

# PLANNING COMMITTEE MEETING

Date: Thursday 25 May 2023  
Time: 6.00 p.m.  
Venue: Town Hall, High Street, Maidstone

Membership:

To be appointed at the Annual Meeting of the Council on 20 May 2023

*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.*

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## AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - 1 June 2023
6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
7. Disclosures by Members and Officers
8. Disclosures of lobbying
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
10. Minutes of the meeting held on 20 April 2023 1 - 9
11. Minutes of the meeting to be held on 23 May 2023 - to follow
12. Presentation of Petitions (if any)
13. 23/500949/FULL - Oast Cottage, Boughton Lane, Boughton Monchelsea, Maidstone, Kent 10 - 20
14. 23/500425/FULL - 2 Popes Wood, Thurnham, Maidstone, Kent 21 - 29

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**Issued on Wednesday 17 May 2023**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

15.	23/501362/LAWPRO - 84 Loose Road, Maidstone, Kent	30 - 35
16.	23/500374/FULL - 13 Saltwood Road, Tovil, Kent	36 - 44
17.	22/503943/FULL - Land Off Bull Lane, Stockbury, Kent	45 - 51
18.	23/500671/FULL - 24 Meadow View Road, Boughton Monchelsea, Maidstone, Kent	52 - 62
19.	22/505947/FULL - Burford Farm, Redwall Lane, Linton, Maidstone, Kent	63 - 80
20.	23/500453/TPOA - Ashurst Road Open Space, Ashurst Road, Maidstone, Kent	81 - 85
21.	23/500557/TPOA - The Nature Reserve, Spot Lane, Downswood, Kent	86 - 89
22.	5004/2023/TPO - 71 Church Street, Boughton Monchelsea, Maidstone, Kent	90 - 98
23.	Appeals List	99 - 102

#### **PLEASE NOTE**

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

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

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

#### **PUBLIC SPEAKING AND ALTERNATIVE FORMATS**

**In order to speak at the meeting, please call 01622 602899 or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 4 p.m. on Wednesday 24 May 2023. 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](mailto:committee@maidstone.gov.uk)**

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## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON 20 APRIL 2023**

##### **Present:**

<b>Committee Members:</b>	<b>Councillor Spooner (Chairman) and Councillors Brindle, Cox, English, Harwood, Holmes, Kimmance, McKenna, Munford, Perry, Trzebinski, D Wilkinson and Young</b>
<b>Visiting Members:</b>	<b>Councillors Coates, Harper and J Sams</b>

##### 257. APOLOGIES FOR ABSENCE

There were no apologies for absence.

##### 258. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

##### 259. NOTIFICATION OF VISITING MEMBERS

Councillors Coates and Harper indicated their wish to speak on the reports of the Head of Development Management relating to the following applications:

22/505206/FULL - 14 Charles Street, Maidstone, Kent

22/505414/FULL - 2 Charlton Street, Maidstone, Kent

22/503535/FULL - 101 Milton Street, Maidstone, Kent

Councillor Harper also indicated his wish to speak on the report of the Head of Development Management relating to application 22/505747/FULL - Springwood Road Nurses Accommodation, Springwood Road, Barming, Kent.

Councillor J Sams indicated her wish to speak on the report of the Head of Development Management relating to application 20/504976/FULL - Little Dene, Lenham Heath Road, Lenham Heath, Kent.

##### 260. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

##### 261. URGENT ITEMS

The Chairman said that he intended to take the update reports of the Head of Development Management 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.

262. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

263. DISCLOSURES OF LOBBYING

The following disclosures of lobbying were noted:

