant is not seeking to reduce the overall amount of office floorspace but instead is proposing around 1,000m² in the 'D1' location, and relocation of around 2,600m² within the proposed expansion into the 'Chestnuts' site, which is subject to application 21/506792/HYBRID, that is on this same agenda. This application is therefore dependent upon a positive decision on application 21/506792/HYBRID.

2.03 The result would be to enable the provision of additional light industrial or warehousing floorspace within southwest part of the allocated site in area A1/A2, and the separately proposed HGV welfare/EV charging facility and café in D1/D2.

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2011-2031): SS1, SP17, SP18, SP21, SP23, EMP1, EMP1(4), ID1, DM1, DM2, DM3, DM4, DM6, DM8, DM16, DM21, DM23, DM30, DM37
- Kent Waste and Minerals Plan (amended 2020)
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- MBC Air Quality Guidance
- Kent Downs AONB Management Plan (2021-2026)
- Maidstone Local Plan Review (Regulation 19)

4.0 LOCAL REPRESENTATIONS

4.01 **Local Residents:** One representation received raising the following (summarised) points:

- Question whether the developers know what they want from the site.
- Original objection to this greenfield site still stands.
- Blot on the landscape.
- The most environmentally friendly conditions possible should be imposed such as solar power.

4.02 Hollingbourne Parish Council: Do not wish to comment/object.

4.03 (Neighbouring) Bearsted Parish Council: Recommend approval.

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)

4.03 Natural England: No specific comments.

4.04 National Highways: No objections.

4.06 KCC Highways: No objections.

4.15 Southern Water: No objections.

6.0 APPRAISAL

6.01 The proposed reduction of the amount of office floorspace from 10,000m² to 7,500m² within the allocated site is contrary to policy EMP1(4) of the Local Plan, which requires at least 10,000m². However, if application 21/506792/HYBRID is approved this would be acceptable as it provides for the replacement of 2,600m² of office floorspace.

6.02 If application 21/506792/HYBRID is approved, this proposal is acceptable and a modification to the legal agreement accompanying 20/505195/OUT would be required to firstly, tie it to this new s73 permission; secondly, to reduce the office floorspace to 7,500m² and amend its locations; and thirdly, to tie this new s73 permission together with 21/506792/HYBRID (as this would provide the displaced floorspace).

6.03 The result of these changes would be to require more office floorspace within the eastern part of the wider allocation in area C1/C2 (6,357m² as opposed to 5,000m²) but there is still considered to be sufficient space to provide this. The applicant is also proposing that all office floorspace is 'serviced' before any other units are occupied, rather than 5,000m² as original secured.

6.04 If application 21/506792/HYBRID is refused, then the proposals are not acceptable because they would not provide the necessary office floorspace required under policy EMP1(4) within the Local Plan, and officers will advise on the appropriate course of action at the committee meeting, which will be to refuse this application.

7.0 CONCLUSION

7.01 For the above reasons the variation to condition 9 is acceptable but this is subject to the approval of application of 21/506792/HYBRID.

7.02 As this will create a new planning permission all previous relevant conditions will be re-attached.

8.0 RECOMMENDATION

Subject to:

The conditions set out below, and the prior completion of a legal agreement to secure the heads of terms set out below:

the Head of Planning and Development BE DELEGATED POWERS TO GRANT PLANNING PERMISSION (and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee).

Heads of Terms:

1. Modification to the original s106 agreements relating to 20/505195/OUT to tie their requirements to the new s73 permission.
2. Modification to the original s106 agreement relating to 20/505195/OUT to reduce the amount of office floorspace to 7,500m² and amend its locations.
3. To tie the new s73 permission to permission 21/506792/HYBRID (if approved) such that the office floorspace within 21/506792/HYBRID has been at least provided with necessary services including drainage and electrical power supply ('serviced') prior to the occupation of any non-office buildings within the allocated site.
4. To secure that all office floorspace is 'serviced' before any other units are occupied.

Conditions:

1. Any phase of the development (as approved under the phasing plan submitted and approved under condition 13 below) shall not commence until approval of the following reserved matters have been obtained in writing from the Local Planning Authority for that phase:-

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

Application for approval of the reserved matters shall be made to the Local Planning Authority before 20th July 2023. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

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

2. The details of layout submitted pursuant to condition 1 shall show no more than 40% of the site being covered by buildings.

Reason: To ensure a satisfactory appearance to the development.

3. On the eastern part of the site (east of the existing stream), there shall be no units with a footprint of over 10,000m², no buildings shall exceed a ridge height of 12 metres, and buildings shall be orientated end-on to the M20 motorway.

Reason: To ensure a satisfactory appearance to the development.

4. On the western part of the site (west of the existing stream), there shall be no units with a footprint of over 4,800m², and no buildings shall exceed a ridge height of 10.5 metres.

Reason: To ensure a satisfactory appearance to the development.

5. On the highest part of the site at and above the 55m contour line, as shown on the Local Plan policies map, there shall be no buildings with a footprint of over 500m².

Reason: To ensure a satisfactory appearance to the development.

6. The details of appearance submitted pursuant to condition 1 shall include:

Curved roof forms.

Green roofs and walls on smaller footprint buildings (500m² and below).

Non-reflective materials and sensitive colouring.

Glazed frontages to buildings and active frontages addressing both the A20 and M20.

The use of vernacular materials including ragstone on buildings and in boundary treatments.

High quality surfacing materials.

Sensitive lighting.

The use of photovoltaic cells incorporated into the design of the roofs.

Reason: To ensure a satisfactory appearance to the development.

7. The details submitted pursuant to condition 1 shall provide for vehicle and cycle parking spaces in line with the Council's adopted standards.

Reason: In the interests of highway safety and to promote sustainability.

8. The details of landscaping submitted pursuant to condition 1 shall be designed in accordance with the principles of the Council's landscape character guidance. 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. It shall detail measures for protection of species to be retained and include a planting specification, a programme of implementation and maintenance and a 10 year management plan. The programme of implementation shall include site boundary planting and the 9ha of woodland/wooded pasture being established under the first phase of any development. The landscape scheme shall specifically address the need to provide:

- a) Substantial tracts of planting extending into the body of the development to achieve clear visual separation between development areas.
- b) Dense woodland planting along the A20 frontage at the south western edge of the site in excess of 25m width including a planted bund.
- c) A 30m native woodland belt with understorey shrubs and grasses along the western edge of the site to help secure the setting of Woodcut Farmhouse.
- d) Planted landscape buffer zones to the west north and east of Chestnuts and White Heath adjacent to the site to help protect the amenity of these properties.
- e) Retention of the protected trees along Musket Lane, augmented with hedgerows and a new native woodland shaw at least 15m in depth to Musket Lane.
- f) Creation of a circa 38m-70m landscape buffer between any development and the M20 which includes the gas pipe easement.
- g) A woodland shaw along the northern boundary and the M20 of at least between 10-24m width.
- h) The gas pipe easement corridor managed as long grass with indigenous wild flora.
- i) Tracts of structural landscaping extending into development areas of at least 15m in width.
- j) An avenue of tree planting along the access road.
- k) An area of heavily treed native woodland planting in the north west corner of the site of approximately 2.5ha and an area of wooded pasture within the land outlined in blue to the northwest of the application site of approximately 6.6ha (total of at least 9ha).
- l) Tree planting within the area the land outlined in blue to the west of the application site (approximately 2.4ha).
- m) An area of tree planting within the land outlined in blue to the west of the application site.
- n) Swales and balancing ponds including the provision of shallow areas, and deeper, cooler areas, as well as the planting regimes.
- o) The planting of native evergreen trees to help screen/soften views of the development from neighbouring residential properties.

Reason: To ensure a satisfactory appearance and landscape setting to the development and satisfactory implementation, maintenance and management of the landscaped areas.

9. The details submitted pursuant to condition 1 shall include at least 7,500m² of Use Class E(g)(i) (offices) or (ii) (research and development) floorspace or a combination of the two.

Reason: To comply with the site allocation policy together with permission 21/506792/HYBRID.

10. The details submitted pursuant to condition 1 shall not exceed the following floorspaces (unless made subject to further assessment):

Use Class E(g)(i)(ii) uses - 10,000m²

Use Class E(g)(iii) uses - 12,840m²

B8 uses - 22,455m²

Reason: To comply with the floorspace amounts assessed under the Environmental Statement.

11. The details submitted pursuant to condition 1 shall be designed so that any impact with regards to noise is reduced to a minimum in accordance with national policy and the design of the development shall aim to meet the levels defined by the Noise Rating Curve 35 at the existing noise sensitive properties. The final design and noise mitigation applied shall take into account the prevailing noise environment, the nature and extent of any residual impact as well as its economic cost and benefit.

Reason: In the interests of residential amenity.

12. The details submitted pursuant to condition 1 shall incorporate measures to minimise the risk of crime according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED).

Reason: In the interest of security, crime prevention and community safety.

13. The development shall be carried out in accordance with the phasing plan for the site approved under application 20/505160/SUB unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure a suitable development of the site.

14. No occupation of the development shall take place until the off-site footway/cycleway enhancements approved under application 21/502690/SUB have been carried out in full.

Reason: In the interests of highway safety and to promote sustainability.

15. The development shall be carried out in accordance with the Construction Management Plan and Code of Construction Practice approved under application 21/504132/SUB.

Reason: In view of the scale of the development and in the interests of highway safety and local amenity.

16. The development shall be carried out in accordance with the Great Crested Newt mitigation strategy approved under application 20/505159/SUB and thereafter maintained unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of biodiversity.

17. The development shall be carried out in accordance with the Landscape and Ecological Management Plan (LEMP) approved under application 20/505159/SUB unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of biodiversity.

18. The development shall be carried out in accordance with the ecological design strategy (EDS) approved under application 20/505159/SUB and all features shall be retained in that manner thereafter unless otherwise agreed in writing by the local planning authority.

Reason: To protect and enhance biodiversity.

19. The development shall be carried out in accordance with the method statement for ecological mitigation approved under application 20/505159/SUB and shall be retained in that manner thereafter unless otherwise agreed in writing by the local planning authority.

Reason: To protect habitats and species identified in the ecological surveys from adverse impacts during construction.

20. The construction of the development shall be carried out in accordance with the construction environmental management plan (CEMP: Biodiversity) approved under application 20/505159/SUB unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of biodiversity.

21. The development shall be carried out in accordance with the precautionary reptile mitigation strategy approved under application 20/505159/SUB unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of biodiversity.

22. The development shall be carried out in accordance with the air quality offsetting measures approved under application 20/505160/SUB.

Reason: In the interests of pollution reduction.

23. The development shall be carried out in accordance with the sustainable surface water drainage scheme, including its implementation, maintenance and management approved under application 20/505160/SUB.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

24. The development shall be carried out in accordance with the contaminated land details approved under applications 20/505160/SUB and 21/502843/SUB.

Reason: For the protection of Controlled Waters and in the interests of pollution prevention.

25. The development shall be carried out in accordance with the archaeological field evaluation works and specification, and investigation and recording details approved under application 20/504216/SUB and 21/502989/SUB.

Reason: To ensure that features of archaeological interest are properly examined and recorded and that due regard is had to the preservation in situ of important archaeological remains.

26. The development shall be carried out in accordance with the land and slab levels approved under applications 20/505182/REM and 20/505160/SUB.

Reason: In order to secure a satisfactory form of development.

27. The development shall be carried out in accordance with the Arboricultural Impact Assessment (AIA) approved under application 20/505159/SUB.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

28. No phase of the development above damp proof course level beyond approved reserved matters application 21/502637/REM shall take place until written details and samples of the materials to be used in the construction of the external surfaces of any buildings and hard surfaces relating to that phase have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials. The materials shall follow the principles of the original Design & Access Statement.

Reason: To ensure a satisfactory appearance to the development.

29. No phase of the development above damp proof course level shall take place beyond approved reserved matters application 21/502637/REM until details of all fencing, walling and other boundary treatments relating to that phase have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter. The boundary treatments shall follow the principles within the original Design & Access Statement and include the use of ragstone walling.

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

30. No phase of the development above damp proof course level shall take place until details of any lighting for the site relating to that phase has been submitted to and approved in writing by the local planning authority. The

submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution and in the interests of biodiversity. The development shall thereafter be carried out in accordance with the subsequently approved details. All external lighting shall be installed in accordance with the specifications and locations set out in the details, and these shall be maintained thereafter.

Reason: To prevent light pollution in the interests of the character and amenity of the area and biodiversity.

31. No phase of the development shall take place above damp proof course level beyond approved reserved matters application 21/502637/REM until details of facilities for the charging of electric vehicles within that phase have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided before the first use of the building(s) or land, should conform to the latest standards and conform to best practice, and be thereafter retained.

Reason: In the interests of sustainable transport use, pollution reduction and local amenity.

32. The approved details of the access to the site as shown on drawing no. PL_4.3 RevB shall be completed prior to the occupation of the site and thereafter maintained to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

33. Prior to first use of any premises, in respect of noise, details of the anticipated operation of the various units shall be submitted to and approved in writing by the Local Planning Authority. In particular, the details shall compare the anticipated operation with that assumed in the Environmental Statement (ES) to show that the level of noise impact and effect would continue to comply with national policy. The development shall be carried out in accordance with the approved details.

Reason: In the interests of residential amenity.

34. Notwithstanding the implementation of wider site boundary planting being established under the first phase of any development under condition 8, all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season (October to February) with seeding or turfing in the first seeding and turfing season (March to September) following the occupation of the phase that the landscaping scheme relates to. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of that phase or from planting of the wider site boundary 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 as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

Reason: To ensure a satisfactory setting and external appearance to the development.

35. Any existing trees or hedges approved to be retained on site which, within a period of ten years from the first occupation of a property, commencement of use or adoption of land, die or become, in the opinion of the local planning authority, so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the same location during the next planting season (October to February), with plants of an appropriate species and size to mitigate the impact of the loss as agreed in writing by the local planning authority.

Reason: To safeguard existing landscaping and to ensure a satisfactory setting and external appearance to the development.

36. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Construction-Recommendations'. No equipment, 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. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site. 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, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

37. All buildings shall achieve a Very Good BREEAM UK New Construction 2014 rating. A final certificate shall be issued to the Local Planning Authority for written approval to certify that at a Very Good BREEAM UK New Construction 2014 rating has been achieved within 6 months of the first occupation of each building.

Reason: To ensure a sustainable and energy efficient form of development.

38. The precautionary bat mitigation as detailed within the Bat Report dated 28 October 2020 prepared by Lloyd Bore shall be strictly adhered to unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of biodiversity.

39. The development shall be carried out in accordance with the details of electricity substation(s) approved under application 20/505160/SUB. Details of the proposed location and design of any further electricity substation(s) shall be submitted to and approved in writing by the Local Planning Authority. The design should aim to maximise the distance between the sub-station and existing noise sensitive properties and shall aim to meet the levels defined by the Noise Rating Curve 35 at the existing noise sensitive properties. The final design and noise mitigation applied shall take into account the prevailing noise

environment, the nature and extent of any residual impact as well as its economic cost and benefit. The development shall be carried out in accordance with the approved details.

Reason: In the interests of residential amenity.

40. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.

Reason: For the protection of Controlled Waters and in the interests of pollution prevention.

41. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to Controlled Waters. The development shall be carried out in accordance with the approval details.

Reason: For the protection of Controlled Waters and in the interests of pollution prevention.

42. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: For the protection of Controlled Waters and in the interests of pollution prevention.

43. No open storage of plant, materials, products, good for sale or hire or waste shall take place on the site.

Reason: To safeguard the character and appearance of the surrounding area.

44. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no extensions to any buildings shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area.

45. Any buildings and associated land shall be used only for Use Class E(g)(i)(ii)(iii) or Use Class B8 and for no other purpose (including any other

purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or permitted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any statutory instrument revoking and re-enacting those Orders with or without modification).

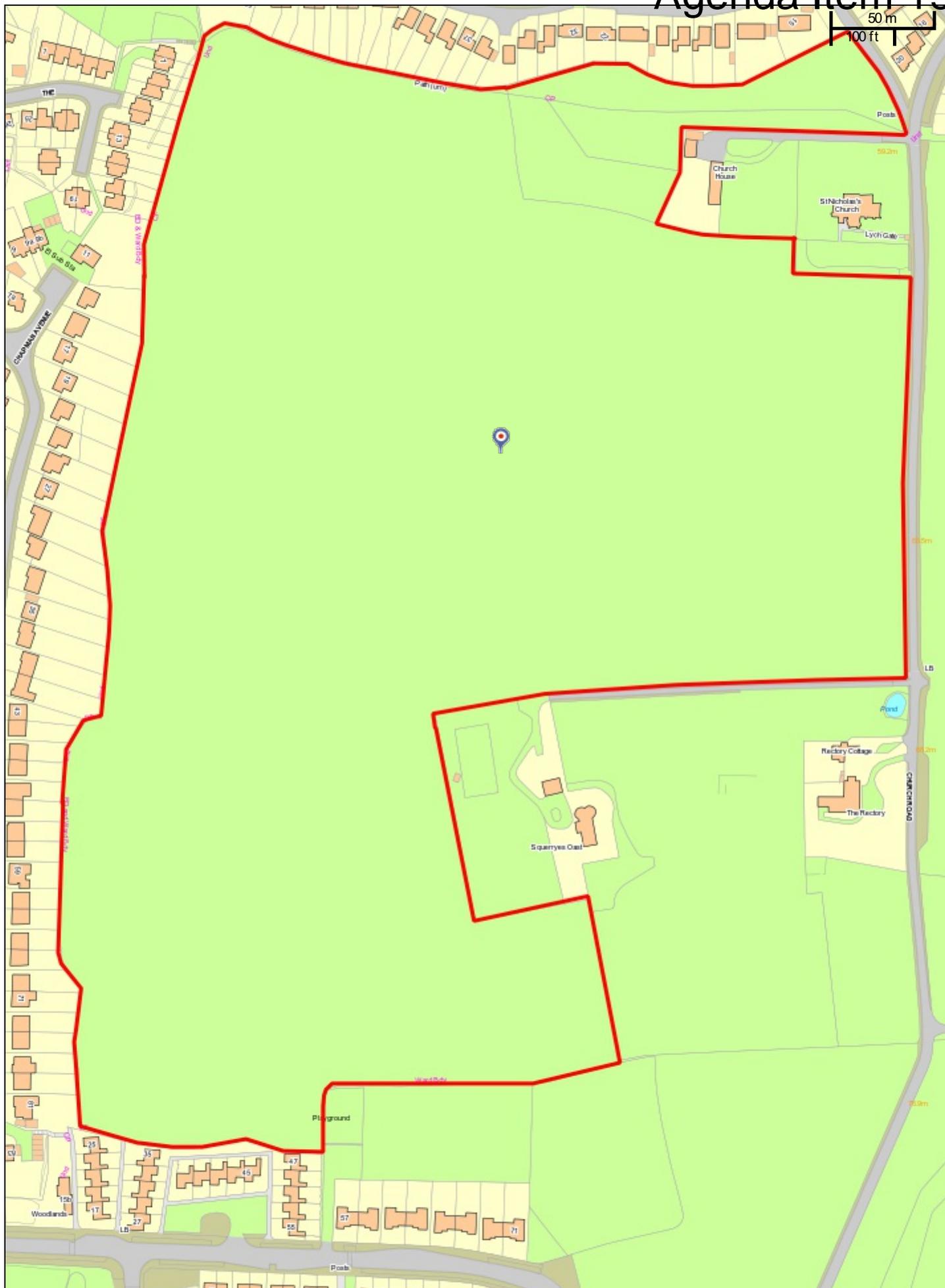
Reason: To comply with the site allocation policy and in order to deliver the specific types of employment the site was allocated for.

46. In respect of the approved access from the A20 to a position 40 metres into the site only, the development hereby permitted shall be carried out in accordance with drawing no. 13-0596.110 (Site Access Visibility Splays), and Illustrative Site Layout Plan 11257/FE_125 (Rev A).

Reason: For the purposes of clarity.

47. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any statutory instrument revoking and re-enacting the Order, the Use Class B8 premises hereby approved on Plot B as defined on the Illustrative Site Layout Plan 11257/FE_125 (Rev A) shall exclude occupation by any use for 'High Intensity Parcel Delivery Service' for any unit of 5,000sqm or more. 'High Intensity Parcel Delivery Service' means that the primary activity of the business is the storage, packaging and delivery of parcels to residential and business users for and on behalf of multiple independent sellers as distinct from a retail warehouse and distribution centre where the packaging and distribution is consequential to the retail sale of their own goods or goods for which they have a franchise.

Reason: To ensure, taking account of the material difference in traffic generation and impacts of high intensity parcel delivery compared to more traditional B8 uses, the traffic impact of which has not been assessed on the surrounding road network, that the M20 continues to be an effective part of the national system of routes for through traffic and to satisfy the reasonable requirements of road safety.