12.	22/502529/TPOA - Holtye Cottage, Headcorn Road, Staplehurst, Kent	Councillor Perry
13.	23/500230/FULL - Land at Forsham House, Forsham Lane, Sutton Valence, Kent	Councillors Brindle, Cox, English, Harwood, McKenna, Munford, Perry, Spooner, Trzebinski, D Wilkinson and Young
14.	20/504976/FULL - Little Dene, Lenham Heath Road, Lenham Heath, Kent	Councillors Brindle, Cox, English, Harwood, McKenna, Munford, Perry, D Wilkinson and Young
15.	23/500195/FULL - 1 Skye Close, Maidstone, Kent	No Lobbying
16.	23/500381/FULL - Land Adjacent to The Hawthorns, Pye Corner, Ulcombe, Kent	Councillor Trzebinski
17.	22/505206/FULL - 14 Charles Street, Maidstone, Kent	Councillors English and D Wilkinson
18.	22/505414/FULL - 2 Charlton Street, Maidstone, Kent	Councillors English and D Wilkinson
19.	22/503535/FULL - 101 Milton Street, Maidstone, Kent	Councillors English and D Wilkinson
20.	22/505747/FULL - Springwood Road Nurses Accommodation, Springwood Road, Barming, Kent	Councillors English, Harwood, McKenna, Perry and D Wilkinson

264. EXEMPT ITEMS

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

265. MINUTES OF THE MEETING HELD ON 23 MARCH 2023

**RESOLVED:** That the Minutes of the meeting held on 23 March 2023 be approved as a correct record and signed.

266. PRESENTATION OF PETITIONS

There were no petitions.

267. 23/500230/FULL - ERECTION OF A CARE VILLAGE COMPRISING OF A 87 NO. BED CARE HOME AND 12 ASSISTED LIVING APARTMENTS WITH DOCTORS' CONSULTING ROOM, CAR PARKING, LANDSCAPING AND ASSOCIATED

DEVELOPMENT - LAND AT FORSHAM HOUSE, FORSHAM LANE, SUTTON VALENCE, KENT

The Committee considered the report of the Head of Development Management.

In introducing the application, the Principal Planning Officer advised the Committee that KCC Drainage had responded to the extra information submitted on surface water. They were still not entirely satisfied with the methodology used in the calculations and, therefore, if Members were minded to accept the Officer recommendation to refuse the application, she would suggest a further reason that there was inadequate information regarding surface water drainage at this time.

The Democratic Services Officer read out a statement on behalf of Dr Mangar and Dr Cranston of Sutton Valence Group Practice objecting to the application.

Councillor Flint of Sutton Valence Parish Council and Mr Singh, the applicant, addressed the meeting.

**RESOLVED:** That permission be refused for the reasons set out in the report and the additional reason suggested by the Principal Planning Officer that there is inadequate information regarding surface water drainage at this time.

Voting: 12 – For 0 – Against 0 – Abstentions

268. 20/504976/FULL - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF 6 NO. DWELLINGS WITH ASSOCIATED PARKING, HARDSTANDING, LANDSCAPING AND AREA OF ECOLOGICAL ENHANCEMENT, INFRASTRUCTURE AND EARTHWORKS. ENHANCEMENT OF AN EXISTING ACCESS AND PROVISION OF A NEW ACCESS FROM LENHAM HEATH ROAD - LITTLE DENE, LENHAM HEATH ROAD, LENHAM HEATH, KENT

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

Councillor Walmsley of Lenham Parish Council, Mr Wilford, for the applicant, and Councillor J Sams (Visiting Member) addressed the meeting.

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

Visual Harm: Notwithstanding that this is a part brownfield site, the volume of what is proposed compared with the modest structures associated with the existing cattery use together with the associated domestic paraphernalia and lighting etc. would result in harm to the character, appearance and openness of the countryside. The harm would be exacerbated by the topography and the views from the adjacent Public Right of Way.

Unsustainable Development: The proposal would result in a more intensive form of development in an unsustainable location. With the site being a significant distance from basic services and facilities, future occupants would be reliant on car use.

Ecological Impact/Appropriate Mitigation: The application fails to comprehensively demonstrate the ecological impact of the intensification of the residential use of the site and appropriate mitigation, referencing the adjacent local wildlife site, dark skies and biodiversity net gain.

Nutrient Neutrality: The application fails to demonstrate appropriate mitigation of harm to the internationally designated Stodmarsh sites due to increased phosphate and nitrate pollution resulting from the introduction of additional dwellings.

**RESOLVED:** That permission be refused, and the Head of Development Management be given delegated powers to finalise the reasons for refusal, to include the key issues cited above, and to incorporate the relevant policies.

Voting: 12 – For 0 – Against 0 - Abstentions

269. 23/500381/FULL - CHANGE OF USE OF THE LAND FOR THE STATIONING OF ONE STATIC MOBILE, ONE TOURING CARAVAN AND ONE DAY ROOM FOR GYPSY / TRAVELLER OCCUPATION. ASSOCIATED HARD AND SOFT LANDSCAPING (PART RETROSPECTIVE) - LAND ADJACENT TO THE HAWTHORNS, PYE CORNER, ULCOMBE, KENT

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

In introducing the application, the Development Team Leader advised the Committee that the reference to condition 9 in conditions 9 and 12 should be corrected to refer to condition 8.

The representative of the Head of Legal Partnership read out a statement on behalf of Ulcombe Parish Council which was unable to be represented at the meeting.

Mr McKay, agent for the applicant, addressed the meeting.

**RESOLVED:**

1. That subject to no new material planning considerations being raised from the applicant landowner notification, the Head of Development Management be given delegated powers to grant permission subject to the conditions set out in the report, as amended by the Development Team Leader during his introduction of the application, and an additional condition requiring the provision of some form of renewable energy within the dayroom if technically feasible.
2. That the Head of Development Management be given delegated powers to be able to add, settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Voting: 12 – For 0 – Against 1 – Abstention

Note: Councillor Kimmance joined the meeting prior to consideration of this application (7.15 p.m.). He said that he had no disclosures of interest or of lobbying.

270. 23/500195/FULL - DEMOLITION OF EXISTING GARAGE AND OPEN SIDED SHED. ERECTION OF A DETACHED RESIDENTIAL ANNEXE ANCILLARY TO THE MAIN DWELLING - 1 SKYE CLOSE, MAIDSTONE, KENT

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

**RESOLVED:** That permission be granted subject to the conditions and informatives set out in the report with delegated powers given to the Head of Development Management 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.

Voting: 13 – For 0 – Against 0 – Abstentions

271. 22/505747/FULL - SECTION 73 - APPLICATION FOR VARIATION OF CONDITIONS 4 (TO REMOVE THE REQUIREMENT FOR SOLAR PV PANELS) AND 9 (TO REDUCE THE NUMBER OF ELECTRIC VEHICLE CHARGING POINTS FROM TEN TO FOUR) PURSUANT TO 22/501405/FULL FOR CHANGE OF USE FROM 4 BLOCKS OF RESIDENTIAL NURSES ACCOMMODATION TO 3 NO. BLOCKS COMPRISING OF 18 X 5 BED HMO UNITS AND 1 NO. BLOCK COMPRISING OF 8 X 3 BEDROOM RESIDENTIAL UNITS - SPRINGWOOD ROAD NURSES ACCOMMODATION, SPRINGWOOD ROAD, BARMING, KENT

The Committee considered the report of the Head of Development Management.

Ms Tilley, agent for the applicant, and Councillor Harper (Visiting Member) addressed the meeting.

Notwithstanding the proposal submitted by the applicant, Members accepted the recommendation of the Head of Development Management relating to the deletion of condition 9 (Electric Vehicle Charging Points) as the thresholds for when electric vehicle charging points are required and the quantity required are now covered under Building Regulations.

However, contrary to the recommendation of the Head of Development Management, the Committee agreed to refuse the application for variation of condition 4 (Energy Efficiency Measures). In making this decision, the Committee considered that, in the absence of condition 4, the proposal would fail to reduce reliance on unsustainable energy sources and the applicant has failed to demonstrate that solar panels and cavity wall insulation are not feasible or viable contrary to Policy DM1 (vii) of the Maidstone Borough Local Plan 2017 and Paragraphs 134, 152 and 157 of the NPPF.

**RESOLVED:**

1. That the recommendation of the Head of Development Management relating to the deletion of condition 9 (Electric Vehicle Charging Points) be accepted as the thresholds for when electric vehicle charging points are required and the quantity required are now covered under Building Regulations.