22/501614/FULL - Land West of Church Road, Otham, Kent, ME15 8SB

Scale: 1:2500

Printed on: 24/4/2020 at 8:30 AM by JoannaW

REFERENCE NO - 22/501614/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 (allowed on appeal) for - Residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping.			
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. • The Council decided that it would have approved an identical application (21/503585/FULL) at Planning Committee on 24th March 2022 had an appeal not been lodged, and this is a fundamental material consideration. There is a requirement to ensure consistency in decision-making as established by case law and the current application is for the same proposal, with the same evidence, and with the same response/advice from the Highways Authority. Nothing has materially changed since the previous decision and so approval is consistent with that decision and is also recommended for this reason. 			
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 and request the application is decided by the Planning Committee. 			
WARD Downswood & Otham	PARISH COUNCIL Otham	APPLICANT Bellway Homes Ltd AGENT DHA Planning	
CASE OFFICER: Richard Timms	VALIDATION DATE: 31/03/22	DECISION DUE DATE: 30/06/22	
ADVERTISED AS A DEPARTURE: NO			
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
21/503585	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	MBC WOULD HAVE APPROVED PERMISSION (HAD AN	24/03/22

	prior to commencement above floor slab level) pursuant to application 19/506182/FULL.	APPEAL NOT BEEN LODGED)	
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 BACKGROUND

- 3.1 An identical application was reported to Planning Committee on 17th February 2022. The application was recommended for approval and contrary to the recommendation, a motion was proposed and seconded to refuse the application. The Head of Planning and Development advised the Committee he did not consider the reason for refusal was sustainable at appeal and that it would more likely than not cause significant cost implications to be incurred by the Council because of unreasonable behaviour. As a result, the Constitution required that the Committee's decision be deferred to its next meeting on 24th March 2022 to enable the provision of further advice on the risks involved in pursuing a refusal.
- 3.2 After 17th February and before the 24th March meeting, the applicant lodged an appeal on the grounds of 'non-determination'. As such, the decision made on 24th March was what decision the Council 'would have made' on the application and therefore what position the Council would take at the appeal. The Committee's decision, following advice from officers and Counsel, was that they 'would have' approved permission and this is a fundamental material consideration. The previous committee reports are attached at the **Appendix**.
- 3.3 The Public Inquiry appeal is on-going and based on the Committee's decision, the Council is not contesting the appeal and agrees that it should be allowed subject to conditions. The Public Inquiry will begin on 28th June 2022.
- 3.4 The applicant has 're-submitted' this application "to enable the Council to determine the application" as stated in their covering letter.

4.0 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
- Maidstone Local Plan Review (Regulation 19)

5.0 LOCAL REPRESENTATIONS

5.01 **Otham Parish Council:** Object to the application for the following reasons:

- The Planning Inspector clearly stated in his Appeal Decision that the delivery of mitigation measures should be in place prior to the development being occupied. If he felt part occupation of the site was acceptable, he would have said so.
- 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 states that, *"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."*
- The Inspector continued in his report with the statement, *"irrespective of whether the appeal schemes are allowed, the submitted Transport Assessment suggests that the Willington 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."*
- The safety of pedestrians and cyclist is paramount. Traffic is already at a dangerous level due to the additional traffic from the various developments on the Sutton Road and from Bicknor Wood in Otham.
- The Parish Council wishes that Condition 30 of the Inspector's Report is adhered to and no development is allowed until the junction improvements are in place.

5.02 **Local Residents:** 4 representations received raising the following (summarised) points:

- Should not be a delegated decision.
- Sole objective appears to be to secure maximum financial gain irrespective of what many people feel would be fair.
- Site should not have been included in the Local Plan.
- The prolonged dealings with the site have incurred enormous expenditure of both time and money.
- A procession of highly detailed technical surveys and forecasts does nothing to guarantee the safety of the junction.
- Surely it is always preferable that improvements to safety are undertaken sooner rather than later.
- Costs to the developer and Highways Authority budget are nothing when measured against possible loss of life or limb.
- How can developers be allowed to alter conditions made with the intention of keeping the public safe.
- Public comments are not taken on board and the odds are so stacked in favour of the developer.
- Planning Inspector included the condition because the junction is dangerous and is used by school children and families and is part of cycle network.
- A van has wiped out the safety railings put at the junction to protect pedestrians.
- HGV's never stop to allow pedestrians to cross junction and the traffic island affords no safety.
- HGV's are already using the junction.
- People will not cycle until the crossing is in place.
- Compromise would be to have someone help people cross the road during construction or 100 houses can be built but not occupied.

- There has been no counting of pedestrians or cyclist who currently use the junction.
- Since work has commenced with have experienced dust and noise.

6.0 CONSULTATIONS

6.01 Highways England: No objections.

6.02 KCC Highways: No objections. *"Given how these proposals are identical to the previous I can confirm that that KCC Highways continue to raise no objection. The reasons and rationale for this are set out in this authority's previous consultation responses."*

These are from application 21/503585/FULL and are set out below:

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 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."

7.0 APPRAISAL

7.01 This application is identical to application 21/503585/FULL where the Council decided that it would have approved permission at the 24th March Committee meeting. Being made on an identical application, this decision is a fundamental material consideration and there is a requirement to ensure consistency in decision-making as established by case law, as set out in the conclusions. Officers are again recommending approval for the same reasons as before and the assessment is set out below.

Planning Inspector's Reasons for Condition

7.02 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 original Appeal Decision. 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'.

7.03 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.

7.04 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. Under application 21/503585/FULL we therefore asked the Inspector and he 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."

7.05 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

7.06 The applicant has provided an assessment of the impact of up to 100 houses at the WS/DD junction modelled in 2024 when the occupation of 100 houses is predicted. This is new evidence that was not before the Planning Inspector at the appeal.

7.07 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 84.9% capacity in the AM peak, otherwise the impact is in the 50% range.

7.08 KCC Highways have once again reviewed the evidence and raise no objections.

7.09 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."*

7.10 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. 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

7.11 KCC Highways once again 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 stated under application 21/503585/FULL,

"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."

7.12 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.

7.13 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, such as accident data, to counter the points made by KCC officers relating to the standard of the junction, the layout of the junction, that large vehicles (buses) already use the route without safety implications, the good personal injury collision record, and the absence of layout or geometry contributing to the accidents which have occurred. This is new evidence that was not before the Planning Inspector.

7.14 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.

Representations

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

7.16 Some representations 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."

7.17 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 previously 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."

7.18 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 2024 and this has been accepted by the Highways Authority.

8.0 CONCLUSION

8.01 As was the case for application 21/503585/FULL, new material/evidence has been provided by the applicant which was not before the Planning Inspector at the original Appeal, and the advice on this new material/evidence from the qualified expert highways officers at KCC can be summarised as:

- There is no evidence that construction traffic would adversely impact upon highway safety in advance of the WS/DD highway improvements coming forward.
- The proposal (to move the condition trigger point) would not result in a severe residual impact upon the highway network (congestion).
- By implication, the proposed change to condition 30 would not result in a development which is contrary to the NPPF and/or the Local Plan.

8.02 For these reasons and those above 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. 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;***

8.03 This is a new (albeit identical) planning application so must be determined on its own merits. However, the previous decision that the Council 'would have approved permission' on an identical application, is a fundamental material consideration that must be taken into account. Members must also be aware of the need for consistency in decision making established in case law, *North Wiltshire v Secretary of State for the Environment* [1992]. In summary, this case establishes a requirement that like cases should be decided in a like manner so there is consistency. The ruling states this is important to both developers and local authorities but also for public confidence in the operation of the planning system. A decision maker is free to depart from an earlier decision but must have regard to the importance of ensuring consistent decisions and must give sound reasons for departing from an earlier decision.

8.04 The Council decided on 24th March 2022 that an identical application was acceptable and would have been approved had it not been taken to appeal. The current application is for the same proposal, with the same evidence, and with the same response/advice from the Highways Authority. Nothing has materially changed since the previous decision was made and so approval is consistent with that decision, and it is advised that a consistent decision should be made.

8.04 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.

9.0 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) The development shall be carried out in accordance with the 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 approved under application 21/503538/SUB. 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) The development shall be carried out in accordance with the pedestrian/cycle routes, access points and design details approved under application 21/503538/SUB. 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 archaeological details and Archaeological Excavation Report (April 2022) approved under application 21/502372/SUB.
- 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, 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 'Squerryes 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) The development shall be carried out in accordance with the materials to be used in the construction of the external surfaces of the buildings approved under application 21/505661/SUB unless otherwise agreed in writing by the local planning authority.
- 23) The development shall be carried out in accordance with the architectural detailing (solder courses, bricked arches above windows, bullnose hanging tile detailing and roof overhangs) approved under application 21/505661/SUB.
- 24) The development shall be carried out in accordance with the details of the ragstone for the walling and buildings approved under application 21/505661/SUB.
- 25) The development shall be carried out in accordance with the electric vehicle charging facilities approved under application 21/505443/SUB.
- 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) The development shall be carried out in accordance with the Public Art Delivery Plan approved under application 21/506368/SUB.

- 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. 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) The development shall be carried out in accordance with 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 approved under application 21/503538/SUB.
- 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.

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

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 – ADVISE THE PLANNING INSPECTORATE THAT THE COUNCIL WOULD HAVE APPROVED PERMISSION SUBJECT TO CONDITIONS			
SUMMARY OF REASONS FOR RECOMMENDATION			
<ul style="list-style-type: none"> For the reasons set out in the report, officers advise it is likely that a refusal based on the proposed ground would not be sustainable at the now lodged Appeal and would result in an award of significant costs against the Council for unreasonable behaviour. It is therefore recommended the Planning Committee decides to advise the Planning Inspectorate that they 'would have' approved permission as per the original recommendation contained in the officer's report to 17th February 2022 meeting but with an amendment to condition 30 to remove reference to '31st December 2023' for the reasons set out in this report. 			
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 original 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 BACKGROUND & PROCEDURE

1.01 This application was heard at Planning Committee on 17th February 2022. The application was recommended for approval and the Committee Report and Appeal Decision is attached at the **Appendix**. Contrary to the recommendation of the Head of Planning and Development, a motion was proposed and seconded to refuse the application for the following reason:

The impact of construction traffic and from 100 dwellings, in advance of the approved Willington Street/Deringwood Drive junction improvement, would result in unacceptable and severe impacts upon highway safety conditions for pedestrians and cyclists crossing the existing junction, as considered by the Appeal Planning Inspector. The junction is very well used by pedestrians and cyclists providing a link between major residential areas and Mote Park on national Cycle Route 17. This would be contrary to policy DM21 of the Maidstone Borough Local Plan (2017), policies ST1 and ST2 of the Otham Parish Neighbourhood Plan (2020-2035), and Paragraphs 110 and 111 of the National Planning Policy Framework.

1.02 This Motion triggered the procedure set out in paragraph 31.3 of Part 3.1 of the Council's Constitution. Pursuant to that procedure, the Head of Planning and Development advised the Committee he did not consider the reason for refusal was sustainable at Appeal and that it would more likely than not cause significant cost implications to be incurred by the Council because of unreasonable behaviour. The threshold for 'significant costs' under this procedure is set at £50,000. As a result, the Constitution requires that the Committee's decision be deferred to its next meeting on 24th March 2022 to enable the provision of further advice on the risks involved in pursuing a refusal.

1.03 Paragraph 31.3 (b) of Part 3.1 states at the next meeting (24th March),

"If, during consideration at the next meeting of an application deferred under Rule 31.3(a), after a motion has been proposed and seconded, the Head of Planning and Development or their representative, in consultation with the Legal Officer present at the meeting, believes that the Planning Committee's reasons to justify refusal/the imposition of conditions would not be sustainable at appeal and would more likely than not cause significant cost to be incurred by the Council because of unreasonable behaviour, then they will inform the Committee that if the motion is agreed it will be referred to the Policy and Resources Committee upon the agreement of the Planning Committee Chairman and Vice-Chairman; or failing which, a resolution of the Planning Committee to that effect."

1.04 Paragraph 31.3(c) then states,

"Following the vote, if the motion was agreed, the Head of Planning and Development or their representative will ask the Chairman and Vice-Chairman if they agree to refer the decision to Policy and Resources Committee. If they do not both agree to the referral, the Committee will take a vote on whether to refer the item to the Policy and Resources Committee."

If either consent is given, the item will be referred. If neither consent is given, the decision will be implemented.”

2.0 UPDATES & ADVICE

2.01 During the intervening period since 17th February meeting,

- (1) The Applicant has lodged an Appeal with the Planning Inspectorate;
- (2) Although not relevant to the reason for refusal, the Applicant has provided further evidence as to the traffic impacts on the road network to 2024; and
- (3) Officers have sought Counsel’s advice on the proposed ground of refusal and the associated risk of costs at appeal. Instructions to Counsel together with Counsel’s full advice (which pre-dates the appeal being lodged) are attached as an **Exempt Appendix** to this report.

New Appeal

2.02 On 10th March the applicant submitted an Appeal to the Planning Inspectorate (PINS) on the grounds of ‘non-determination’ of the application following expiry of the agreed determination date of 25th February. The applicant has requested a Public Inquiry and officers have advised PINS they consider this procedure is appropriate given the level of local interest. PINS have advised that, subject to validation, the appeal will follow this procedure but at the time of publishing this report, no ‘start date’ for the appeal has been given by PINS.

2.03 This means the decision on this application now lies with PINS and not the Council. The decision now made by Committee will be to inform PINS what decision the Council ‘would have’ made and therefore what position MBC will take at the Appeal. It remains the case that any refusal must be defended by the Council at the Appeal.

Additional Transport Evidence

2.04 As outlined at paragraph 6.09 of the original committee report, the application is supported by traffic modelling in 2023 when the occupation of 100 houses is predicted at the end of that year. The applicant has now submitted additional traffic modelling up to 2024 and states,

“We are still of the view that the 100 occupation forecast by the end of 2023 is appropriate and robust but want this to be part of the application documents for completeness, should the application/appeal process stretch on further than current timescales.”

2.05 This forecasts that the WS/DD junction would still remain within capacity in 2024 and KCC Highways have been consulted, agree with the evidence, and maintain their position of raising no objections. This does not affect the grounds for refusal proposed by Members as they relate to highway safety and not traffic congestion. However, if Members decide that they would have approved permission, within this, condition 30 should be amended to remove

reference to 31st December 2023 and just have a trigger point of '100 occupations'.

Advice

2.06 As outlined in the original committee report at paragraph 6.07, the Planning Inspector's explanation for the condition being set at 'slab level' when asked in relation to this current application is as follows (*my emphasis*):

"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."*

2.07 The key issue in determining this Section 73 application is therefore whether new material has come to light which justifies a different view to that of the Planning Inspector as to the safety implications of construction traffic upon the highway network prior to the highway improvements coming forward.

2.08 The applicant has provided new material/evidence relating to the additional traffic impact within their application and their view on the impact of construction traffic in their Transport Technical Note (June 2020 paragraphs 1.3.1 and 1.3.2) as follows:

"...the sole purpose of the WS/DD signalisation scheme is to mitigate the impact of the additional vehicle, pedestrian and cycle trips arising from the permanent development, rather than its construction phase. The existing junction layout is of a sufficient standard to safely and efficiently accommodate larger vehicle turning movements, and indeed already does so on a regular basis (being on a high-frequency bus route, for example).

Construction traffic will be low-intensity and scheduled outside of the network peak hours wherever possible, as confirmed in the submitted Construction Environmental Management Plan (April 2021)."

and in their Technical Note (October 2021 paragraph 1.6.6) as follows:

"The Construction and Environmental Management Plan confirms that construction vehicles will be timed to arrive and depart the site outside of the network peak hours. Moreover, it is noted that the WS/DD junction is currently accessed by buses, refuse and delivery vehicles on a daily basis and as such is safe and suitable to accommodate these larger vehicle types."

2.09 KCC Highways have assessed this new material/evidence and in relation to highway safety impacts from construction traffic and from up to 100 houses (which is the grounds for refusal) advise that (*my emphasis*),

"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.***

2.10 Therefore, new material/evidence has been provided by the applicant which was not before the Planning Inspector at the original Appeal, and the advice on this new material/evidence from the qualified expert highways officers at KCC is:

- There is no evidence that construction traffic would adversely impact upon highway safety in advance of the WS/DD highway improvements coming forward.
- The proposal (to move the condition trigger point) would not result in a severe residual impact upon the highway network (congestion).
- By implication, the proposed change to condition 30 would not result in a development which is contrary to the NPPF and/or the Local Plan.

Proposed Reason for Refusal

2.11 In considering the ground of refusal it is important that Members are reminded of the need to give full, clear, and precise reasons and refer to all relevant Development Plan policies. Whilst they may be briefly stated, the courts have stated that the reasons must be "proper, adequate and intelligible" particularly in controversial cases where they disagree with an officer's recommendation.

2.12 In terms of the guidance on the award of costs at appeal, Paragraph: 028 Reference ID: 16-028-20140306 of National Planning Practice Guidance states (*my emphasis*):

"The aim of the costs regime is to [inter alia]:

- *encourage local planning authorities to properly exercise their development management responsibilities, **to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case**, not to add to development costs through avoidable delay, ..."*

2.13 Paragraph 049 Reference ID: 16-049-20140306 states.

"What type of behaviour may give rise to a substantive award against a local planning authority?

Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.*
- **failure to produce evidence to substantiate each reason for refusal on appeal**
- **vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.**

(This list is not exhaustive.)"

2.14 It is therefore necessary to consider:

- Whether there is evidence to substantiate the proposed reason for refusal; and
- Whether the proposed reason for refusal is supported by objective analysis or whether it would be likely to be categorised as 'vague, generalised assertions' about the proposals impact.

2.15 In respect of the ground that the change to condition 30 would, "*result in unacceptable and severe impacts upon highway safety conditions for pedestrian and cyclists crossing the existing junction, as considered by the Appeal Planning Inspector*", officers advise that the ground does not identify any specific reasons why construction vehicles will give rise to unacceptable risks to safety. There is also no evidence, such as accident data, to counter the points made by KCC officers relating to the standard of the junction, the layout of the junction, that large vehicles (buses) already use the route without safety implications, the good personal injury collision record, and the absence of layout or geometry contributing to the accidents which have occurred.

2.16 In short, it is advised that the ground does not offer a specific explanation backed up with evidence as to why the junction will become unsafe for pedestrians and cyclists from the addition of construction traffic.

- 2.17 In respect of the assertion that, "*The junction is very well used by pedestrians and cyclists providing a link between major residential areas and Mote Park on national Cycle Route 17*", officers advise that this must be backed up by evidence such as walking/cycling surveys of the WS/DD junction to show it is well-used by pedestrian and cyclists, and this would need to be outside network peak hours (8am-9/5pm-6) because the approved construction management plan requires construction/delivery vehicles are timed to arrive and depart outside these hours. The Council does not have this specific evidence, and so officers advise that this is also likely to be viewed as a 'generalised assertion'.
- 2.18 It is advised that the reference to the Appeal Inspector within the grounds of refusal cannot be relied upon as the material/evidence presented by the applicant and accepted by KCC Highways for this new application was not before him. As the Inspector did not have any evidence of the impact of construction traffic beyond slab level or from 100 units before him, or the updated material/evidence relating to highway safety, it would be unreasonable to rely upon the Inspector's previous conclusions relating to highway safety.

3.0 CONCLUSION

- 3.01 Officers advise that the proposed reason for refusal does not provide a rational basis for refusing the section 73 application and could not be sustained at the appeal. Since the proposed reason for refusal could not be sustained and the circumstances fall within those the NPPG identifies as meriting an award of costs against a local planning authority, it is likely that a refusal based on the proposed ground would not be successful at the Appeal and would result in an award of significant costs against the Council for unreasonable behaviour.
- 3.02 The Appeal is likely to proceed under the Public Inquiry procedure and the applicant would have legal representation, and present expert highways and planning evidence to rebut any case presented by the Council. In the opinion of officers, the costs implications of this will exceed the £50,000 threshold for 'significant' costs within the Council's Constitution.
- 3.03 Given their consultation responses, KCC would not be able to support the local planning authority at the Appeal so the Council would need to appoint an external highways consultant to defend any refusal. Whilst unknown at this stage, Members must be aware there is a possible scenario whereby the Council may not be able to secure a qualified highways witness willing to defend the ground of refusal.
- 3.04 For the reasons outline above, our advice is that the Committee should reconsider its position in relation to this application and advise the Planning Inspectorate that they 'would have' approved permission as set out in the original committee report subject to the change to condition 30 in the terms set out at paragraph 2.05.
- 3.05 Notwithstanding this advice, should Members continue with the ground for refusal it is recommended that the following amendments are made:

- Remove reference to the Appeal Inspector for the reasons outlined at paragraph 2.18.
- Remove reference to the traffic impact from 100 dwellings as the 'slab level' trigger was only applied in relation to safety implications from construction traffic; and correct to Cycle Route 177 (not 17).

The ground for refusal would therefore read:

*The impact of construction traffic ~~and from 100 dwellings~~, in advance of the approved Willington Street/Deringwood Drive junction improvement, would result in unacceptable and severe impacts upon highway safety conditions for pedestrians and cyclists crossing the existing junction, ~~as considered by the Appeal Planning Inspector~~. The junction is very well used by pedestrians and cyclists providing a link between major residential areas and Mote Park on national Cycle Route **177**. This would be contrary to policy DM21 of the Maidstone Borough Local Plan (2017), policies ST1 and ST2 of the Otham Parish Neighbourhood Plan (2020-2035), and Paragraphs 110 and 111 of the National Planning Policy Framework.*

3.06 Members are reminded that they are required to give reasons for their decision. As outlined above, the reasons must be "proper, adequate and intelligible" and can be briefly stated.

Case Officer: Richard Timms

Agenda Item 20



Ordnance Survey - data derived from OS Premium

REFERENCE NO - 21/506208/FULL		
APPLICATION PROPOSAL Erection of 39 no. units for assisted living (Class C2) as Phase 3 of Ledian Gardens continuing care retirement community development with associated substation and ancillary buildings, open space, landscaping, parking and vehicular access via Phase 1 with additional 8 off-street parking spaces for Upper Street residents		
ADDRESS Ledian Farm Upper Street Leeds Kent ME17 1RZ		
RECOMMENDATION Approve subject to S106		
SUMMARY OF REASONS FOR RECOMMENDATION The specific location of the site adjoining the village of Leeds and the existing Care Village at Ledian Gardens and landscaped boundaries means that the development would only have a relatively limited harm to the short range views the site and there is limited harm to the character and appearance of the countryside in terms of Policy SP17. The services and minibus transport offered in the draft legal agreement would be adequate to make the development sufficiently environmentally sustainable notwithstanding the non-compliance with policy SS1 of the MBLP. Moreover, there are potential gains for the sustainability of the village due to facilities being provided for use by the local community. There is a current deficit in supply of Extra Care units in the Borough against a backdrop of growing need and this outweighs the harm from the breach of policies SP17 and SS1. Whilst there is harm to heritage assets as per policy DM4 of the MBLP, there is clear and convincing justification, and it is less than substantial harm in both respects. There is a significant public benefit of the provision of supported housing for the elderly and some affordable housing that weighs in favour of the development proposed. There are no other concerns with the scheme that cannot be dealt with by the legal agreement or appropriate planning conditions.		
REASON FOR REFERRAL TO COMMITTEE The development does not accord with the Development Plan.		
WARD Leeds	PARISH/TOWN COUNCIL Leeds	APPLICANT Senior Living (Ledian Farm) Ltd AGENT DHA Planning
CASE OFFICER: Marion Geary	VALIDATION DATE: 21.12.2021	DECISION DUE DATE: 10.06.2022
ADVERTISED AS A DEPARTURE: YES		

Relevant Planning History

20/502746/NMAMD Non Material Amendment for alteration to description of development to amend the description of development to include confirmation that the approved proposals relate to two C2 Assisted Living Units as per the approved plans subject to 19/504579/FULL.
Approved 10.08.2020

19/506387/FULL
Erection of 44no. Assisted Living Units (Class C2) with associated parking and landscaping (Amendment to outline permission MA/12/2046 and Reserved Matters consent MA/17/501933/REM)
Approved 28.04.2020

19/504579/FULL Demolition of existing Bay Tree Cottage and the erection of a replacement C2 Assisted Living Unit (with intervening temporary use for car parking associated with adjacent care village marketing suite).
Approved 16.12.2019.

17/501933/REM
Approval of Reserved Matters for the erection of 38 Assisted Living Units following Hybrid application MA/12/2046 (Landscaping, Layout, Scale and Appearance being sought).
Approved 27.07.2017

18/503361/FULL
Section 73 application (MMA) to amend approved plans condition of Hybrid planning application MA/12/2046 (as amended by MA/17/500896/NMAMD) for the redevelopment of Ledian Farm to provide a Continuing Care Retirement Community scheme (C2 Use Class) amending the unit types and adding a wellness suite/swimming pool extension to north elevation and minor elevational changes including ridge height changes
Approved 22.11.2018

12/2046
Hybrid planning application for the redevelopment of Ledian Farm to provide a Continuing Care Retirement Community scheme (C2 Use Class) Detailed planning application for the demolition of existing buildings and erection of 16 Assisted Living Units, conversion of Ledian Oast to form 2 Assisted Living Units, erection of Village Centre building comprising 36 Care Bedrooms, 25 Close Care Units, 16 Assisted Living Units, Wellness centre, ancillary shop (open to the public), restaurant, cafe, bar, library, craft room, laundry, kitchen and administration areas, with alteration to existing access and creation of new pedestrian and vehicular accesses to Upper Street, access roads, parking and landscaping. Outline application with access to be determined and all other matters reserved for future consideration for the erection of 38 Assisted Living Units.
Approved 16.04.2014

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is in the countryside and includes part of the existing Care Village of which phase 1 is due to open at the end of May 2022 and phase 2 is expected to commence in November 2022.
- 1.02 The 1.7ha site measures approx. 94m deep by 190m wide. It slopes down from southwest to north east, dropping 4.1m over 210m.
- 1.03 It is grazed pasture with boundaries of a low stock and mesh fence to the east (rear garden boundaries of the Upper Street Conservation Area). To the north is private land belonging to a Grade II listed property- Tower House with trees within its boundary. To the west is the long rear garden of Tower House. To the south is the northern boundary of Phases 1 and 2 of the continuing care retirement community, the "Care Village" called Ledian Gardens. The latter will total 116 units in C2 Extra Care use.
- 1.04 To the south of Phases 1 and 2 is a Public Footpath KH245, some 90m away from the main part of the application site. . It lies in Flood Zone 1 and is in an Area of Potential Archaeological Importance. In the Regulation 19 Local Plan Review, the site lies in the Leeds-Langley Relief Road safeguarding area.

2. PROPOSAL

- 2.01 The application is the subject of a Planning Performance Agreement and has been the subject of Member meetings.
- 2.02 When the Ledian Gardens development was approved by Committee in 2013, Phase 1 was in the village confines of Leeds under the MBLP 2000. However, Phase 2 was in the countryside and justification for supporting the scheme was based on general need, jobs, facilities and high quality design (being of 'Kentish vernacular').
- 2.03 The current application is to add 39 Assisted Living Care units (for rent or sale). It will share vehicular access and communal facilities (the Village Core) of Phase 1 which is nearing completion. There would be 24/7 staff presence on site providing safety and security to residents. Up to 20 and 25 staff are likely to be on-site at any one time during peak periods.
- 2.04 A courtyard of 8 parking spaces is also to be provided for use by residents of Upper Street with vehicular access through Phase 1 and pedestrian access control to their rear gardens. These are in the SW corner of the site and intended to be under the passive surveillance of the Care units in the converted oast in Phase 1.
- 2.05 The mix of units is 2 x 3-bed units; 25x 2-bed units and 12 x 1-bed units in Class C2 (the provision of care for those in need of care). The primary occupants have Care needs assessed and must sign up to a minimum package of care. They are fully self-contained which some older people will strongly prefer and where an individual within a couple has greater care needs than the other, this can be better provided for in an Extra Care unit. The applicants advise that over 60% of their properties tend to be single occupiers, with the remainder being couples. Whilst being older is not a requirement per se for C2 use, Ledian Gardens will require the primary occupant to be at least 65..
- 2.06 Whilst not a policy requirement, 4 affordable units are being offered which will be 80% of market sale or rent: these are likely to be 1-bed units.
- 2.07 The design will reflect that of Phases 1 and 2 with a vernacular appearance including timber joinery, stock facing bricks, clay roof and hanging tiles, boarding on all units and areas of ragstone plinths and sections of ragstone boundary walling on the outer edges of the proposal (ie. on approximately half the units). The majority will be two storeys (generally lower than the buildings on phase 1) and there will be single storey and chalet style buildings at the peripheries, ie there will be a gradual reduction in bulk. Finished floor levels will correspond with the natural ground levels as far as practicable.
- 2.08 The development would remove 2 Field Maples and a short section of an overgrown hedgerow. The landscape strategy with extensive new planting will set the buildings away from the north-western boundary by 19m, from all of the northern boundary by 13m and from the eastern boundary by a 48m wide buffer, the latter to be informally landscaped as wood pasture. Mounds are shown along the boundary but these are out of character so would not be expected to be in the detailed landscaping scheme.
- 2.09 The wide buffer is aimed to provide both distance and a landscaped screen for the development from impacting harmfully on the setting of the Conservation Area (CA) of Upper Street and listed buildings within it.
- 2.10 The Care Unit proposed nearest to the listed building of Tower House to the NW of the application site is 1.5 storeys and would be over 50m from the listed building of Tower House itself.
- 2.11 A draft legal agreement has been submitted which includes the following:
 - Criteria for C2 use

- Qualifying person to be 65 or over
- Communal Facilities being provided: hair salon, meeting space, shop, café, restaurant and open space. Access will be free for the wider community in principle.
- Wellbeing facilities (swimming pool, gym and fitness studio) also to be used by the local community, subject to qualifying criteria and membership and being 55 or over (under-55s at discretion) (estimated monthly charge of £55 with some classes “pay as you go”).
- Minibus(es) for residents/carers and a booking system (electronic) allowing for local community patronage if there is spare capacity, if 60 or over, has their only or principal home in the Local Area; is a Wellness Member or has personal mobility difficulties, or does not have access to their own transport.
- Community access to open space and landscaped areas
- No future built form within the proposed landscape buffer
- NHS contributions

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017 SS1, SP17, DM1, DM2, DM3, DM4, DM14, DM21, DM23, DM30
Kent Minerals and Waste Local Plan 2013-30 as amended by Early Partial Review (2020)
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Regulation 19 Local Plan Review: LPRSP5(A); LPRSP8; LPRSP9; LPRHOU7

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 23 representations received from local residents
- 4.02 1 letter of support: Village need development to support a village shop and the long overdue by-pass.
- 4.03 The 22 objections are summarised as follows:
- Countryside/greenfield site outside the village
 - Did not form part of the original masterplan for the development considered in outline form in 2009: 'phased' approach to this development has been misleading
 - Departure from the adopted Local Plan and contrary to Local Plan Review.
 - Leeds Village is not as an area for growth due to lack of services and facilities and poor existing public transport
 - Large deviation from development envelope of the village.
 - phases 1 and 2 dominate historic core of the village skyline, dwarf existing properties and changed the character of the village.
 - large bulky dwellings and residential paraphernalia
 - Close to a conservation area and listed buildings
 - Contrary to Landscape character guidelines
 - There is no demand for extra care, especially in Leeds area.

- Phases 1 and 2 are struggling to sell, unaffordable for locals
- Harm to wildlife, inadequate ecology surveys
- Carers visiting means more cars
- Extra traffic on Upper Street already suffering congestion, altercations between drivers and damage to property due to regular accidents.
- Vehicle damage not reported as it is impossible to find the culprits.
- Refuse lorries/emergency vehicles cannot get through the village
- Inadequate parking provision
- Bypass is needed
- Traffic lights needed on Upper Street.
- The traffic management plan and parking levels of Phase 1 & 2 remains untested.
- Most people of retirement age continue to drive.
- A few parking spaces offered to a fraction of the houses on Upper Street will not alleviate existing issues
- until Phase 1 and 2 facilities are in place, it is impossible to determine the overall impact on the Village and its residents
- proposers cannot be trusted to stick to their plans re shop and to gym facilities
- Loss of outlook
- Overlooking, noise, disturbance
- May encourage further development outside the historic village envelope
- GP cannot cope with more patients
- No economic benefit the surrounding community
- For financial gain only
- Appeal cases cited are more urban areas
- Security risk
- Current construction has caused problems including damage to the utilities and services
- No benefit being offered to the village itself
- No travel plan included
- Timing of the application just before Christmas feels calculated and cynical
- Covid restrictions minimising public meetings and opportunity to oppose
- Might impede on Leeds Langley Safeguarding Area

Issues in regard of timing of the application, Covid restrictions and the development being for financial gain are not material planning considerations and therefore cannot be taken into account in the determination of this application. The other matters raised by neighbours and other objectors are discussed in the detailed assessment below.

5. CONSULTATIONS

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

Parish Council

- 5.01 No objections subject to age 65 and over; proper transport service is required; parking needs to cover residents, visitors, and staff, especially as some of the spaces in Phase 1 have been lost due to the access road. Leeds Parish Council would like to be consulted on the how the construction work for Phase 3 would be carried out, all construction vehicles should access the site via Phase 1 and 2.

NHS

- 5.02 No objections subject to £26,064 required towards refurbishment, reconfiguration and/or extension of Langley, Bearsted, Sutton Valence Group Practice, Mote, The Medical Centre Group and/or Len Valley Practice and/or towards new general practice premises development in the area.

Southern Water

- 5.03 The site includes an existing public foul sewer. The exact position of the public apparatus must be determined on site by the applicant. It might be possible to divert the sewer, so long as this would result in no unacceptable loss of hydraulic capacity

Historic England

- 5.04 No comments

KCC Archaeology

- 5.05 No objection subject to archaeological field evaluation works condition.

MBC Conservation Officer

- 5.06 No objections: The effect on views into the conservation area will be very limited and are already affected by earlier phases. Overall minimal effect on the character of the conservation area at the lower end of less than substantial harm.
- 5.07 Views of Tower House will be interrupted and will erode its setting as a semi-rural property. Views out from Tower House and Tower House Cottage will no longer be a rural landscape. However, there is stepping down of the heights and reduced density of buildings close to the affected boundary and landscaping on key boundaries. Overall, the harm is less than substantial.
- 5.08 There is a significant public benefit provided (the provision of much needed supported housing for the elderly) and tips the balance in favour of an approval.

KCC Biodiversity

- 5.09 No objections: If the boundary vegetation is retained, the majority of the landscaping consists of native species and the area to the east is established as 'wood pasture, orchard and wildflower grassland', biodiversity net-gain can likely be achieved. Suggest a 'Landscape and Ecological Management Plan' is submitted. Condition needed on sensitive lighting design for biodiversity

KCC Highways

- 5.10 No objections: Acceptable Access priority junction from Upper Street. A minibus is available to take residents to local service centres, which mitigate the requirement for car use, plus the development has many leisure amenities on the site. Visitor parking is available for relatives to use.
- 5.11 CrashMap does not show any issues with personal injury collisions on the highway network.

- 5.12 42 larger configuration spaces are proposed for phase 3, with 4 spaces ready for Electric Vehicle Charging Points. Cycle store will be provided, as well as integrated scooter charging points.

MBC Landscape Officer

- 5.13 The submitted LVIA is an addendum to the original site Landscape Statement and the principles appear acceptable. The buildings are set in a relatively open green landscape bordered by wood pasture. The outline schedule of soft landscape materials includes strategic information, but landscape conditions will be required.
- 5.14 Concerns about the quantity of ornamental planting shown - where ornamental planting is necessary, it should be attractive to pollinators; not in favour of 'garden-style ornamental' planting to the SuDs rain gardens; mounding is not in keeping with local landscape character should not be used to screen the development from properties on Upper Street.

KCC PROW

- 5.15 No objection but Public Rights of Way KH245 footpath should have an upgraded surface as there will be more use with the extra residents.

KCC (Flood & Water Management)

- 5.16 No objections: The Drainage Strategy would primarily compose of soakaways and attenuation basins that would attenuate and allow for infiltration into the underlying geology. Condition needed on further infiltration testing.

Kent Police

- 5.17 The DAS addresses some of our previous comments. A number of issues still need to be addressed. We welcome a discussion with the applicant/agent about site specific designing out crime.

Environmental Protection

- 5.18 No objections subject to suggested conditions on contamination, lighting, EV charging

6. APPRAISAL

Main Issues

- 6.01 The key issues for consideration relate to:

- Countryside Location
- Sustainability
- Need
- Heritage Assets
- Highways and Parking

Countryside Location

- 6.02 Paragraph 170 of the NPPF recognises the intrinsic character and beauty of the countryside. The site and the village of Leeds lie in the countryside and Policy SP17 applies: development must accord with other policies in the plan and not result in harm to the character and appearance of the area.

- 6.03 The proposal would breach SP17 as it will inevitably erode the openness of the countryside and cause unacceptable visual harm to the character and appearance of the area by virtue of the direct loss of green fields in open countryside. The openness and undeveloped nature of the area would be eradicated.
- 6.04 However, the impact on mid and long-range views of the development are more minimal owing to screening by mature planting on the northern and western boundaries curtailing those more distant viewpoints from the wider open countryside. The majority of the eastern boundary is screened from public areas of Leeds village due to the line of properties in Upper Street. There will be short-range glimpses of the Phase 3 development from the south-east corner where a driveway from Upper Street would allow a view of part of it. Visibility of the site from the southern boundary is reduced by the earlier phases of Ledian Gardens itself. The earlier phases of Ledian Gardens also screen the development from the nearest Public Right of Way in the vicinity.
- 6.05 The specific location of the site with the village of Leeds and neighbouring Ledian Gardens means that the development of the application site has a relatively limited harm on the character and appearance of the wider countryside. The main visual impact is on the private neighbouring gardens of Upper Street and Tower House.
- 6.06 It is the case that the development is at depth and expands the village envelope beyond the historic ribbon development. However, that has already occurred by the grant of planning permission for Phase 2 and phase 3 goes no further west than Phase 2 will. Phase 3 is proposed at a much lower density and height and scale than the earlier phases.
- 6.07 Therefore Policy SP17 is breached and the proposal would not comply with the Development Plan as required by section 38(6) of the Planning and Compulsory Purchase Act 2004. However, analysis of the degree of harm to the landscape and to the character and appearance of the countryside is relatively restricted and potentially could be outweighed by other material considerations as discussed below.

Sustainability

- 6.08 This is an extension to an existing care village complex so development in this location has already been accepted.
- 6.09 The spatial hierarchy Policy SS1 of the MBLP requires new development to be delivered at the most sustainable towns and villages where employment, key services and facilities, together with a range of transport choices are available. New residential development in the countryside should be considered sequentially after the defined urban area, then rural service centres and larger villages.
- 6.10 Policy DM14 refers to Nursing and Care homes rather than Extra Care but it does not support C2 in principle in the countryside, instead directing the use to the identified main settlements which have the best levels of accessibility, being places of work as well as residences.
- 6.11 Leeds is not a settlement in the hierarchy and is clearly not a sustainable settlement due to the lack of services and limited public transport by which staff could travel to work and residents could visit local services elsewhere. This stance is continued in the Regulation 19 LPR which has not accepted any promoted development in Leeds due to its lack of locational sustainability.

- 6.12 The lack of sustainability would have also applied to the earlier phases of Ledian Gardens which was permitted in 2014. The facilities within that phase secured by legal agreement would have provided some on-site services (café, hair salon, shop, gym, community and craft rooms, Open Space) and a minibus service to Maidstone and supermarkets. These would continue to be offered but are intended to be expanded and refined in the draft legal agreement submitted by the applicant as detailed above. The offer of these facilities is a recognition that without such provision, accessibility/sustainability would be a harm in the planning balance.
- 6.13 The measures offered in the draft legal agreement are adequate to make the development sufficiently environmentally sustainable notwithstanding the non-compliance with policy SS1 of the MBLP and the spirit of policy DM14. Moreover, by the applicant being agreeable to allowing more of the communal facilities and Village Transport Service for non-residents, there are potential gains for the sustainability of existing Leeds villagers.

Need

- 6.14 The NPPF requires that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies, including for older people and people with disabilities whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs. The need for specialist accommodation for the elderly is recognised to be growing. The NPPG states that the “need to provide housing for older people is critical”.
- 6.15 The NPPF **encourages** but does not require LPAs to allocate land for C2 development and this is reflected in the policy context in the adopted MBLP which does not allocate land for C2 use with an expectation that they will arise from speculative applications/windfalls that comply with all other policies in the local plan.
- 6.16 County-wide C2 need is in KCC’s Adult Social Care Commissioning Market Position Statement 2021-2026. Demand for older person’s residential and nursing care has been falling steadily since 2016, both in Kent and nationally and there has recently been a much greater emphasis on (self-contained) extra care housing being an alternative to (communal) residential care for a proportion of older people. KCC expect to see a future increase in demand for all forms of C2 Care with population increases and people living longer with more complex health conditions.
- 6.17 6.17 The Strategic Housing Market Assessment (SHMA) 2021 Update is a key material consideration and a care village is classified as ‘extra care’. It indicates a Borough requirement of 803 Extra Care/Assisted Living units over the 18 year period 2019-2037 which would average at 45 pa. There was a good record of supply of this type of C2 prior to 2019 (eg Audley House at Mote Park and Thomas Place near the new KCC Library). From analysis of previous development, relatively large numbers of units have been provided intermittently on relatively few sites.
- 6.18 There is no national or local policy requirement that the C2 supply over time must be broadly equivalent to the annual average or that there needs to be the equivalent of a “5-year supply” in the same way as conventional housing. However, there is a current undersupply adding completions and pipeline supply: there are likely to be 140 units from April 2019 to the end of March 2023 (24 units at Boughton Monchelsea and 116 units at Ledian Gardens) against a cumulative need over that period of 223. Hence the undersupply in this 5 year period is in the region of 83 units. Beyond this time frame I am not aware of any allocations nor extant permissions.