2. That the application for variation of condition 4 (Energy Efficiency Measures) be refused for the following reason:

In the absence of condition 4, the proposal would fail to reduce reliance on unsustainable energy sources and the applicant has failed to demonstrate that solar panels and cavity wall insulation are not feasible or viable contrary to Policy DM1 (vii) of the Maidstone Borough Local Plan 2017 and Paragraphs 134, 152 and 157 of the NPPF.

3. That the removal of condition 9 (Electric Vehicle Charging Points) attached to the planning permission dated 28 October 2022 be approved with permission granted subject to the conditions set out in the report with the amendment of condition 4 as follows:

Energy Efficiency: Prior to first occupation of the development hereby approved the energy efficiency measures set out in the DHA letter dated 23 September 2022 shall be in place. Unless it can be adequately demonstrated in writing that they are not physically capable of being provided, the development should additionally, include the installation of solar PV panels (to provide at least 10% of total annual energy requirements of the development) and cavity wall insulation both provided prior to first occupation of the approved development. All features shall be maintained thereafter for the lifetime of the development.

Reason: To ensure an energy efficient form of development.

Voting: 12 – For 0 – Against 0 – Abstentions

Note: Councillor English did not participate in the voting on this application as he had not been present for all of the discussion.

272. 22/505206/FULL - CHANGE OF USE FROM CLASS C4 6-BEDROOM HMO TO SUI-GENERIS 8-BEDROOM HMO TO INCLUDE ERECTION OF A SINGLE STOREY REAR EXTENSION AND LOFT CONVERSION WITH A REAR DORMER AND 1 NO. FRONT ROOFLIGHT (RE-SUBMISSION OF 22/503713/FULL) - 14 CHARLES STREET, MAIDSTONE, KENT

The Committee considered the report of the Head of Development Management.

The Democratic Services Officer read out a statement on behalf of Mr Musindo, an objector.

Councillors Harper and Coates (Visiting Members) addressed the meeting.

Contrary to the recommendation of the Head of Development Management, the Committee agreed to refuse permission. In making this decision, the Committee considered that the increase in bedrooms would result in a significant exacerbation of inadequate parking and environmental deterioration creating cumulative harm to neighbourhood amenity contrary to Policies DM1 and DM9 of the Maidstone Borough Local Plan 2017 and the NPPF.

**RESOLVED:** That permission be refused as the increase in bedrooms would result in a significant exacerbation of inadequate parking and environmental

deterioration creating cumulative harm to neighbourhood amenity contrary to Policies DM1 and DM9 of the Maidstone Borough Local Plan 2017 and the NPPF.

Voting: 13 – For 0 – Against 0 – Abstentions

273. 22/505414/FULL - ERECTION OF AN ATTACHED TWO-BEDROOM DWELLING - 2 CHARLTON STREET, MAIDSTONE, KENT

The Committee considered the report of the Head of Development Management.

The Democratic Services Officer read out a statement on behalf of Mr Garrett and Mr Adams who objected to the application but were unable to be present at the meeting.

Mr Court, agent for the applicant, and Councillors Harper and Coates (Visiting Members) addressed the meeting.

**RESOLVED:**

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

The addition of a renewables condition;  
The amendment of condition 5 (Biodiversity Enhancements) to require integral niches for wildlife (swift bricks etc.); and  
The amendment of condition 8 (Landscaping) to specify that the landscaping scheme shall include a privet hedge along the front wall to maintain a domestic curtilage.

2. That delegated powers be given to the Head of Development Management to be able to add, settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Voting: 12 – For 0 – Against 0 – Abstentions

Note: Councillor English did not participate in the voting on this application as he had not been present for all of the discussion.

274. 22/503535/FULL - CONVERSION OF EXISTING FOUR STOREY DWELLING INTO 3 NO. SELF-CONTAINED FLATS, INCORPORATING A SINGLE STOREY GROUND FLOOR PITCHED ROOF SIDE EXTENSION AND SINGLE STOREY LOWER GROUND FLOOR FLAT ROOF REAR EXTENSION, AND NEW PEDESTRIAN ACCESS WITHIN BOUNDARY WALL - 101 MILTON STREET, MAIDSTONE, KENT

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

In introducing the application, the Senior Planning Officer advised the Committee that a further representation had been received during the meeting requesting that the rear yard area be considered for parking. However, it was not clear whether an adequate turning area could be provided in this area and the reason for the maximum standards was to reduce the negative impact of off-street parking and maintain some amenity areas.