- 6.19 Draft LPR policy LPRHOU7 (to which main Modifications more accurately break down the quantity of need by type of facility) would allow C2 uses outside but adjoining settlements in principle. If the policy were to progress through to adoption, then more windfall sites would be likely and this would increase the rate of meeting the overall target in the latter part of the period. However, at the current point in time and in the current policy context, there is a deficit in supply against a backdrop of growing need in the context of national planning policy that requires a positive approach to older persons' housing need in the light of the overall social and housing benefits that arise. Much weight is attached by inspectors to need at appeal.
- 6.20 Notwithstanding the above, the applicant is aware of the policy expectation that C2 uses should be located within the settlement boundaries and according with the spatial distribution of Policy SS1. They have responded:
- An extension to an existing facility must be in Leeds
 - 39 units would not be viable or deliverable in isolation
 - Overall need will require a number of unallocated sites providing a range of accommodation types
 - No suitable, available and deliverable sites were identified in Headcorn, Staplehurst, Coxheath, Maidstone, Thurnham, Harrietsham, Detling or Lordswood.
 - No sites according with SS1 have been put forward through the Local Plan Review or Call for Sites exercise
 - The lack of LPR allocations indicates that the Council has been unable to identify better alternatives.
- 6.21 The applicant also refers to their competitive disadvantage for land purchase in settlement compared to conventional housebuilders from:
- a lower amount of saleable space
 - Large sites necessary to be financially viable
 - extra care units are larger, bespoke designs
 - Extra Care villages require higher service charges
 - Higher construction costs
 - Void costs
- 6.22 The applicant's own commissioned Needs Assessment claims a shortfall greater by an extra 50%.
- 6.23 Icenis are experienced in the field of SHMAs for the Borough and I am satisfied that they have robustly assessed the C2 need and are aware of home ownership rates in Maidstone. Icenis do recommend that "housing with care" need should be treated as a minimum and not as a definitive assessment or an upper cap.
- 6.24 There is a current and clear C2 need and weight should be given to that as a material planning consideration. In this specific case, the breach of policy SP17 is relatively limited and that the site can be made acceptably sustainable despite its location not according with policy SS1.
- 6.25 A benefit of this particular scheme is that by being a third phase, the buildings in an area of restraint would fully contribute to helping to meet the C2 need as there is no necessity for any communal buildings on the application site as would be the case if this were a standalone C2 use.

Heritage Assets

- 6.26 The NPPF requires identification and assessment of the particular significance of any heritage asset and its setting affected by development. There should be avoidance or minimisation of any conflict between conservation and the proposal. It goes on to say that great weight should be given to the asset's conservation relative to its importance in regard of all levels of harm and any harm from development within its setting should require clear and convincing justification. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this should be weighed against the public benefits of the proposal.
- 6.27 One of the heritage assets potentially affected is the middle western section of the Upper Street Conservation Area which is a large CA which spans both sides of Upper Street for a north-south distance of 540m overall. The abutment of the application site to the CA is for a distance of 90m along the rear garden boundaries of its western side.
- 6.28 There will clearly be an erosion of the rural context to the CA but the effect of the development on it will be very limited and it is already affected by the 2 earlier phases. It is the rear gardens of a relatively small section of some of the properties in the Conservation Area that are affected, not the principal elevations that front Upper Street itself and are the main contributors to its character and appearance.
- 6.29 The layout of the scheme introduces mitigation of a wide buffer of wood pasture of approx. 48m width along most of the common boundary with the CA which minimises the conflict with conservation although the proposed residents' car park does negate that buffer for the settings of the listed buildings at the Old Post Office and the Oasts south of Tower Cottage. Overall, there is minimal effect on the significance of the Conservation Area, judged to be at the lower end of less than substantial harm.
- 6.30 Other heritage assets affected by the development would be the settings 7 of listed buildings (all Grade II) within the CA and also Tower House to the NW of the site which is listed Grade II. Views of the listed buildings across the application site will be interrupted and the development will erode their settings as semi-rural properties. Views out will no longer be a rural landscape. However, in mitigation there is stepping down of the heights and reduced density of buildings close to the affected boundaries especially the wood pasture buffer to the east and also proposed landscaping on the northern and on most of the western boundaries. Overall, the harm to the significance of all listed buildings is less than substantial.
- 6.31 Therefore whilst there is harm to the significance of heritage assets, it is less than substantial. Furthermore, there is clear and convincing justification. As per the NPPF, there is a significant public benefit provided (the provision of supported housing for the elderly) and I consider that weighs in favour of the development proposed and in accordance with para 202 NPPF, harm identified has been outweighed.

Highways and Parking

- 6.32 Whilst these issues are raised by a considerable number of objectors, KCC Highways concur with the submitted Transport Statement that the development is not of a type that will increase peak traffic flows and they are also satisfied on the parking provision at a rate of 1.04 parking space per unit. All parking will be communal not allocated, which will ensure the most efficient usage and better allow carer staff to be able to park near the residents they are visiting.

- 6.33 Four bays will be provided with 'active' 7KW fast charging facilities. All remaining bays will be developed with 'passive' capabilities.

Other Matters

- 6.34 The distance, intervening landscaping and form of the development means that there are no residential amenity concerns, and the scheme complies with policy DM1 of the MBLP.
- 6.35 The design and materials are acceptable to accord with policies DM1 and DM30 relating to good design and countryside design respectively.
- 6.36 The applicant has agreed to make financial contributions as requested by the NHS as they are not a CIL liable development but would impact on health infrastructure by use of local GP services.
- 6.37 The site falls within the proposed Leeds-Langley safeguarding corridor in the Regulation 19 LPR policy LPRSP5(A) applies. However, the applicants have not provided the masterplan required by that draft policy, saying the location of the site abutting the village on 3 sides means that it is unlikely that this development will hinder or affect the potential future delivery of the road. I accept this argument but it is clearly contrary to this safeguarding policy simply because it is within it. It is not a departure in terms of LPR policy LPRSP5(A) because the LPR does not form the development plan.
- 6.38 In terms of demonstrating they are aimed at meeting downsizing aspirations for older persons in Maidstone and thus releasing local family housing as a cited benefit, the applicant advises that prices are estimated to start (based on Phase 1 sales per sq ft) at £394,953, the most expensive on phase 3 being the 3 bed cottages estimated at £878,384. Four affordable units are being offered (notwithstanding no policy requirement) at 80% (approx. £316,000). The annual service charge is £8000 and care costs are approx. £25 per hour. Wellness centre membership is free for residents.
- 6.39 Some of the objectors refer to slow sales of the existing phase 1 units, claiming there is no local need. However, it must be remembered that the units are not permitted to be conventionally marketed but must be reserved by residents over 65 who also have to demonstrate that they are in need of Care and there is a marketing cascade prioritising local connections. All of these requirements would be expected to slow the rate of reservations. As of May 2022, 25 units within Phase 1 have been reserved which exceeds the company's experience. The site is subject to preferential local marketing and 38% have a Maidstone connection as defined within the s106 agreement and 75% live within 30 miles of the site.
- 6.40 The scheme will meet the requirements of the Future Homes Standard in respect of Fabric performance and overall Carbon Emissions targets; Electric Heat Pumps, provision of infrastructure for Electric Vehicle Charging to all car park spaces. The company do use of solar PV, where possible, without detriment to the development's design standards. The scheme will comply with policy DM2 on sustainable design.
- 6.41 Preliminary Ecological Appraisal carried out by BWB Consulting in September 2018, with an updated survey carried out on 8th June 2020. It concluded no further surveys were recommended with the main development site being improved grassland which did not contain any rare or notable botanical species.
- 6.42 There will be significant Biodiversity Net Gain from new tree planting, retained lowland mixed deciduous woodland and mixed scrub, some permanently wet or damp SuDS, most native hedgerow within the site will be planted and managed. Fence styles will allow for hedgehog corridors. A LEMP can be required by condition.

The scheme will accord with policy DM3 of the MBLP relating to the Natural Environment.

- 6.43 The applicant is amenable to improving the PROW and will liaise with KCC as to the most appropriate mechanism to do so.
- 6.44 The applicant has surveyed the line of the foul sewer and the development layout avoids the need to divert it.
- 6.45 The drainage strategy is geocellular tanks; filter drains; permeable paving; rain gardens; attenuation basins. This can be refined at detailed submission stage to ensure that above ground measures are maximised for aesthetic and ecological benefits.
- 6.46 The draft Regulation 19 LPR has policies LPRSP8 and LPRSP9 which relate to Small Villages and Countryside respectively. Whilst the LPR is a material consideration, the draft policies do not alter the weight to be attached to the current MBLP policies on these same issues.

CIL

- 6.47 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

- 6.48 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 proposal is an extension to an existing care village.
- 7.02 The specific juxtaposition of the application site with the village of Leeds and neighbouring Ledian Gardens means that the development would have a relatively limited harm on the character and appearance of the countryside in terms of Policy SP17.
- 7.03 The services and minibus transport offered in the offered in the draft legal agreement would be adequate to make the development sufficiently environmentally sustainable notwithstanding the non-compliance with policy SS1 of the MBLP. Moreover, there are potential gains for the sustainability of the village due to facilities being provided for use by the local community.
- 7.04 There is a current deficit in supply of Extra Care units in the Borough against a backdrop of growing need and this outweighs the harm from the breach of policies SP17 and SS1.
- 7.05 There is harm to heritage assets, breaching policy DM4 of the MBLP. However, as per the NPPF, there is clear and convincing justification, and it is less than substantial harm in both respects. There is a significant public benefit of the provision of supported housing for the elderly elderly and affordable housing (which is not mandatory for this scheme) that weighs in favour of the development proposed.

- 7.06 There is conflict with the draft LPR in that it is clearly within the safeguarded area for the proposed Leeds/Langley relief road corridor but I attach little weight to this as this is yet to be examined and there is no actual route identified. There are no other material concerns with the scheme that cannot be dealt with by the legal agreement or appropriate planning conditions.

8. RECOMMENDATION

The Head of Planning and Development BE 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 £3060
- Criteria for C2 use by Qualifying person
- Qualifying person to be aged 65 years or over
- Communal Facilities being provided and access by the wider community
- Wellbeing facilities and qualifications for membership by the wider community
- Minibus for residents/carers and qualifications for use by the wider community
- Community access to open space and landscaped areas
- No future built form within the proposed landscape buffer
- NHS contributions £26,064 required towards general practice premises development in the area

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:

303 A Ledian Farm Phase 3 Context Masterplan; 2222_014_Ph3_G Site Location Plan for Phase 3 ; 2714_PH3_117 A Phase 3 Site Sections ; 2714_PH3_119A Phase 3 Block Plan Incl Boundaries ; 2714_PH3_201 Phase 3 Plant Room and Enclosure ; 2714_PH3_202 A Phase 3 Electrical Sub-Station ; 2714_PH3_B11_3110 D Block 11 - Floor Plans ; 2714_PH3_B11_3111 C Block 11 Elevations ; 2714_PH3_B12_3120 D Block 12 - Floor Plans ; 2714_PH3_B12_3121 C Block 12 - Elevations ; 2714_PH3_B13_3130 B Block 13 - Floor Plans ; 2714_PH3_B13_3131 B Block 13 - Elevations ; 2714_PH3_B14_3140 C Block 14 - Floor Plans ; 2714_PH3_B14_3141 D Block 14 Elevations ; 2714_PH3_B15_3150 C Block 15 - Floor Plans ; 2714-PH3-B15-3151 Rev C Block 15 Elevations ; 2714_PH3_B16_3160 C Block 16 - Floor Plans ; 2714-PH3-B16-3161 Rev D Block 16 Elevations; 2714_PH3_B17_3170 A Block 17 - Floor Plans ; 2714-PH3-B17-3171 Rev B Block 17 Elevations; 2714_PH3_B18_3180 E Block 18 - Floor Plans ; 2714_PH3_B18_3181 C Block 18 - Elevations ; 2714_PH3_B19_3190 D Block 19 -

Floor Plans ; 2714_PH3_B19_3191 B Block 19 - Elevations;
2714_PH3_B20_3200 B Block 20 - Floor Plans ; 2714_PH3_B20_3201 B Block
20 - Elevations ; 2714_Ph3_B21_3211 A Block 21 - Elevations;
2714_PH3_B21_3210 C Block 21 - Floor Plans;

Reason: To clarify which plans have been approved.

- 3) Above ground construction work on the approved buildings of the development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials. The submitted details shall include timber joinery, stock bricks, clay roof and hanging tiles, timber boarding and coursed ragstone plinths and sections of ragstone walling to accord with the approved elevation drawings.

Reason: To ensure a satisfactory appearance to the development.

- 4) Prior to the commencement of above ground construction works, full details of the following matters shall be submitted to and approved in writing by the Local Planning Authority:-

a) new external joinery in the form of large scale drawings.

b) details of eaves and roof overhangs in the form of large scale drawings

c) details of balconies, projecting bays and porch canopies

d) details of window headers and cills and door headers

Reason: To ensure an appropriate design and appearance for the development.

- 5) The development hereby approved shall not commence above slab level until sample panels of ragstone demonstrating the colour, texture, bond and pointing of have been constructed on site which shall be approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The sample panels shall be retained on site until development using the relevant material is completed.

Reason: To ensure the quality of the development is maintained.

- 6) The approved details of the parking/turning areas shall be completed before the first occupation of the buildings hereby permitted and all spaces related to the Care Use shall thereafter be kept available for such use on a communal basis. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or any other statutory provision, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

- 7) The development shall not be occupied until 8 secure and covered cycle parking spaces have been provided in accordance with the drawings hereby approved and they shall be retained thereafter.

Reason: In the interests of sustainable travel

- 8) The BREEAM Travel Plan in Appendix D of the Transport Statement hereby approved shall be updated to include Phase 3 as detailed in the Transport

Statement prior to first occupation and shall be implemented thereafter.

Reason: In the interests of sustainable travel.

- 9) Prior to the commencement of works, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved by, the local planning authority. The content of the LEMP will be based on figure 3 of the Biodiversity Net-Gain Assessment letter (Applied Ecology November 2021) and will include the following.
- a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management prescriptions for achieving aims and objectives;
 - e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - f) Details of the body or organisation responsible for implementation of the plan, and;
 - g) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism by which the long- term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Reason: In the interest of long term ecological and landscape enhancement.

- 10) The development hereby approved shall not commence above slab level until details of a scheme for biodiversity net gain of at least 10% 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 integrated methods (such as swift bricks, bat tubes and bee bricks) and through the provision within the site (such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and native hedgerow corridors) and use of hedgehog friendly boundary treatments. The development shall be implemented in accordance with the approved details prior to first occupation and all features shall be retained thereafter.

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

- 11) The development shall not continue above slab level until details of hard landscape works have been submitted to and approved by the local planning authority and the development shall be carried out in accordance with the approved details before the first occupation of the building.

Reason: To ensure a satisfactory appearance to the development

- 12) The development hereby approved shall not commence above slab level until a landscape scheme designed with predominantly native species in accordance with the principles of the Council's landscape character guidance and generally based upon the drawing 1564 L 302 C has been submitted to and approved in writing by the local planning authority. 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, provide details of onsite replacement planting to mitigate any loss of amenity and biodiversity value and include a planting specification, a programme of implementation and a management plan.

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

- 13) The approved landscape details shall be carried out during the first planting season (October to February) following first occupation of the development. 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.

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

- 14) Above ground construction work on the approved buildings shall not commence until, details of all ramps, fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of any of the buildings in Phase 3 and maintained thereafter. These shall reflect the details approved for phase 1 and 2 and all post and rail fencing shall be rivened/cleft type.

Reason: To ensure a satisfactory appearance to the development.

- 15) The development shall be carried out in full accordance with the hereby approved Arboricultural Implications Assessment received on 07 Apr 2022 in relation to tree and hedgerow protection measures and specifically Appendix 3 (Tree Protection Drawing J38.82/07 Rev A) and Appendix 4 (Fencing Specification and Signage).

Reason: to ensure the protection of existing trees as part of the development.

- 16) Development shall not begin 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 contained within the Flood Risk Assessment report (September 2021, Revision P1) and Proposed Drainage Strategy drawing (LF3-BWB-DDG-XX-DR-C-0500- Revision P2) with a maximum incorporation of above ground wet SuDS features such as filter drains, rain gardens and wet attenuation basins. The submission shall also 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 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.

- 17) 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 and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that 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 of the National Planning Policy Framework.
- 18) 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
- 19) The development hereby approved shall not exceed the indicative spot levels and finished floor levels as shown on drawing no. 156_L 305 and the proposed ground levels of the gardens, roadways and car parking areas shall be in accordance with details that have been submitted to and approved in writing by the Local Planning Authority, such submitted details clearly showing existing site levels.
Reason: In order to secure a satisfactory form of development having regard to the topography of the site.
- 20) Prior to the commencement of development the applicant, or their agents or successors in title, will secure:
- (i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - (ii) further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority;
 - (iii) programme of post excavation assessment and publication.
- Reason: To ensure that features of archaeological interest are properly examined, recorded, reported and disseminated.
- 21) Prior to occupation, a lighting design plan for biodiversity should be submitted to and approved by the Local Planning Authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat

activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter. This scheme shall take note of and refer to the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2021 (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The colour temperature of the lighting shall be at the red end of the spectrum. No lighting shall be installed except in accordance with the approved scheme which shall be retained thereafter.
Reason: In the interests of biodiversity and rural amenity.

- 22) The development hereby approved shall not be occupied until at least four bays have been provided with 'active' 7KW fast charging facilities. All remaining bays will be developed with 'passive' capabilities. The electric scooter charging points shall be installed prior to occupation of the building to which they relate. All charging points shall thereafter be retained.
Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles.

- 23) The development shall not commence above slab level until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved have been submitted to and approved by the local planning authority. Measures shall include:

- Details of Heat Pumps
- Provision of solar PV compatible with the character of the scheme.

The approved details shall be installed prior to first occupation and maintained thereafter. Any PV panels that are or become defective shall be replaced as soon as is reasonably practicable.

Reason: In the interests of sustainable and energy efficient form of development

- 24) The internal areas of the development shall conform to Lifetime Homes standards.
Reason: To ensure the development is compatible with its intended care use.

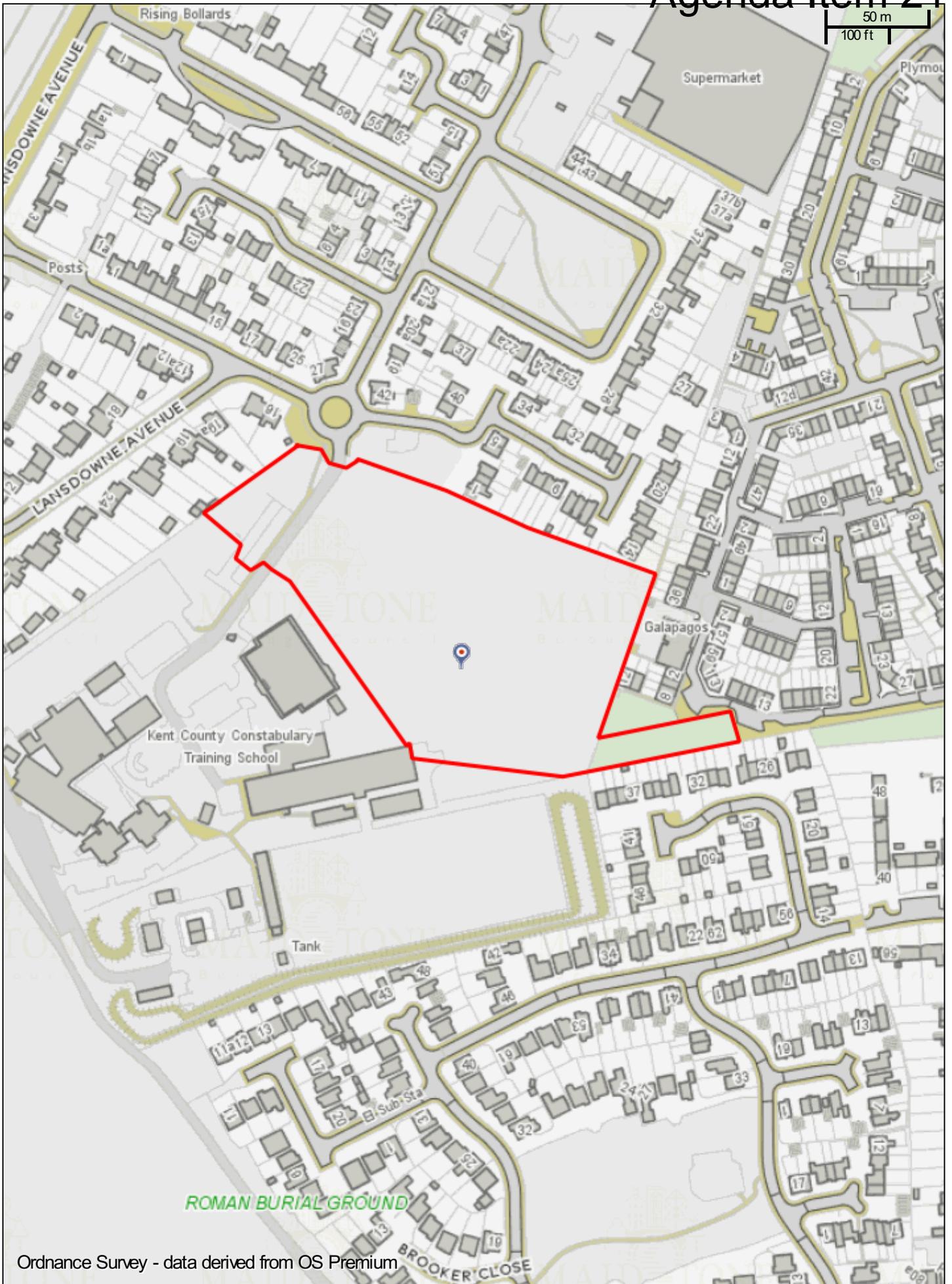
INFORMATIVES

- 1) The landscape details will be expected to minimise non-native ornamental planting and any justified should be attractive to pollinators; the SuDs rain gardens should not have ornamental planting; mounding is not in keeping with local landscape character should not be used to screen the development from properties on Upper Street.
- 2) You are advised that delivery routing for large construction vehicles shall use the existing access for phases 1 and 2 and only via A274 at the junction with The Plough PH then Willington Street to A20.
- 3) You are advised to adhere to a Construction Management Plan as follows:
 - 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.