Mr Barry, an objector, addressed the meeting.

The Democratic Services Officer read out a statement on behalf of Mrs Townsend who also objected to the application and whose representations were read out in the Residents' Association speaker slot at the discretion of the Chairman.

Mr Olayinka, the applicant, and Councillors Harper and Coates (Visiting Members) addressed the meeting.

**RESOLVED:**

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

The addition of a condition requiring the provision of three car parking spaces on the site, to be retained in perpetuity; and  
Irrespective of the details submitted, the strengthening of condition 8 (Landscaping) to secure the provision of a soft landscaped element to the boundaries of the site, planted with a domestic hedge type curtilage.

2. That the Head of Development Management be given delegated powers to be able to add, settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Voting: 9 – For 3 – Against 0 – Abstentions

Note: Councillor Munford was not present for all of the discussion or the voting on this application.

275. LONG MEETING

Prior to 10.30 p.m., following determination of application 22/503535/FULL (101 Milton Street, Maidstone, Kent), the Committee considered whether to adjourn at 10.30 p.m. or to continue until 11.00 p.m. if necessary.

**RESOLVED:** That the meeting should continue until 11.00 p.m. if necessary.

276. 22/502529/TPOA - TPO APPLICATION TO REDUCE ONE OAK (T2) TO 9.0M IN HEIGHT AND REDUCE LATERAL BRANCH SYSTEM BY 1.0M TO 1.5M BALANCING THE CROWN. REMOVE RE-GROWTH TRIENNIALLY; REMOVE ONE OAK T3 (FELL) TO NEAR GROUND LEVEL. OWNER TO PHYSICALLY REMOVE ANY REGROWTH (NO CHEMICAL TREATMENT DUE TO TRANSLOCATION RISK) - HOLTYE COTTAGE, HEADCORN ROAD, STAPLEHURST, KENT

The Committee considered the report of the Head of Development Management.

The representative of the Head of Legal Partnership reminded the Committee that authorities should bear in mind that they may be liable to pay compensation for loss or damage as a result of refusing consent or granting consent subject to conditions. However, if the authority believes that some loss or damage is foreseeable, it should not grant consent automatically. It should take this factor into account alongside other key considerations, such as the amenity value of the

tree and the justification for the proposed works, before reaching its final decision. This was relevant to the decision-making process.

Contrary to the recommendation of the Head of Development Management, the Committee agreed to refuse permission. Having also previously debated this item (on 23 March 2023) in making this decision, Members considered the reasons for the works and were of the view that notwithstanding the compensation that might be payable, given the condition of the trees, their amenity value (both visually and in the wider context of biodiversity, etc), their landscape contribution to the character of the area and wider character of Staplehurst, and relationship with the landscape of the area, the CAVAT value as well as the wider benefits offered by the retention of the trees, the proposed works to the trees and the associated harm caused as a result were so significant that refusal of the application was warranted. The Committee had regard to the fact that the Council had declared a Biodiversity and Climate Change Emergency.

**RESOLVED:** That permission be refused for the following reason:

Having considered the reasons for the works and having regard to and having weighed the potential issue of compensation against other key considerations, in particular, the condition of the trees (Oak T2 and Oak T3); their life expectancy; the loss of their contribution to public visual amenity on the local environment is significant; the loss of their contribution to, and relationship with, the landscape and the wider character of Staplehurst; the Capital Asset Value for Amenity Trees (CAVAT value) of Oak T3; and the loss of the wider benefits offered by the retention of the trees (including their intrinsic character and beauty and their contribution to biodiversity and climate change), the benefits of retaining the trees in their current form outweighed the resultant harm arising from the proposed works such that a refusal of the application is warranted.

Voting:      13 – For      0 – Against      0 – Abstentions

#### 277. APPEAL DECISIONS

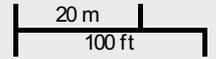
The Committee considered the report of the Head of Development Management setting out details of appeal decisions received since the last meeting.

**RESOLVED:** That the report be noted.

#### 278. DURATION OF MEETING

6.00 p.m. to 10.35 p.m.