-Provision of measures to prevent the discharge of surface water onto the highway.

-Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

- 4) You are advised to liaise with Kent Police for Secured by Design advice.
- 5) An approval for the connection to the public foul sewer should be submitted under Section 106 of the Water Industry Act.



Ordnance Survey - data derived from OS Premium

20/501427/OUT Land to rear of Kent Police Training School. Off St Saviours Road, Maidstone

Scale: 1:2500

Printed on: 17/5/2022 at 10:01 AM by JoannaW



REFERENCE NO - 20/501427/OUT		
APPLICATION PROPOSAL Outline planning application for residential development of up to 76 no. dwellings (all matters reserved except access).		
ADDRESS Land To Rear Of Kent Police Training School Off St Saviours Road Maidstone Kent ME15 9DW		
RECOMMENDATION Pending S106		
SUMMARY OF REASONS FOR RECOMMENDATION The draft S106 to be amended to comply with current Government Policy to include the tenure of First Homes.		
REASON FOR REFERRAL TO COMMITTEE Significant changes to the previously Committee resolution regarding Affordable Housing are necessary due a change in Government policy related to requiring First Homes and expiry of the transitional arrangements.		
WARD Park Wood	PARISH/TOWN COUNCIL Boughton Monchelsea	APPLICANT The Police And Crime Commissioner For Kent AGENT DHA Planning
CASE OFFICER: Marion Geary	VALIDATION DATE: 21.04.2020	DECISION DUE DATE: 30.06.2022
ADVERTISED AS A DEPARTURE: NO		

Relevant Planning History

12/0987

Outline application for residential development for up to 90 dwellings with associated development with all matters reserved for future consideration.

Approved 07.04.2017

1. BACKGROUND

1.01 The Planning Committee of 16 December 2021 resolved to grant planning permission for the application subject to the prior completion of a legal agreement, and conditions and informatives.

1.02 For affordable housing, the resolution was simply that 30% affordable housing should be provided in accordance with the broad mix set out in affordable housing policy SP20. However, this did not include any First Homes as required by the National Planning Policy Framework (NPPF) as, at that time, there was a transition period in operation, whereby the First Homes requirements did not apply to the application. However, this transition period has expired and the s106 remains outstanding.

1.03 The previous report and urgent update are appended.

2. DISCUSSION

2.01 The Government's policy requirement for "First Homes" was included in a Written Ministerial Statement that came into force on 28 June 2021. Transitional arrangements allowed for new full or outline planning permissions determined before 28 December 2021 to be exempt and also those determined before 28 March 2022 where there has been significant pre-application engagement.

- 2.02 First Homes are the Government's preferred discounted market tenure and should account for at least 25% of all affordable housing units delivered by developers through planning obligations. The NPPG advises that once a minimum of 25% of First Homes has been accounted for, Social Rent should be delivered in the same percentage as set out in the local plan. The remainder of the affordable housing tenures should be delivered in line with the proportions set out in the local plan policy, with, initially the level of social rent being protected, with the exception that another Government requirement in paragraph 65 of the NPPF is that 10% of the total number of houses in any major development should be "affordable routes to home ownership".
- 2.03 The applicants' solicitors have not yet formally responded to the draft legal agreement and therefore no decision has been issued on or before 27 March 2022 which was the final date of the transitional period. I am of the view that there is now a requirement for the legal agreement to be redrafted to secure First Homes.
- 2.04 The planning permission would be for up to 76 units. If for example, 76 dwellings were proposed at RM stage, this would result in 23 affordable housing units of which:
- First Homes = 6 (25% of 23)
 - Intermediate Rent to Buy or Shared Ownership = 2 (to secure the overall 10% requirement of 8)
 - Social Rent= 15
- 2.05 For this permission, there is no net impact on the number of Social Rent units: under Policy SP20 and applying the 10% rule, the 30:70 requirement would have been:
- Intermediate Rent to Buy or Shared Ownership = 8
 - Social Rent= 15

PUBLIC SECTOR EQUALITY DUTY

- 2.06 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.

RECOMMENDATION

The Head of Planning and Development BE 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 £3060
- Travel Plan Monitoring Fee of £948 ((indexed from 16.12.21)
- £1,434.5 per dwelling (indexed from 16.12.21) towards Open Space at Queen Elizabeth Square play area and/or sport facilities at Pested Bars Open Space, to be spent in liaison with Boughton Monchelsea PC
- 30% of total dwellings (capped at 30% rounded up to nearest whole) secured as affordable housing
- 25% of the affordable housing (rounded up to nearest whole) to be First Homes

- 10% of total dwellings (rounded up to nearest whole) to be provided as affordable routes to home ownership (First Homes/Intermediate Rent to Buy/ Shared Ownership)
- Remainder Affordable Housing Units to be secured as Social Rented Units

AND the imposition of the conditions and informatives as resolved at the Planning Committee of 16 December 2021.

Case Officer: Marion Geary

REFERENCE NO - 20/501427/OUT		
APPLICATION PROPOSAL Outline planning application for residential development of up to 76 no. dwellings (all matters reserved except access).		
ADDRESS Land To Rear Of Kent Police Training School Off St Saviours Road Maidstone Kent ME15 9DW		
RECOMMENDATION Approved subject to conditions and a s106 legal agreement		
SUMMARY OF REASONS FOR RECOMMENDATION The application site is suitable for 76 dwellings at 35 dph as it is located within the urban confines of Maidstone, is allocated for residential development within the Local Plan under Policy H1 (28) and there was a recently expired outline planning permission for 90 units granted in 2017. The sports pitches being lost are not designated for sporting use in planning terms and are not secured for such a use through any agreement (planning or otherwise). The site is not available for use by the general public. This stance is consistent with the position taken when the recently expired outline planning permission was granted. There are limited views of the openness of the site from the public domain and so the visual impact is acceptable. Existing trees can be retained and impact on neighbouring TPO trees can be avoided. The site is sustainably located. There are no objections from KCC (H&T) to the proposal subject to a Travel Plan and s106 contributions to local highway improvements. On site Open Space could serve as semi natural habitat and amenity green space and financial contributions should be sought towards nearby Queen Elizabeth Square play area and Pested Bars Recreation Ground. A legal agreement can secure 30% affordable housing to accord with the SPD. Conditions can be imposed to ensure that matters such as noise mitigation, surface water drainage, ecology, biodiversity net gain, low carbon energy, lighting, air quality mitigation and archaeological interest are adequately dealt with at Reserved Matters Stage.		
REASON FOR REFERRAL TO COMMITTEE There is a significant level of local public interest.		
WARD Park Wood	PARISH/TOWN COUNCIL Boughton Monchelsea	APPLICANT The Police And Crime Commissioner For Kent AGENT DHA Planning
TARGET DECISION DATE 24/12/21		PUBLICITY EXPIRY DATE 29/11/21

Relevant Planning History

12/0987

Outline application for residential development for up to 90 dwellings with associated development with all matters reserved for future consideration.
Approved 07.04.2017

03/0826

Two storey extension to firing range and single storey extension to driver training school, as shown on dwg nos 92502.02, 03, 04 received on 24.04.03.
Approved 02.09.2003

95/0141

Regulation 3 application by KCC for new indoor firearms training range and additional car park. .

No Objection 02.03.1995

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site relates to an area of land approximately 2.2 hectares in area located at the Kent Police Training Centre which is open in nature and has private sports pitch laid out. There are existing trees on the northern and western boundaries and a smaller cluster of trees on the SE boundary.
- 1.02 The site is within the urban area of Maidstone. The site is an allocated site for 90 dwellings in the Maidstone Borough Local Plan H1(28).
- 1.03 There is a row of trees running along the north western and north eastern edges of the site and there are a few trees on the rear boundaries of neighbouring dwellings in Morris Close. There is a group of trees beyond the eastern boundary are covered by TPO 3 of 2008 Group of Trees G2 consisting of 19 Oak and 27 Pine.

2. PROPOSAL

- 2.01 The application is in outline form and for residential development up to 76 dwellings with access detailed but all other matters reserved for future consideration. The application was initially submitted showing an indicative 90 dwellings.
- 2.02 The vehicular access is the existing access road into the Kent Police Training Centre.
- 2.03 Approx 0.167ha of the site (approx. 8%) is indicated to be semi-natural and amenity green space.
- 2.04 The Transport Statement concludes that the site is sustainable and forthcoming highway improvements set to increase capacity and reduce congestion locally.
- 2.05 The agent has indicated that Kent Police are willing to enter into a Section 106 agreement to secure affordable housing (30%) and any justified financial contributions including off site highway works.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017: SP20; H1 (28); DM1, DM3, DM4, DM6, DM8, DM12, DM19, DM21, DM23,
Neighbourhood Plans: Boughton Monchelsea (made July 2021)
PWP 4: Provision for new housing development
RH 4: Housing allocations and phasing
RH 5B: Kent Police Training School
Kent Minerals and Waste Local Plan 2013-30 as amended by Early Partial Review (2020)
Supplementary Planning Documents: Public Art Guidance 2017; Affordable Housing
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Building for Life 12

4. LOCAL REPRESENTATIONS

Local Residents:

4.01 35 representations received from 24 local residents raising the following (summarised) issues

- Traffic
- Impact on highway safety
- Damage, noise and pollution by construction
- Housing in an area where residents will need to commute to work
- Buses unreliable so people will drive
- No local housing need
- Emergency access needed
- Outdated traffic reports
- Parking congestion on local roads
- Headlight nuisance
- Harm to Air Quality
- Adding to problems of inadequate parking due to "minimum" standards
- Overlooking
- Overshadowing including from proposed tree planting
- Flats and coach housing would be out of keeping
- Sewers cannot cope
- Loss of security/increased crime
- Noise, smells and activity.
- Loss of open view
- Anti-social behaviour
- Affordable housing could become unsightly and neglected.
- Tree loss
- Harm to wildlife habitat
- Density
- Local GPs, dentist and schools are oversubscribed
- Lack of play areas
- Noise bund needed for noise protection and enhance and connect the nature corridors around the Kent Police College
- Will prevent access to Training Centre by helicopters due to CAA regulations
- Loss of area for Police to get fit
- Will undermine the Training school's security
- Police should not be spending money making planning applications including ones that are not fully truthful
- Some residents were unaware of the previous planning permission.

1 letter of support to revised scheme:

- Prefer 2 storey properties moved away from our boundary, happier that the acoustic barriers will be used and the tree line will be thinned out and looked after instead of being overgrown and unkept by the police training college.

- 4.02 Issues such as Training Centre operational impact; financial motive of the Kent Police Estates in seeking planning permission; loss of open view; damage, noise and pollution by construction; that affordable housing could become unsightly and neglected are not material planning considerations and therefore cannot be taken into account in the determination of this application. The other matters raised by neighbours and other objectors are discussed in the detailed assessment below.

5. CONSULTATIONS

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

Boughton Monchelsea Parish Council:

- 5.01 Due to outline planning permission no objections but the development must have good space and density standards; renewable energy sources; EV charging points; exclusively native planting within any landscape plan; provision of swift and bee bricks, bat and bird boxes; wildlife friendly boundaries
- 5.02 Need control over routes and timings for construction traffic and measures to minimise noise and disturbance to existing residents. The vehicular gate at the corner of Pested Bars Road should be permanently closed to prevent inappropriate and unsafe use of the network of local country lanes.

KCC Highways

- 5.03 Initial Comments: No concerns on the access, or sustainability of the location. A Travel Plan and monitoring fee of £948 needed.
- 5.04 The proposals will generate 40 two-way movements (*combined arrivals and departures*) in the AM peak and 45 two-way movements in the PM peak. Over the course of a 12-hour day the proposals are anticipated to generate 391 two-way movements. Junction analysis:

A274, Sutton Road junction with St Saviours: additional local congestion would be created at this junction but limited additional delay is anticipated. However, the residual impact of this development is likely to be additional local traffic generation and some consequent increase in congestion, which the applicant cannot fully mitigate.

A274, Sutton Road junction with Queen Elizabeth Square: the junction is anticipated to continue to operate within capacity

A274, Sutton Road junction with A229, Loose Road (Wheatsheaf Junction): no excessive or unacceptable levels of delay following the implementation of KCC Highways strategic improvements and a contribution is needed in mitigation

A274, Sutton Road junction with Wallis Avenue and Willington Street: KCC Highways is continuing to explore options for the junction catering for the additional traffic from known committed developments.

- 5.05 Taking account of how conditions have worsened on this section of highway network since the original planning permission, KCC Highways require a financial contribution towards KCC Highways planned improvements along the A274, Sutton Road/A229 Loose Road corridor.
- 5.06 Conditions also requested, including on Construction Management.
- 5.07 Final Comments: Awaited and will be reported in an Urgent Update.

KCC Infrastructure

- 5.08 Noted that the development will be CIL liable but will still have an impact on County services that cannot be accommodated within existing capacity.

KCC (Waste and Minerals)

- 5.09 No objections

Kent Police

- 5.10 Subsequent details should include crime prevention measures and design.

Southern Water

- 5.11 No objections

KCC (Flood and Water Management)

- 5.12 Additional ground investigation will be required to support the use of infiltration.

KCC (Heritage)

- 5.13 The site of proposed application is situated in an area of Iron Age and particularly Romano-British activity. Needs geophysical survey followed by a phased programme of archaeological fieldwork and detailed mitigation.

MBC Parks and Open Spaces

- 5.14 Initial comments (90 units): no on-site open space indicated in the application, the location is underprovided for in terms of the open space typologies, natural, outdoor sport, allotments and play.

- 5.15 Final Comments: 76 residential dwellings and 0.167 of on-site open space requires £1,434.5 per property for off-site existing open space within a two-mile radius of the site.

MBC Environmental Protection

- 5.16 Noise mitigation will be required for future residents and suitable off-setting emission measures in the form of standard mitigation such as installation of Electric Vehicle charging points. Suggest attach a watching brief type of contaminated land condition and condition regarding any external lighting.

6. APPRAISAL

Main Issues

- 6.01 The key issues for consideration relate to:

- Principle of Development
- Visual Impact
- Highways
- Landscaping and Open Space

Principle of Development

- 6.02 The application site is located within the urban confines of Maidstone and is allocated for residential development within the Local Plan under Policy H1 (28) and Boughton Monchelsea Neighbourhood Plan and there was a recently expired outline planning permission for 90 units granted in 2017. Therefore, residential development of 76 units is acceptable in principle. This is at 35 dph so accords with Policy H1(28) which requires a medium density scheme.

Visual Impact

- 6.03 The site is open land and residential development would clearly have an impact visually on the site. However, the site is enclosed by the training school buildings and housing and so there are limited views of the openness of the site from the public domain.
- 6.04 The negotiated reduction in the number of dwellings should reduce the impact of the development on the locality compared to the previous planning permission. It is the access area which is indicated to form most of the open space of the layout and so the overall visual impact from the surrounding area is further reduced. This element of the indicated layout will need to be secured by condition so that it is reflected in any subsequent RM application.
- 6.05 The site encompasses elements of soft landscaping, particularly along the north-western and north-eastern boundaries where the majority of existing hedgerows and trees should be retained by imposition of condition. The reduction in number of dwellings will allow more space to the NE boundaries to better ensure long term retention of the trees by reducing pressure from units sited too closely to their canopies.
- 6.06 The introduction of development into this site would not in itself cause significant harm to the character of the area but the detail and the pattern and heights of the development would need careful consideration at the RM stage.

Highways

- 6.07 Policy DM21 refers to the assessment of the transport impacts of development. The site is sustainably located, ensuring any future occupiers can access services and public transport within a short distance
- 6.08 As the access road already exists, it is considered suitable for the site and proposed development. Parking can be provided in accordance with relevant standards and comply with policy DM23.
- 6.09 There are no objections to the principle of the development from KCC (H&T) subject to payment of contributions for local highway improvements to mitigate the impact.
- 6.10 The adopted policy H1(28) requires the following:
5. *Bus prioritisation measures on the A274 Sutton Road from the Willington Street junction to the Wheatsheaf junction, together with bus infrastructure improvements.*
 6. *Improvements to capacity at the junctions of Willington Street/Wallis Avenue and Sutton Road.*
 7. *Package of measures to significantly relieve traffic congestion on Sutton Road and Willington Street.*
 8. *Improvements to capacity at the A229/A274 Wheatsheaf junction.*
 9. *Improvements to frequency and/or quality of bus services along A274 Sutton Road corridor.*
- 6.11 The s106 of the expired planning permission secured £3000.00 (index linked) per dwelling towards Highway capacity improvements at Loose Road /Sutton Road and Town Centre Bridge gyratory. No public transport improvements were secured in that s106.

- 6.12 KCC now say that contributions are required towards improvements to capacity at the junctions of Willington Street/Wallis Avenue and Sutton Road and towards KCC Highways planned improvements along the A274, Sutton Road/A229 Loose Road corridor. These are off site highway improvements are necessary to make the specific development acceptable and so should be included in a s106 legal agreement. The amount needed is now £3600 per dwelling
- 6.13 The public transport requirements of the MBLP also need to be included in the s106 to ensure compliance with H1(28). The s106 would need to be drafted to ensure the prospect of a repayment of unspent funds if such measures referred to are not progressed within a reasonable period of time

Landscaping and Open Space

- 6.14 Based on the changes secured to the indicated layout and reduction in the numbers to a maximum of 76, I am satisfied that adequate tree retention can be secured at RM stage and thereby accords with policy DM3.
- 6.15 The adopted plan policy H1 (28) required contributions towards improvements to Mangravet Recreation Ground, Queen Elizabeth Square play area, sports facilities at Parkwood Recreation ground or Mote Park Adventure Zone and additional on/off-site provision and/or contributions towards off-site provision/improvements as required in accordance with policy DM19.
- 6.16 In terms of this site, it is relatively near to existing play areas so one is not necessarily needed on site. The indicative layout shows 0.167ha (0.4acre) of Open Space which could serve both a semi natural habitat and amenity green space which as detailed above, adequately assists in placemaking of the scheme.
- 6.17 As mentioned above, Policy RH 5B of the very recently adopted Neighbourhood Plan requires contributions are made to the provision and/or improvement of local play and open space facilities. It is considered that contributions should be sought towards Queen Elizabeth Square play area as that is conveniently walkable from the application site and also to Pested Bars Recreation Ground which is also close to the application site and lies in Boughton Monchelsea Parish. As the requirement for the contribution derives from the Neighbourhood Plan, the PC should be involved in developing projects on which the contribution will be spent.

Other Matters

- 6.18 Building for Life 12: the scheme is in outline so most of the criteria will be considered at Reserved Matters stage but the site scores well in terms of proximity to facilities and services and public transport and connections to the surroundings.
- 6.19 Species protection involving more up to date ecological surveys and mitigation measures and Biodiversity Net Gain can both be secured by condition to comply with policy DM3 of the MBLP and low carbon energy can also be required by condition. An ecological lighting condition is also suggested to accord with policies DM8 and DM3 and an air quality mitigation condition would secure the objectives of policy DM6.
- 6.20 Archaeological interest can be secured by condition to comply with policy DM4.
- 6.21 Residential amenity is mentioned in many of the objections and often this relates to the indicative layout plan. The application is in outline with only access submitted for approval at this stage and so residential amenity in terms of privacy, outlook and loss of natural daylight or sunlight would be looked subsequently in accordance with policy DM1 of the MBLP. I am satisfied that 76 dwellings have been demonstrated to be achievable without unacceptable impact on amenities of properties neighbouring the site.

- 6.22 The line of the noise mitigation bund/fence and its relationship with the site is now clearly indicated in the layout drawing and it is envisaged that this will take the form of a 2m high acoustic fence atop a 2m high gabion wall, both with climbing vegetation. The indicative layout shows that there is scope for an acceptable juxtaposition of the 4m high structure with the dwellings and private gardens to avoid it being overbearing or causing too much loss of light to ensure compliance with policy DM1 of the MBLP.
- 6.23 Affordable housing policy SP20 requires 30% affordable housing at this urban location which the applicant will provide to a tenure and mix that meets local needs in accordance with the SPD, and this can be secured by legal agreement.
- 6.24 The site is over 50 units/1ha and MBC's Public Art Guidance 2017 would require a spend of £3 per sq metre of gross internal floor area on the provision of public art on site.
- 6.25 Health, Education and KCC services needs are now CIL funded forms of infrastructure.
- 6.26 In terms of the PC request for the vehicular gate at the corner of Pested Bars Road should be permanently closed it is not considered that such a requirement would meet the legal test of being sufficiently related to the development being applied for. It can however be the subject of an informative.
- 6.27 The request of the PC for planning control of routes and timings for construction traffic to minimise noise and disturbance to existing residents is not considered to be justified as Environmental Protection legislation is a more appropriate and reactive control of this matter.
- 6.28 KCC also asked for a Construction Management condition. In my view, it is not appropriate here with the site being close to the strategic highway network and capable of having enough space on site to accommodate all operatives and wheel washing etc but can be the subject of an informative.

CIL

- 6.29 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, nevertheless, a development of this scale would be likely to generate a significant CIL receipt towards infrastructure, 25% of which would be paid to the Parish Council. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

PUBLIC SECTOR EQUALITY DUTY.

- 6.30 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 application site is suitable for 76 dwellings at 35 dph as it is located within the urban confines of Maidstone, is allocated for residential development within the Local Plan under Policy H1 (28) and there was a recently expired outline planning permission for 90 units granted in 2017.

- 7.02 The sports pitches being lost are not designated for sporting use in planning terms and are not secured for such a use through any agreement (planning or otherwise). The site is not available for use by the general public. This stance is consistent with the position taken when the recently expired outline planning permission was granted.
- 7.03 There are limited views of the openness of the site from the public domain and so the visual impact is acceptable. Existing trees can be retained and impact on neighbouring TPO trees can be avoided.
- 7.04 The site is sustainably located. There are no objections from KCC (H&T) to the proposal subject to a Travel Plan and s106 contributions to local highway improvements.
- 7.05 On site Open Space could serve as semi natural habitat and amenity green space and financial contributions should be sought towards nearby Queen Elizabeth Square play area and Pested Bars Recreation Ground.
- 7.06 A legal agreement can secure 30% affordable housing to accord with the SPD.
- 7.07 Conditions can be imposed to ensure that matters such as noise mitigation, surface water drainage, ecology, biodiversity net gain, low carbon energy, lighting, air quality mitigation and archaeological interest are adequately dealt with at Reserved Matters Stage.

8. RECOMMENDATION

The Head of Planning and Development BE 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 £4,500
- Travel Plan Monitoring Fee of £948
- Affordable Housing at 30%
- £1,434.5 per dwelling towards Open Space at Queen Elizabeth Square play area and/or sport facilities at Pested Bars Open Space, to be spent in liaison with Boughton Monchelsea PC.
- £3600 per dwelling towards:
 - Improvements to capacity at the junctions of Willington Street/Wallis Avenue and Sutton Road and to KCC Highways planned improvements along the A274, Sutton Road/A229 Loose Road corridor.
 - Package of measures to significantly relieve traffic congestion on Sutton Road and Willington Street.
 - Bus prioritisation measures on the A274 Sutton Road from the Willington Street junction to the Wheatsheaf junction, together with bus infrastructure improvements.
- Improvements to frequency and/or quality of bus services along A274 Sutton Road corridor

and the imposition of the conditions as set out below:

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

- a) Layout, b) Scale; c) Appearance; d) Landscaping.
Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;
Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.
- 2) No dwelling shall be occupied unless it aligns with the delivery of the necessary sewerage infrastructure in accordance with a foul drainage phasing strategy that shall have been submitted to and approved by the Local Planning Authority.
Reason: To accord with Policy RH 5B of the Boughton Monchelsea Neighbourhood Plan.
- 3) The details submitted pursuant to condition 1 above shall provide for the following:
- i) Retention of the tree screen along the northern boundary at least 3m wide that shall lie outside private garden boundaries.
 - ii) Provision of a landscaped buffer to supplement the tree screens along the northern boundary.
 - iii) An updated arboricultural implications assessment and tree protection plan to reflect the proposed details of layout.
- i) An Arboricultural Method Statement in accordance with the current edition of BS 5837
- ii) Open Spaces of a size, function and location as those indicated on drawing DHA/14082/03 Rev C (Open Space Plan).
- Reason: To ensure a satisfactory appearance and setting to the development and adequate on-site Open Space.
- 4) All existing trees and hedges on, and immediately adjoining, the site, shall be retained, unless identified on the approved site plan (or block plan in the absence of a site plan) as being removed, except if the Local Planning Authority gives prior written consent to any variation. All trees and hedges shall be protected from damage in accordance with the current edition of BS5837. Any trees or hedges removed, damaged or pruned such that their long term amenity value has been adversely affected shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions to mitigate the loss as agreed in writing with the Local Planning Authority.
Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development
- 5) The development hereby approved shall not commence above slab level until a landscape scheme predominantly of native or near native planting and designed in accordance with the principles of the Council's Landscape Character Guidance has been submitted to and approved in writing by the local planning authority. 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, provide details of on-site replacement planting to mitigate any loss of amenity and biodiversity value together with the location of any habitat piles and include a planting specification, a programme of implementation and a 5 year management plan.

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

- 6) The approved landscape details shall be carried out during the first planting season (October to February) following first occupation of the development. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation 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.

- 7) The details required by Condition 1 shall demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm can be accommodated within the proposed development layout.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts.

- 8) Development shall not commence until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved by the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk and Drainage Assessment dated 17th February 2020 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 2 accommodated and disposed of within the curtilage of the site 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.

- 9) 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 and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that 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 the National Planning Policy Framework.

- 10) The approved details of the access point to the site shall be completed before the commencement of the use of the relevant land or buildings hereby permitted and, any approved sight lines shall be retained free of all obstruction to visibility above 1.0 metres thereafter.

Reason: In the interests of highway safety.

- 11) The details submitted pursuant to condition 1 shall include details of cycle parking and vehicle parking/turning areas and these shall be completed as approved before the first occupation of the related buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them.

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

- 12) The development shall not reach damp proof course level until written details and photographs of samples of the materials to be used in the construction of the external surfaces of any buildings and hard surfaces have been submitted to and approved by the Local Planning Authority and the development shall be constructed using the approved materials.

Reason: To ensure a satisfactory appearance to the development.

- 13) The development shall not commence until details of the proposed finished floor, eaves and ridge levels of the building(s) and the existing site levels have been submitted to and approved in writing by the local planning authority and the development shall be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development.

- 14) Above ground construction work on the approved buildings shall not commence until details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation and retained thereafter.

Reason: To ensure a satisfactory appearance to the development and in the interests of residential amenity.

- 15) The details submitted pursuant to Condition 1 shall show noise mitigation to be carried out in accordance with the acoustic report carried out by Loven Acoustics (ref LA/1683/01R/ML dated November 2019) and the drawing DHA/14082/06 (Noise Bund) hereby approved including details of which plots require the mitigation measures.

Reason: In the interest of the amenity of future occupants.

- 16) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
- (i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - (ii) 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
- Reason: To ensure that features of archaeological interest are properly examined and recorded, and that due regard is had to the preservation in situ of important archaeological remains.
- 17) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained approval from the Local Planning Authority for a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported. Upon completion of the building works, this condition shall not be discharged until a verification report has been submitted to and approved in writing by the Local Planning Authority. The verification 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 verification 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 build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.
- Reason: There is always the potential for unexpected contamination to be identified during development groundworks.
- 18) No external lighting shall be installed until a detailed lighting design plan for biodiversity has been submitted to and approved in writing by the Local Planning Authority. This scheme shall take note of and refer to the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005 (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme of lighting shall be installed, maintained and operated in accordance with the approved scheme unless the Local Planning Authority gives its written consent to any variation.
- Reason: In the interests of biodiversity and amenity.
- 19) There shall be no occupation until a scheme for the provision of a Travel Plan, to reduce dependency on the private car, has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include objectives and

modal-split targets, a programme of implementation and provision for monitoring, review and improvement. Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.

Reason: In the interests of sustainability.

- 20) No development shall commence until a scheme detailing and where possible quantifying what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The report should be submitted to and approved by the Local planning authority and the development shall be carried out in accordance with the approved details.
Reason: In the interests of air quality. This information is required prior to commencement to ensure that any impact on air quality during the construction phase is considered.
- 21) The development shall not commence above slab level until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved have been submitted to and approved by the local planning authority. Measures shall include EV charging points to each dwelling. The approved details shall be installed prior to first occupation and maintained thereafter. Any PV panels installed shall be flush with the roof tiles and any that become defective shall be replaced as soon as is reasonably practicable.
Reason: In the interests of sustainable and energy efficient form of development
- 22) The details submitted pursuant to Condition 1 shall be accompanied by updated ecological surveys including any required mitigation and enhancement measures to improve biodiversity and shall be implemented as approved.
Reason: To ensure a satisfactory appearance and setting to the development and in the interests of biodiversity protection and enhancement.
- 23) The development hereby approved shall not commence above slab level until details of a scheme for biodiversity net gain of at least 10% 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 integrated methods (such as swift bricks, bat tubes and bee bricks) and through the provision within the site (such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and native hedgerow corridors) and use of hedgehog friendly boundary treatments. The development shall be implemented in accordance with the approved details prior to first occupation and all features shall be retained thereafter.
Reason: To enhance the ecology and biodiversity on the site
- 24) No development shall take place until details of measures to minimise the risk of crime have been submitted to and approved in writing by the Local Planning Authority. The scheme shall accord 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 thereafter retained.
Reason: To minimise the risk of crime in the light of the adjacent land uses.
- 25) The details submitted pursuant to Condition 1 shall include details of facilities for the storage of refuse on the site and the approved facilities shall be provided before the first occupation of the dwellings hereby approved and maintained thereafter.
Reason: No such details have been submitted and in the interest of amenity

- 26) Prior to the first occupation, a scheme and timetable for the provision of Public Art in accordance with Maidstone Borough Council's Public Art Guidance 2017 shall be submitted to and approved by the Local Planning Authority. Should a piece of artwork be commissioned, it shall be installed thereafter as approved.

Reason: To provide cultural benefits

- 27) No development above slab level shall take place 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. The management plan must clearly set out how the habitat and enhancement features will be managed in the long term. The management plan must include the following:

- a) Details of the habitats to be managed
- b) Overview of the proposed management
- c) Timetable to implement the management
- d) Details of who will be carrying out the management
- e) Details of on-going monitoring.
- f) Details of the management regime for retained and new areas of rough/tussocky grassland

The management plan must be implemented as approved.

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

INFORMATIVES

- 1) The Parish Council requests that the vehicular gate at the corner of Pested Bars Road should be permanently closed to prevent inappropriate and unsafe use of the network of local country lanes.
- 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) as in the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list.
- 3) You are encouraged to devise a Construction Management Plan before the commencement of any development on site to include the following:
 - Routing of construction and delivery vehicles to / from site
 - Timing of deliveries
 - Temporary traffic management / signage
 - Before and after construction of the development, highway condition surveys for highway access routes should be undertaken and a commitment

- provided to fund the repair of any damage caused by vehicles related to the development.
- 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.
 - Provision of measures to prevent the discharge of surface water onto the highway.
 - Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
- 4) A Code of Construction Practice should 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:
An indicative programme for carrying out the works
Measures to minimise the production of dust on the site(s)
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 barrier(s)
Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
Design and provision of site hoardings
Measures to manage the production of waste and to maximise the re-use of materials
Measures to minimise the potential for pollution of groundwater and surface water
The location and design of site office(s) and storage compounds
The location of temporary vehicle access points to the site(s) during the construction works
The arrangements for public consultation and liaison during the construction works
- 5) Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228: 2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.
- 6) The developer will be required to produce a Site Waste Management Plan in accordance with Clean Neighbourhoods and Environment Act 2005 Section 54. This should be available for inspection by the Local Authority at any time prior to and during the development.
- 7) There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of soakaways and the water table.

Case Officer: Marion Geary

Urgent Update: Planning Committee 16 December 2021**Item14 Pages 20 - 36****Land To Rear Of Kent Police Training School Off St Saviours Road, Maidstone****APPLICATION: 20/501427/OUT**

1. As per the main agenda report, close to the site is a Police owned gate which gives access to Pested Bars Road and is understood to be used for access to rural lanes in Boughton Monchelsea Parish hence the PC is concerned that it results in rat-running (including use to access local schools) using inappropriate narrow single track roads with sharp turns/junctions giving poor visibility

The Police have been made aware of the request of the PC and have replied that they are agreeable to a planning condition.

However, a planning condition to require the gate to be kept closed to non-police traffic would need to satisfy legal tests which include necessity and the request being relevant to the development being permitted.

In this regard KCC (H&T) have advised that they would be supportive of Kent Police offering up to close the gate but could not insist on the closure of the gate on highway safety grounds as there is no evidence that the development of 76 dwellings at the site would materially worsen the situation on the rural lanes compared to what happens currently.

It should also be borne in mind that a planning condition in itself would not necessarily secure the imminent closure of the gate as a condition only has to be complied with when and if a planning permission is implemented and would have to have a reasonable trigger of say, first occupation.

It is not recommended that the Informative 1 becomes a planning condition.

2. The Heads of Terms recommended for the s106 legal agreement includes a request from KCC (H&T) for contributions towards highway and public transport improvements as per Policy H1(28).

However, this has been reviewed from a legal point of view in the light of the development being CIL-liable which was not the case when 12/0987 was granted. It is considered that the schemes are not finalised/agreed and are also inadequately specific to the development site to qualify for s106 funding. They are more strategic and thus should be funded by CIL or other appropriate sources of infrastructure funding.

This approach would be consistent to the one at Otham where similar highway improvements were determined to be CIL matters.

The recommendation is amended as follows:

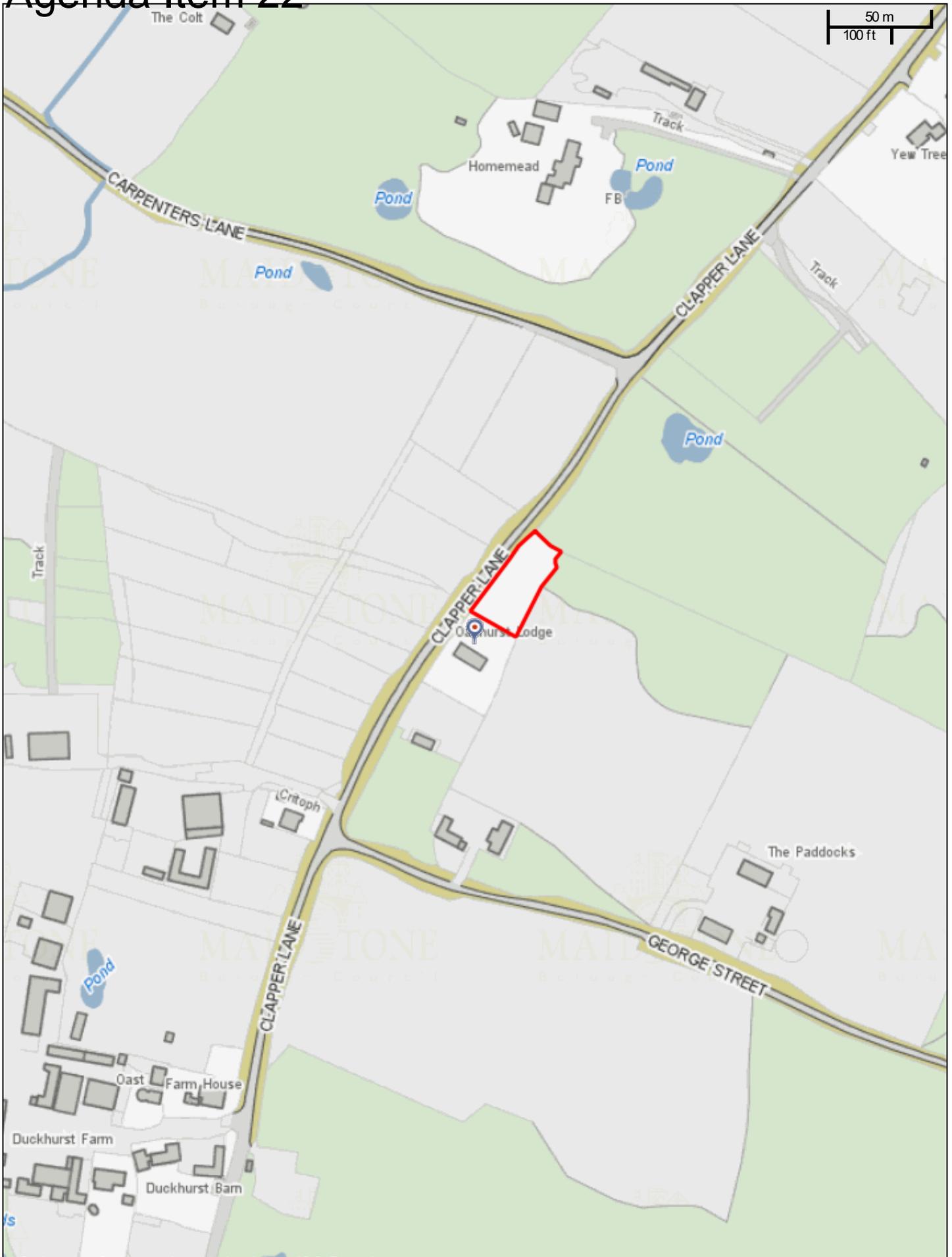
The Head of Planning and Development BE DELEGATED POWERS TO GRANT planning permission subject to the prior completion of a legal agreement to provide the following (including the Head of Planning and Development being able to settle or amend any necessary terms of the legal agreement in line with the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

- the prior payment of s106 monitoring fees of £3,000
- Travel Plan Monitoring Fee of £948
- Affordable Housing at 30%
- £1,434.5 per dwelling towards Open Space at Queen Elizabeth Square play area and/or sport facilities at Pested Bars Open Space, to be spent in liaison with Boughton Monchelsea PC

and

Conditions and Informatives as per main agenda.

Agenda Item 22



Ordnance Survey - data derived from OS Premium

22/500192/FULL Land at Oakhurst Lodge, Clapper Lane, Staplehurst, Kent, TN12 0JS

Scale: 1:2500

Printed on: 17/5/2022 at 10:15 AM by JoannaW

REFERENCE NO: 22/500192/FULL		
APPLICATION PROPOSAL: Change of use of land to use as a residential caravan site providing one additional gypsy pitch to accommodate one static caravan/mobile home, including laying of hardstanding and installation of package sewage treatment plant.		
ADDRESS: Land at Oakhurst Lodge Clapper Lane Staplehurst Kent TN12 0JS		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: The development is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant.		
REASON FOR REFERRAL TO COMMITTEE: Councillor Perry and Councillor Brice have requested application is considered by Planning Committee if officers are minded to approve application. This request is made for reasons outlined in the consultation section below.		
WARD: Staplehurst	PARISH: Staplehurst	APPLICANT: Mr Braidford AGENT: Phil Brown Associates Ltd
CASE OFFICER: Kate Altieri	VALIDATION DATE: 14.02.22	DECISION DATE: 30.05.22
ADVERTISED AS A DEPARTURE: NO		

RELEVANT PLANNING HISTORY

- 16/506711 – Submission of details for conditions: 4 (landscaping); 8 (materials); 9 (boundary treatments) and 10 (foul sewage) for MA/13/1453 - Approved
- MA/13/1453 – Change of use of land for gypsy family with 2 caravans, including 1 static mobile home and erection of utility building – Approved

Land east of The Paddocks

- 18/506246 - Residential caravan site for 2 gypsy families, each with 2 caravans including no more than 1 static caravan. Formation of access, hardstanding and 2 utility buildings – Refused (appeal in progress: Hearing date of 5th July 2022)

The aerial photograph below shows the context of surrounding planning history:



MAIN REPORT

1.0 SITE DESCRIPTION

- 1.01 Oakhurst Lodge is an existing lawful Gypsy site, with permanent residential permission for one mobile home (MA/13/1453), that is located just to the north of the junction with George Street. Located on the eastern side of Clapper Lane, the application site is well enclosed by existing boundary planting and mostly consists of well-maintained lawn that is used in association with Oakhurst Lodge.
- 1.02 The surrounding area is characterised by undeveloped land and other sporadic development, including Blue Bell Farm and The Paddocks, that are lawful Gypsy sites (as well as being allocated sites within the Local Plan – policies GT10 and GT11). For the purpose of the Local Plan the application site is within the designated countryside.

2.0 PROPOSAL

- 2.01 The application is described as: *Change of use of land to use as a residential caravan site providing one additional gypsy pitch to accommodate one static caravan/mobile home, including laying of hardstanding and installation of package sewage treatment plant.*
- 2.02 This application is not retrospective. The proposal would see Oakhurst Lodge extended north-eastwards along Clapper Lane and would include associated (permeable stone) hardstanding; it would make use of the existing vehicle access from Clapper Lane; and whilst no detailed landscaping scheme has been submitted, the submission confirms existing boundary planting is to be retained with 2m high close boarded fencing erected behind (within the site). The mobile home would measure some 15m by 6.5m, and would stand some 3.9m in height.

3.0 POLICY AND OTHER CONSIDERATIONS

Maidstone Local Plan (2017): SS1, SP17, DM1, DM3, DM8, DM15, DM23, DM30
Staplehurst Neighbourhood Plan (2016-2031)
Landscape Character Assessment (2013) & Supplement (2012)
Landscape Capacity Study: Sensitivity Assessment (2015)
National Planning Policy Framework (2021) & National Planning Practice Guidance
Planning Policy for Traveller Sites (2015)
Gypsy & Traveller and Travelling Showpeople Topic Paper (2016)
Gypsy & Traveller & Travelling Showpeople Accommodation Assessment (2012)
Regulation 19 Local Plan

- 3.01 Local Plan policy DM15 allows for gypsy and traveller accommodation in the countryside provided certain criteria are met.
- 3.02 Policy PW2 of the Staplehurst Neighbourhood Plan states:

PROPOSALS FOR NEW DEVELOPMENT IN THE COUNTRYSIDE BEYOND THE EXTENDED VILLAGE ENVELOPE WILL BE ASSESSED IN TERMS OF THE POTENTIAL IMPACT OF THE DEVELOPMENT UPON THE VISUAL SETTING AND LANDSCAPE FEATURES OF THE SITE AND ITS SURROUNDINGS, THE POTENTIAL IMPACT UPON THE BIODIVERSITY OF THE AREA AND OTHER RELEVANT PLANNING CONSIDERATIONS, SUCH AS THE IMPACT OF TRAFFIC AND NOISE. PROPOSALS WHICH FAIL TO DEMONSTRATE THESE IMPACTS CAN BE SATISFACTORILY ADDRESSED WILL NOT BE SUPPORTED.

- 3.03 The NPPF is clear that good design is a key aspect of sustainable development and that permission should be refused for development that is not well designed; and section 12 of the NPPF refers to achieving well-designed places. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural

and local environment by recognising the intrinsic character and beauty of the countryside.

- 3.04 The Council's Regulation 19 Local Plan was submitted to the Planning Inspectorate on 31st March 2022 and whilst this document is a material planning consideration, at this time it is not apportioned much weight.

4.0 LOCAL REPRESENTATIONS

- 4.01 1 local resident has made representations relating to (in summary): Light pollution; sewage disposal; impact upon character and appearance of countryside; and the fact that the future occupants are unknown.

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 **Councillor Perry and Councillor Brice:** Wish to see the application reported to Planning Committee for the following reasons:

This is an extremely important issue for residents and it should be discussed at Planning Committee level; concerns have been raised regarding possibility of further "ribbon development", which would be completely out of character for Clapper Lane; and there are wider planning implications.

- 5.02 **Staplehurst Parish Council:** Wish to see application approved:

Councillors noted site was not allocated in Local Plan but note it was a well maintained site that was well screened. Councillors RESOLVED to recommend APPROVAL, with a condition that there remain only one access point to and from the site.

- 5.03 **Environmental Protection Team:** Raise no objection to application.

- 5.04 **KCC Highways:** Development does not meet criteria to warrant their involvement.

6.0 APPRAISAL

Main Issues

- 6.01 The key issues for consideration relate to: need for Gypsy sites; supply of Gypsy sites; Gypsy status/personal circumstances; location; visual impact; flood risk; and then other matters.

Need

- 6.02 The Maidstone Local Plan is adopted and there are policies relating to site provision for Gypsies and Travellers. Local planning authorities also have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans.

- 6.03 The Gypsy & Traveller and Travelling Showpeople Accommodation Assessment: Maidstone (January 2012) provides the evidence of the need for Gypsy & Traveller pitches in the borough for the Local Plan period (October 2011 to March 2031). This is the Council's most up to date assessment and it does carry weight.

- 6.04 The Assessment drew on existing information about sites in the borough (including caravan count data, information from stakeholders and council information about the planning status of sites) and used the results of face to face interviews with Gypsies & Travellers (and Travelling Showpeople) residing in the borough. To help encourage participation, the interview team included two members of the Gypsy & Traveller community. Interviews were undertaken with 37% of the estimated resident

population in the borough, considered to be sufficient as a sample of the total Traveller population across all the accommodation types.

- 6.05 The GTAA Assessment found that there is a need for a total 187 additional permanent pitches in the borough 2011-31, broken down in phases as follows:

Oct 2011 – March 2016 - 105 pitches

Apr 2016 – March 2021 - 25 pitches

Apr 2021 – March 2026 - 27 pitches

Apr 2026 – March 2031 - 30 pitches

Total: Oct 2011 – March 2031 = 187 pitches

- 6.06 The target of 187 additional pitches is included in policy SS1 of the Maidstone Local Plan. The Assessment was undertaken prior to the change to the definition of Gypsy & Travellers in the Planning Policy for Traveller sites (PPTS) in August 2015 to exclude those who have permanently ceased travelling. At the Local Plan Examination some representors (parish councils; residents) argued that this meant it was outdated. The Inspector specifically considered this and concluded that the changed definition would result in relatively little change to the needs figure. He confirmed that the assessment provides an adequate evidential basis for the Local Plan.

- 6.07 The adopted Local Plan (MLP) provides for the 187 pitch requirement through:

- The permanent planning consents which have already granted

- Specific site allocations in policy GT1(1)-(16) for 41 pitches (some been granted permission)

- Application of Policy DM15 for applications on windfall sites

- 6.08 The Local Plan Inspector was satisfied with the Plan's policy approach to meeting needs (Inspector's Report paragraphs 245-246). He drew on information in the Gypsy & Traveller Topic Paper which the Council had prepared as a background document for the Examination to explain its approach. In particular, the Topic Paper explains why the Council's partial reliance on the delivery of windfall sites to meet needs is sound (see pages 12-15 and Appendix B of the Topic Paper). The Inspector noted that the Local Plan Review will be the time to make further site allocations should windfall sites not come forward as expected.

Local Plan review and need

- 6.09 A new GTAA is being prepared to support the Local Plan review. Survey work on the new GTAA commenced in 2020 but has been delayed due to Covid 19. The new GTAA will outline the current and future need for gypsy, traveller and travelling showpeople provision for Maidstone Borough until 2037 and will form the evidence base for a dedicated Gypsy, Traveller and Travelling Showpeople DPD.

- 6.10 As set out earlier, the Council's Regulation 19 Local Plan was submitted to the Planning Inspectorate on 31st March 2022 and whilst this document is a material planning consideration, at this time it is not apportioned much weight. This said, please note that within this Plan it states that there is a potentially significant emerging need for Gypsy & Traveller accommodation. The Local Plan review seeks to meet the identified need to 2031; and a separate Gypsy, Traveller and Travelling Showpeople DPD will be produced to manage the emerging need for the period until 2037. This is in its early stages and a call for sites exercise ran from 1st February to 31st March 2022.

Supply

- 6.11 Accommodation for Gypsies and Travellers is a specific type of housing that councils have the duty to provide for under the Housing Act (2004). Local Plan Policy DM15 accepts that subject to certain criteria, this type of accommodation can be provided in the countryside. Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (as of 30th April 2022):

Permanent non-personal – 253

Permanent personal – 26

Temporary non-personal – 0

Temporary personal – 7

- 6.12 A total of 279 pitches have been granted permanent consent since October 2011. These 279 pitches exceed the Local Plan's 187 pitch target. This illustrates that the rate at which permanent permissions have been granted in the first 10 years of the plan period is ahead of the rate of need by the GTAA. Furthermore, the sites allocated through Policy GT1 in the Local Plan, sites granted permanent permissions on suitable windfall sites (in accordance with policy DM15), and pitch turnover on the two public Gypsy & Traveller sites in the borough, will continue to increase the number of pitches in the borough.
- 6.13 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight when considering the expediency of granting consent on a temporary basis. The Council's position is that it can demonstrate 6.2yrs worth year supply of Gypsy and Traveller sites at the base date of 1st April 2021. As the Council considers itself to be in a position to demonstrate more than a 5 year supply, paragraph 27 of the PPTS would not apply in the determination of this application and the direction to positively consider the granting of a temporary consent does not apply.

Gypsy status/personal circumstances

- 6.14 The Government's PPTS (August 2015) sets the planning definition of 'gypsies & travellers', and this excludes those who have ceased to travel permanently. The current definition is as follows (Annex 1):

'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show-people or circus people travelling together as such.'

- 6.15 The definition still includes those who are of a nomadic habit of life, and those who have ceased to travel temporarily because of their own, or their dependants, health or education needs, or old age.
- 6.16 The submission does not set out who will occupy the proposed mobile home and the agent is satisfied that they have provided sufficient information to determine the application. The agent considers it to be unreasonable to request further information regarding the status of the occupants and makes the argument that the Council, when granting planning permission for a farm worker's dwelling, would not require the farmer to prove that the intended occupant is a bone fide farm worker. Instead, the Council would rely on an occupancy condition to ensure that the dwelling is used for its intended purpose.
- 6.17 The agent has also submitted a 2014 appeal decision from Wiltshire (APPENDIX A), where the Planning Inspector considered that the site was in an acceptable location for a gypsy site, in accordance with local and national policies, and granted planning permission subject to an occupancy condition, despite the fact that they found that the existing site occupiers did not comply with that condition. It is evident that the

gypsy status of the appellants was not determinative of the appeal. For reference, paragraphs 7 and 25-30 of the appeal decision are of particular relevance.

- 6.18 With everything considered, no objection is raised to the application on the grounds that the future occupiers are unknown. Indeed, the local plan review states that there is a potentially significant emerging need for Gypsy & Traveller accommodation and future occupants of the site will have to fall within the Government's PPTS definition, which will be ensured by way of condition.

Location

- 6.19 Government guidance set out in the Planning Policy for Traveller Sites (PPTS) places emphasis on the need for increased gypsy and traveller site provision, supporting self-provision (as opposed to local authority provision). The PPTS also states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. This said, the location of Oakhurst Lodge has already been accepted under MA/13/1453; and other permanent Gypsy sites have also recently been approved in the surrounding area. With this considered, it would now be unreasonable to object to the addition of only one mobile home on the site in terms of its location.

Visual impact

- 6.20 As previously set out, guidance in the PPTS states that local planning authorities should very strictly limit new traveller development in the countryside. No specific reference to landscape impact has been outlined however this is addressed in the relevant Local Plan policies and the NPPF. Specifically, policy DM15 of the Local Plan allows for Gypsy accommodation in the countryside provided certain criteria are met. This includes allowing development that does not result in significant harm to the landscape and rural character of the area. The site also falls within the Staplehurst Low Weald Landscape Character Area (Area 44) within the Council's Landscape Character Assessment; and the landscape guidelines for this area are to 'CONSERVE'.
- 6.21 Oakhurst Lodge is a lawful Gypsy site, and is currently occupied by a mobile home with garden area; there is an existing access and hardstanding; and the site is partly enclosed by fencing, set on the inside of existing boundary planting.
- 6.22 The proposal would involve the modest extension of the existing lawful Gypsy site, and the new mobile home would be sited on land adjacent to the road that is already domestic in character, in association with Oakhurst Lodge. The proposal would not see new development encroach further back from Clapper Lane, into undeveloped countryside beyond. Instead, the new mobile home and modest area of hardstanding would be well contained within the site and very much read in the context of the existing development at Oakhurst Lodge; and the new fencing would be set behind the mature boundary planting and would not appear visually dominant from Clapper Lane. Furthermore, the mobile home is of a typical style and appearance; it appears to fall within the definition of a caravan (Section 29 of the Caravan Sites and Control of Development Act 1960); and whilst the palette of external materials is not known, these details can be secured by way of appropriate condition.
- 6.23 There is other sporadic development in the area and given how well screened the application site is, it does not appear visually dominant on the landscape (even in the winter). Indeed, given the established planting along Clapper Lane and the surrounding area (including an adjacent wooded area to the north of the site that is not in the ownership of the applicant), public views of the proposal would largely be limited to those immediately through the site's access and glimpses through the roadside planting. On this basis, it is considered that the proposal would only be

visible from short range vantage points, and there is also the opportunity to plant additional (native) planting, to help supplement existing landscaping in and around the site. To further safeguard the amenity of the surrounding landscape, external lighting can be restricted by way of an appropriate condition.

- 6.24 With everything taken into account, including the retention of existing landscaping and the potential for further planting, it is considered that the proposal would cause harm to the character and appearance of the countryside hereabouts, but that in landscape terms (as outlined above) it would be in accordance with Local Plan policy DM15 as this harm to the landscape and rural character of the area is not considered to be significant.

Other matters

- 6.25 The development makes use of the existing access for Oakhurst Lodge and this access is acceptable in terms of highway safety; there is sufficient parking/turning provision on the site; and the traffic generation as a result of the additional mobile home would not have a severe impact upon the local road network.
- 6.26 Given the separation distances of the development from any dwelling, and given that a residential use is not generally a noise generating use, this development would not have an adverse impact upon the living conditions of any neighbouring resident, including in terms of general noise and disturbance. Furthermore, after assessing the potential impact on the existing residential community, the proposal is found to be acceptable, when considered on its own merits and then cumulatively with other lawful gypsy sites in the vicinity.
- 6.27 With the managed character of the land the development is unlikely to have had an adverse impact upon any protected species, and so no further details on this are required prior to the determination of this application. Notwithstanding this, one of the principles of the NPPF (para 180) is that: *Opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.* On this basis, if the application were to be approved a suitable condition could be imposed to seek biodiversity enhancement on the site.
- 6.28 The site is in flood zone 1 and surface water will run-off to existing ditches either side of the application site, and no further details are required on this matter. The Environmental Protection Team has also raised no objection to the application in terms of land contamination; radon; air quality; lighting; odour; accumulations; noise; amenity; sewage and potable water; and private water supplies. To add, the Environmental Protection Team note that the submission includes details of the sewage treatment plant used on the site and no specific objection has been raised with this. If approved, an informative will be added to remind the applicant that a discharge consent may be required from the Environment Agency. In the interests of amenity, external lighting can be controlled by way of appropriate condition. Please also note that there are no listed buildings within 180m of the application.
- 6.29 Regard should be given to the Human Rights Act 1998 and rights under Articles 3 and 8, and the Public Sector Equality Duty (PSED) under the Equality Act 2010. This protects the right of an individual to, amongst other things, a private family life and home; there is a duty to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it; and the courts have held that the best interest of the children shall be a primary consideration in planning decisions concerning children, including requiring a settled base.

- 6.30 In addition to this, race is one of the protected characteristics under the Equality Act 2010 and ethnic origin is one of the things relating to race. Romany Gypsies and Irish Travellers are protected against race discrimination because they are ethnic groups under the Equality Act. This application has been considered with regard to the protected characteristics of the applicant and his family who occupy the caravans, and it is considered that the requirements of the PSED have been met and approving this development would not undermine the objectives of the Duty. The submission is not EIA development.
- 6.31 If approved, the applicant will be reminded that it would be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted.
- 6.32 Please note that Staplehurst Parish Council wish to see the application approved; and the concerns of both Councillor Perry and Councillor Brice and the one local resident have been considered in the assessment of this application.

7.0 CONCLUSION

- 7.01 There is a general policy constraint on development in the countryside but there is an exception for Gypsy accommodation. Local Plan policy DM15 allows for gypsy and traveller accommodation in the countryside provided certain criteria are met; and policies SP17 and DM30 allow for development provided it does not result in harm to the character and appearance of the area. The Council's Regulation 19 Local Plan, although not apportioned much weight at this time, states that there is a potentially significant emerging need for Gypsy & Traveller accommodation.
- 7.02 In this instance, the occupation of the one mobile home will be restricted by way of condition and there is no reasonable justification to object to this type of development on sustainability grounds in terms of location. Furthermore, the development is not considered to cause unacceptable harm to the character and appearance of the countryside; it is considered to be acceptable in flood risk terms; and there are no other planning objections raised to the development.
- 7.03 With everything considered, the development is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. A recommendation of permanent approval is therefore made on this basis, subject to the suggested conditions.

8.0 RECOMMENDATION: GRANT planning permission subject to following conditions:

- (1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan (1:1250); 'site layout plan'; 'dimensions of mobile home'; and drawing ref: PBA 4.

Reason: For the avoidance of doubt and in the interests of proper planning.

- (2) The site shall not be used as a caravan site by any persons other than Gypsies or Travellers, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015 (or any subsequent definition that supersedes that document).

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted.

- (3) No more than 2 caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the land at any one time, of which no more than 1 shall be a static caravan or mobile home. The mobile home shall be positioned on the site as set out on the submitted drawings and the touring caravan shall only be used for the purposes ancillary to the residential use of the mobile home hereby approved.

Reason: To safeguard the character and appearance of the countryside.

- (4) If the lawful use of the site ceases, all caravans, structures, equipment and materials bought onto the land for the purposes hereby permitted including hardstandings and buildings shall be removed within two months from the date of the use ceasing.

Reason: To safeguard the character and appearance of the countryside.

- (5) No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site at any time.

Reason: To safeguard the character and appearance of the countryside.

- (6) No commercial activities shall take place on the land, including the storage of materials.

Reason: To prevent inappropriate development; to safeguard the character and appearance of the countryside; and in the interests of residential amenity.

- (7) No manure or waste materials shall be burned on the land within the application site.

Reason: In the interests of residential amenity.

- (8) Notwithstanding the provisions of Schedule 2 Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land other than those expressly authorised by this permission (as shown on the approved plans).

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside; and in the interests of residential amenity.

- (9) Prior to the first occupation of the development hereby approved, written details of the materials to be used in the external surfacing and roofing of the mobile home hereby approved shall be submitted to and approved in writing by the local planning authority. The development shall be constructed using the approved materials and maintained as such thereafter.

Reason: To safeguard the character and appearance of the countryside.

- (10) Prior to the commencement of development above damp-proof course, details of a scheme of soft landscaping, using indigenous species, together with a programme for the approved scheme's implementation, shall be submitted to and approved in writing by the local planning authority. The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment (2012) and shall include:

(i) Details of new 100% native planting (including species; sizes; locations; numbers); and

(ii) Details of existing northern, eastern and western boundary planting (including species; sizes; locations; numbers) and the retention of this existing planting.

Only non-plastic guards shall be used for the new trees and hedgerows, and no Sycamore trees shall be planted. The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the countryside; and to enhance ecology and biodiversity on the site in line with the requirement to achieve a net biodiversity gain from all development.

- (11) The approved landscaping scheme shall be in place at the end of the first planting and seeding season following the first occupation of the mobile home hereby approved. Any planting which, within a period of 5 years from the first occupation of the development die, are removed, or become 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.

Reason: To safeguard the character and appearance of the countryside; and to enhance ecology and biodiversity on the site in line with the requirement to achieve a net biodiversity gain from all development.

- (12) Prior to the first occupation of the mobile home hereby approved a scheme for the enhancement of biodiversity on the site, to include the installation of a minimum of one bat tube on the approved mobile home; the provision of gaps in the approved fencing to allow the free movements of wildlife; and the installation of ready-made bird and bat boxes to existing trees, shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details prior to the first occupation of the mobile home hereby approved and all these features shall be maintained as such thereafter.

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

- (13) No future external lighting, whether temporary or permanent, shall be placed or erected within the site unless details are submitted to and approved in writing by the local planning authority. Any details to be submitted shall be in accordance with the 2005 Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01 (and any subsequent revisions), and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.

Reason: In the interest of amenity.

Informatives:

- (1) The applicant is advised that it will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the Act as caravan sites cannot operate without a licence. The applicant is advised to contact the Maidstone Housing & Communities Support Team in respect of a licence or apply online at:
<https://www.gov.uk/apply-for-alicence/caravanand-camping-site-licence/maidstone/apply-1>

- (2) 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/highwayland/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.

- (3) In relation to foul sewage disposal, please contact the Environment Agency to establish whether a discharge consent is required from them. Further information on how to apply for an environmental permit and general binding rules applicable to small discharges of domestic sewage effluent is available on the gov.uk website.

Appeal Decisions

Hearing held on 8 April 2014

Site visit made on the same date

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 June 2014

Appeal Ref: APP/Y3940/C/13/2206152

Sharkays, Whaddon Lane, Hilperton, Trowbridge, Wiltshire, BA14 7RN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Mark Miller against an enforcement notice issued by Wiltshire Council.
- The Council's reference is W/12/00176/ENF-M.
- The notice was issued on 6 September 2013.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of land from agricultural and equestrian to the mixed use of agricultural, equestrian and for the stationing of caravans and motor-homes for residential purposes; the use of stables for residential purposes; and operational development integral to the material change of use comprising the erection of a chimney on the stables.
- The requirements of the notice are to:
 - a) Permanently cease the use of the land for the stationing of residential caravans and motor homes; and
 - b) Permanently cease the residential occupation of all caravans and motor-homes on the land; and
 - c) Permanently remove all caravans and motor-homes occupied for residential purposes from the land; and
 - d) Permanently remove the chimney from the stables; and
 - e) Permanently remove all residential paraphernalia from the land.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections.

Appeal Ref: APP/Y3940/A/13/2203096

Sharkays, Whaddon Lane, Hilperton, Trowbridge, Wiltshire, BA14 7RN

- 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 Mr Mark Miller against the decision of Wiltshire Council.
- The application Ref W/12/02069/FUL, dated 5 November 2012, was refused by notice dated 1 May 2013.
- The development proposed is the change of use of land to a mixed use for the keeping of horses and as a residential caravan site for one gypsy family with three caravans,

including laying of hardstanding.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Procedural matters

1. The use of the word 'permanently' in the requirements is both unnecessary and inappropriate having regard to the provisions of s.181(1) of the 1990 Act, which state that compliance with an enforcement notice shall not discharge the notice. Therefore I shall correct the notice accordingly using the powers available to me¹.
2. The main reason for issuing the notice and for the refusal of planning permission related to the Council's view that the Appellant had not provided sufficient information to demonstrate that he was a traveller as defined in Annex 1 of Planning Policy for Traveller Sites (the PPTS) and therefore the change of use of the appeal site to a residential caravan site was harmful to the rural scene in an isolated countryside location.
3. In its final comments², and confirmed at the Hearing, the Council contended that the appeal site is sustainable within the meaning of assessing gypsy and traveller sites. It also confirmed at the Hearing that the Council did not have a five year supply of specific deliverable sites for gypsies and travellers and that there was a demonstrable need for such sites.
4. Planning permission was granted on 10 July 2013³ for amendments to a previous planning permission⁴ for change of use of land for the keeping of horses, erection of stables and tack room, construction of manège and new access and the retrospective laying of hard standing with external lighting. In view of this permission (which granted permission for the hard standing and a septic tank), reason 2 for the refusal of the application that is the subject of this appeal (which related to foul and surface water drainage) had therefore been addressed⁵.
5. Given the terms of the application, that is, 'the change of use of land to a mixed use for the keeping of horses and as a residential caravan site for one gypsy family' and the Council's confirmation set out above, the Parties agreed that planning permission has to be granted subject to conditions, one of which is a condition restricting occupation of the site to gypsies and travellers as defined in Annex 1 of the PPTS. From what I have read, heard and seen I have no reason to come to a different conclusion and therefore I will allow the s.78 appeal, subject to conditions.
6. The breach of planning control alleged in the notice is in different terms from the application in the s.78 appeal and as there is only one ground of ground appeal, that is, ground (g), the Parties agreed that the notice should be upheld. Again, I have no reason to come to a different conclusion.

¹ S.176(1) of the 1990 Act

² Paragraph 2 of the Council's Final Comments

³ W/13/00890/FUL

⁴ W/11/00742/FUL

⁵ Paragraph 6.2 of the Council's s.78 Statement and confirmed at the Hearing

7. S.180 of the 1990 Act provides that 'where, after the service of a copy of an enforcement notice planning permission is granted for any development carried out before the planning permission, the notice shall cease to have effect so far as inconsistent with that permission'. As a result of my decisions the notice will cease to have effect in respect of the use of the land as residential caravan site. The occupancy of the caravan site will be restricted by condition to gypsies and travellers. Enforcing compliance with a planning condition is a matter for the LPA. However, the appellant and his family currently occupy the site. In the ground (g) appeal I therefore have to consider the Appellant's status in order to decide whether or not he and his family may lose their home and thus whether the time to comply with the notice is reasonable and proportionate.

The s.78 appeal

The appeal site

8. The appeal site comprises 0.13 hectares of land located along the south-eastern side of Whaddon Lane, about 600m north east of Hilperton. The site forms part of a larger land holding amounting to 1.07 hectares extending to the south-west and south-east of the appeal site.
9. The appeal site is a rectangular area containing a centrally located stable building and a hay barn in the southern corner. There is a second barn/stable block to the west of the hard standing. Access to the appeal site is from Whaddon Lane via a gateway in the northern corner. The appeal site is mainly laid to hard standing on which the caravans⁶ are located and vehicles parked⁷. The site is bounded by hedgerows along its north-western and north-eastern sides. The remainder of the landholding is laid to grass and used for the keeping of horses and pigs.
10. At the time of my visit there were two horses which Mrs Miller said they were keeping. There were also some pigs and piglets about a year old which had been bred as pets. One part of the main stable block was in use as a day room with, among other things, a washing machine, a fridge, a freezer, a wood burning stove and a television.

Conditions

11. The Council suggested five conditions. The Appellant's case is that he is a traveller as defined and the Council's agreement to the grant of permission is that the site fulfils the requirements for assessing gypsy and traveller sites; there was no suggestion by the Appellant that the site would be acceptable otherwise as a residential caravan site. In the circumstances a condition restricting the occupation of the site to gypsies and travellers is necessary. A condition requiring the development to be carried out in accordance with the submitted plans is necessary in the interest of good planning. The application is for three caravans and a condition limiting the number to three is therefore reasonable. Planning permission has recently been granted for external lighting and there are a number of fences erected around, and within, the appeal site; a condition withdrawing permitted development rights for fencing and a condition requiring permission for external lighting are therefore reasonable to protect the countryside. Similarly, to protect the rural

⁶ At the time of my visit there was one motor home, one large caravan and one touring caravan

⁷ At the time of my visit there was a transit van, a tipper truck and a four wheel drive vehicle

environment, a condition restricting commercial use of the site to the breeding and sale of horses is necessary.

12. In addition, although there were no highway authority objections, Whaddon Lane is narrow and, from representations from local residents, frequently used by walkers. Therefore in the interests of highway safety and to protect the countryside a condition limiting the size of vehicle kept on the site is reasonable. The application does not include the provision of any day room and the notice requires the removal of residential paraphernalia from the site. Therefore a condition requiring details of the day room provision is necessary.

The appeal on ground (g)

13. In an appeal on ground (g) the Appellant is saying that the time to comply with the notice is too short. In this case the Appellant seeks a two year period for compliance rather than six months as stated in the notice.
14. As referred to above, I have to consider whether the Appellant may be unable to continue living on the site and, given the terms of the planning permission granted in this decision, this is dependent on his status.

Traveller status

15. The Appellant claims that he is a traveller and falls within the definition of gypsies and travellers set out in Annex 1 of the PPTS which states that gypsies and travellers means 'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own and their family's or dependant's educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such'. The determination of gypsy and traveller status is a question of fact and degree in any particular case. Whether a person falls within the definition is a functional test to be applied to their way of life at the time of the decision.
16. The Appellant's written evidence was considerably expanded at the Hearing although much of what he had written and what he and Mrs Miller told me was vague and they were often unable to be specific about many events, places and dates.
17. The Appellant that he was never very good at school and he left when he was 16 years old and started to earn his living by such things as grass cutting and hedging. He left home, which was outside Chippenham, when he was aged 19/20 in about 1992. In 1993 he met Mrs Miller, their daughter Michaela was born in March 1994 when Mrs Miller was living in a flat in Chippenham and in 1997 they set up home together in Chippenham in a rented house that they subsequently bought under the 'right to buy scheme'.
18. Throughout this time the Appellant earned his living by hedge cutting, tree work, soffits and fascia board works and driveway work which he did with his cousin; they worked locally to Chippenham and along the A303 to Salisbury, Reading and Newbury. They were often away in the caravan for 3-4 weeks at a time in the summer; work was occasional in the winter. They got work by leafleting houses and by knocking on doors. They also bought and sold vehicles; the vehicles would be taken back to the house. They were usually 2-3 days in an area and they camped on the side of the road in the caravan or

occasionally in campsites. In a typical year the Appellant was away travelling for 3 months.

19. The Appellant started to attend horse fairs when he was 18/19 years old. He kept his horses on a field rented from a farmer down the road from where Mrs Miller lived and he had at most 6-7 horses. When he was away, Mrs Miller looked after them. Most of the buying and selling was done at the fairs; some were sold by advertisements in the paper and some dealings are now on the internet. All deals were in cash and the Appellant had no paper records. The Appellant last sold a horse in November 2013 and the two horses he currently has are not for selling. He plans to go to horse fairs this year.
20. Sharna was born in May 1999 when they were living in the house they had bought. In 2006 they moved out of the house because of trouble with the neighbours who, among other things, did not like the Appellant's way of life, particularly the scrap metal in the back garden. The Appellant had always dealt in scrap metal which he had kept at his parents' house, then at Mrs Miller's previous address and then at their home. The majority of the Appellant's scrap metal dealing took place in the winter when he stayed at home and he took day trips out to pick up/collect the scrap metal which he sorted in the back garden.
21. When they left the house in the summer of 2006 they stayed for about four months in Mrs Miller's mother's garden in the caravan and motor home. The Appellant did not deal in scrap metal at that time but still travelled for work and he traded horses. They then bought a detached house in Chippenham where the Appellant carried on with his scrap metal business.
22. The appeal site was bought with no mortgage or loan in 2010. In about March 2011 they moved out of their second house, again because of problems with the neighbours. The house was sold in August 2011 and Council Tax was paid up to that date. From March 2011 until July 2012 the family lived on about five different campsites with some days in between when they camped on the road. In July/August 2012 they moved onto the appeal site and Council Tax has been paid since August 2012.
23. The Appellant's evidence is that he works now within about a 30 mile radius of the appeal site. Depending on the type and length of the job he may stay away in the caravan, otherwise he returns to the appeal site. Unless he is staying in the caravan with the Appellant, the Appellant's cousin returns to his home in Devises. In addition to the fencing/other types of work, the Appellant continues to run his scrap metal business from the appeal site.
24. The vague and anecdotal evidence relating to the attendance at horse fairs and horse dealing does not persuade me that this forms a large part, or indeed any part at all, of the Appellant's way of life and income. Although it would have been helpful if the Appellant had produced such things as examples of the leaflets he uses to seek work I am, however, satisfied that the Appellant travels to find work undertaking a variety of different jobs such as fencing and collecting scrap metal. But I have to consider whether his lifestyle comprises a 'nomadic habit of life' for the purposes of the PPTS.

25. There is case law which is relevant to the term 'nomadic'. In the case of *R v South Hams DC, ex parte Gibb and Ors*⁸, it was held that the term 'nomadic' imported the requirement that there be 'some recognisable connection' between a person travelling and the means by which they sought or made their living. In *Maidstone BC v First Secretary of State for the Environment and Dunn*⁹ it was held that a Romany gypsy who bred horses and travelled to horse fairs to trade them and was away from his home address for at least two months of the year qualified for gypsy traveller status. Again, in the case of *Basildon District Council v Secretary of State for the Environment and Rachel Cooper*¹⁰ a gypsy woman who travelled to fairs and sold craft items was afforded status. The Appellant has referred to an appeal decision in which a Inspector concluded that the Appellant, whose mother was a Romany Gypsy, and who had herself travelled and traded in horses for about four years prior ceasing to travel because of ill-health had retained her gypsy status although at the time of the appeal she derived her main income for working part-time in a shop and she had not travelled for an economic purpose for some time¹¹. However, in *Clarke-Gowan v SSTR & North Wiltshire DC*¹² the Court upheld an Inspector's finding that the claimant's peripatetic working life of using his caravan to live in whilst he was working away from his permanent mobile home was typical of those engaged in sub-contractual work in the building industry and was not sufficient to establish a nomadic lifestyle.
26. The Appellant is not a gypsy by birth. The Appellant was extremely vague about where he lived when he left home and where he was living when he met Mrs Miller and thereafter until they set up home together. Mrs Miller was also unable to be precise about where they had lived and when. It appeared to me that they were reluctant to give information about their past and present way of life. It seems to me, however, that the Appellant has always had a base where his family reside, whether a flat, a house or a caravan on a site, from which he travels and when he does travel it is for relatively short periods at a time. In particular, most recently his travelling has been local and he has been away from his family only infrequently and then for a few days at a time.
27. When he and his family left their second house in 2011 they owned the appeal site and they did not explain why they chose to move from caravan site to caravan site until August 2012 when they moved onto the appeal site. Nor did they explain why they continued to pay Council Tax for the house despite the fact they were not living in it when they could have obtained an exemption. I note that during that period they did not stay on gypsy/traveller sites but on caravan club sites and that they are members of that club. No written evidence was provided such as receipts for payment for the various sites. The Appellant knew that they could only stay on those sites for up to 28 days, or longer if the owner allowed, but no explanation was given why they did not plan ahead to move to another site when the time ran out but stayed on the road side in between sites.
28. The family is not known to the Council's Gypsy and Traveller Manager nor is the family known to the Highways Enforcement Officer¹³ although the Appellant

⁸ [1995] QB 158

⁹ [1996] CO/2349/94

¹⁰ [2004] ECWA Civ 473

¹¹ APP/Y3940/A/11/2151655 - Appendix 2 to the Statement on behalf of the Appellant

¹² [2002] EWCH 1284 (Admin)

¹³ Document 3

claims traveller status and says that he has stayed on the roadside on many occasions, on his own, with his cousin and with his family.

29. On the evidence I have I consider that the travelling carried out by the Appellant is similar to that of many persons in the settled community who have permanent bases and who from time to time have to or choose to travel, and stay away for short periods of time to obtain work.
30. After taking account of all the evidence, including the cited case law, I consider that the nature of the travelling carried out by the Appellant has not been such as to be consistent with a 'nomadic habit' in that it does not involve him travelling from place to place in order to make his living¹⁴. I am not therefore satisfied on the balance of probabilities that the Appellant falls within the definition of travellers for the purposes of the PPTS.
31. The personal circumstances of the Appellant and his family, however, remain an issue to which I must give consideration.

Personal circumstances

32. The Appellant's daughters, Michaela and Sharna, are now about 20 and about 15 years old respectively. From the evidence, neither of them attended school for any significant period of time because of bullying and health issues which resulted in them being withdrawn from school by Mrs Miller. Both girls have been home educated. When the family moved onto the appeal site Michaela attended Trowbridge College for a short period of time but left when she became pregnant; her child is due to be born in early May. Sharna does her schoolwork at home via the internet and both Mrs Miller and Sharna told me that there is no chance of her going to school again. Given the length of time that both girls have been known to the Education Welfare Service I am surprised that no report, about Sharna in particular, has been made available. Also, given the mention by Mrs Miller of depression and the effect on their health that bullying has had on both of her daughters that no medical reports have been provided.
33. I have a letter from Mrs Miller's GP dated 23 October 2013 saying that 'she is suffering marked stress and anxiety as a result of the issues that she informs me are arising as a result of difficulties she is having with progressing the planning application'. The letter is, however, not up to date and it is in very general terms.
34. The Appellant has referred to Court decisions relating to the statutory duty on any public authority to give consideration to the best interests of the children¹⁵. In addition, Article 8 of the European Convention of Human Rights is incorporated into the Human Right Act 1998 and it states that 'everyone has the right to respect for his private and family life, his home and his correspondence'.
35. The fact that the residential occupation of the appeal site by the Appellant and his family will have to cease as a result of this decision constitutes an interference with his home and private life. This, however, must be balanced against the public interest in upholding planning policy to protect the

¹⁴ *South Hams DC, ex parte Gibb and Ors*

¹⁵ *AZ v SSCLG and South Gloucestershire DC* - Appendix 10 to the Appellant's statement and *Zoumbas v Secretary of State for the Home Department* - Document 4

environment and in particular planning policy relating to residential development in the countryside and sustainable development¹⁶.

36. Whilst I appreciate that the Appellant and Mrs Miller had their reasons for leaving the two houses that they owned, nevertheless it was their choice to leave them and to live on the various caravan sites for short periods of time. No evidence was provided in respect of why, for example, they could not return to live in a house or on a caravan park home site. Sharna does not, and is unlikely to attend school for the remaining one year of her school life, and her education can be undertaken wherever there is an internet signal. Whilst I accept that a settled home is generally in the best interests of any child, I have been given no information or reason why such a settled environment could not be provided for her away from the appeal site.
37. The period of time for compliance on the notice is six months. From the limited information that has been provided by the Appellant, both written and orally, I am satisfied that the eventual cessation of the residential use within that period of time would not be a disproportionate consequence and that it is a reasonable period of time to allow the Appellant to make arrangements about where he and his family should live in the future. I, however, draw the Council's attention to s.173A of the 1990 Act which provides powers to extend the period for compliance should it be necessary to do so.
38. I am satisfied that in coming to my decision I have properly taken into account the rights and duties conferred by the Public Sector Equality Duty Act 2010.

Conclusions - the enforcement notice appeal

39. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections.

Conclusions - the s.78 appeal

40. For the reasons given above I conclude that the appeal should be allowed.

Formal Decisions

Appeal Ref: APP/Y3940/C/13/2206152

41. It is directed that the enforcement notice is corrected by the deletion of the word 'permanently' from requirements a), b), c), d) and e). Subject to these corrections the appeal is dismissed and the enforcement notice is upheld.

Appeal Ref: APP/Y3940/A/13/2203096

42. The appeal is allowed and planning permission is granted for the change of use of land to a mixed use for the keeping of horses and as a residential caravan site for one gypsy family with three caravans, including laying of hardstanding at Sharkays, Whaddon Lane, Hilperton, Trowbridge, Wiltshire, BA14 7RN in accordance with the terms of the application, Ref W/12/02069/FUL dated 5 November 2012, subject to the following conditions:
- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:

¹⁶ Saved Policies C1 and H19 of the West Wiltshire District Plan 1st Alteration and Paragraph 55 of the National Planning Policy Framework

Drawing: Location plan

Drawing: Site location/ layout

- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites (Department for Communities and Local Government - March 2012).
- 3) No more than three caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than two shall be a static caravan) shall be stationed on the site at any time.
- 4) Except for the breeding and sale of horses, no commercial activities shall take place on the land, including the storage of materials.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no fences or other means of enclosure shall be erected on the site.
- 7) No external lighting shall be installed on the site.
- 8) The use of the site hereby permitted shall not take place until details of a scheme to limit and define the part of the stable building to be used as a utility dayroom, to include the internal layout of the utility dayroom and its physical separation from the rest of the stable building, have been submitted to and approved in writing by the local planning authority. The use and extent of the dayroom shall be carried out in accordance with the approved details and within any such timescale as specified by the local planning authority.

Gloria McFarlane

Inspector

APPEARANCES

FOR THE APPELLANT

Mr P Brown Chartered Town Planner
BA(Hons) MRTPI

Mr M Miller Appellant

Mrs J Miller The Appellant's wife

Ms S Miller The Appellant's daughter

FOR THE LOCAL PLANNING AUTHORITY

Mr J Taylor Senior Planning Officer
BA(Hons) MA MRTPI

Mr S Hawkins Planning Enforcement Team leader
MA MRTPI

Mr D Tyrrell Planning Enforcement Officer

INTERESTED PERSONS

Ms P Fisher Local resident

DOCUMENTS SUBMITTED AT THE HEARING

Document 1 - Copies of the Council's letters of notification and lists of persons notified

Document 2 - Letter from Mrs Miller's GP, submitted by the Appellant

Document 3 - Emails from the Highways Enforcement Officer and the Gypsy and Traveller Manager, submitted by the Council

Document 4 - *Zoumbas v Secretary of State for the Home Department* [2013] UKSC 74, submitted by the Appellant

Agenda Item 23

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 26th May 2022**

APPEAL DECISIONS:

- 1. 18/503291/FULL** **Change of use of land to use as a residential gypsy caravan site for two gypsy families including the stationing of 2 no. mobile homes and 1 no. touring caravan.**

APPEAL: ALLOWED

Oak Tree Farm
Lenham Road
Headcorn
Ashford
Kent
TN27 9LG

(Delegated)