# Agenda Item 13



Ordnance Survey - data derived from OS Premium

**23/500949/FULL Oast Cottage, Boughton Lane, Boughton Monchelsea, Maidstone, Kent, ME17 4NA**

Scale: 1:1250  
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## REPORT SUMMARY

<b>REFERENCE NO:</b> 23/500949/FULL		
<b>APPLICATION PROPOSAL:</b> Demolition of detached treble bay garage and greenhouse, and erection of detached house with associated parking/gate (re-sub of 20/504039/FULL).		
<b>ADDRESS:</b> Oast Cottage Boughton Lane Boughton Monchelsea Maidstone Kent ME17 4NA		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to planning conditions		
<p><b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> The proposal does not accord with policy SP17 of the adopted Local Plan, in that there are no exception policies for a new dwelling in this location and it would cause some harm to the character and appearance of the area.</p> <p>However, in accordance with Section 38(6) of the Compulsory Purchase Act 2004, if regard is to be had to the Development Plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.</p> <p>In this respect, it is a strong material consideration that exactly the same proposal was considered acceptable and approved only 2.5 years ago under planning application reference: 20/504039, and that this permission is extant and still remains capable of implementation. There have been no physical changes at the site to reach a different decision than that made in December 2020.</p> <p>The Boughton Monchelsea Neighbourhood Plan has been adopted since that decision, and whilst the proposal would not strictly accord with policy PWP4, in that it would not result in significant benefits to the parish in resolving community issues identified in the Plan, the extant permission is a material consideration which weighs in favour of granting permission in this case. It would accord with Neighbourhood Plan policies PWP1, RH1 and RH6, in that it would provide small scale windfall housing of high quality in keeping with its location; it would not cause visual or actual coalescence; and it would not have a significant adverse impact upon the landscape.</p> <p>It has been established through case law that local authorities should ensure consistency in decision making and in this case there are no overriding reasons why a different decision should be reached.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Development is a departure from Local Plan		
<b>WARD:</b> Boughton Monchelsea & Chart Sutton	<b>PARISH COUNCIL:</b> Boughton Monchelsea	<b>APPLICANT:</b> Mr & Mrs Norman <b>AGENT:</b> Mr Wise
<b>OFFICER:</b> Kate Altieri	<b>VALID DATE:</b> 03/03/23	<b>DECISION DUE:</b> 29/05/23
<b>ADVERTISED AS A DEPARTURE:</b> YES		

## RELEVANT PLANNING HISTORY

- 20/504039 - Erection of dwelling with access/gate – Approved (expires 11<sup>th</sup> Dec 2023)
- 18/505557 – Pre-app for new dwelling
- MA/07/0895 - Erection of single storey side extension – Approved
- MA/02/1539 - Conversion of garage roof space & 2 dormers and external staircase – Approved
- MA/02/0713 - Conversion of garage roof space; 2 dormers and external staircase – Refused
- MA/88/2344 - Outline for dwelling - Refused
- MA/86/0877 - Detached double garage - Approved
- MA/83/1031 - Modification to MA/82/0227 and erection of detached garages - Refused
- MA/82/0227 - Alterations and change of use – Approved
- MA/81/1451 - Alterations to oast for residential use – Approved
- MA/79/2039 - Conversion of oast to dwelling house – Refused

## 1.0 SITE DESCRIPTION

1.01 The proposal site is located on the eastern side of Boughton Lane, to the immediate north of a Local Plan site allocation for new housing and open space (policies H1[52] and OS1[14]). This housing site allocation is also within the Boughton Monchelsea Neighbourhood Plan (Policy RH5A). The proposal site is currently garden land for a property known as Oast Cottage, with vehicle access currently from an access track off of the main road. For the purposes of the Local Plan the site is in the countryside that falls within the Loose Valley Landscape of Local Value, although some 75m to the south of the defined urban boundary; and the site also falls within an area of archaeological potential and a KCC Minerals Safeguarding Area.

## 2.0 PROPOSAL

2.01 The proposal is described as: *Demolition of detached treble bay garage and greenhouse, and erection of detached dwelling with associated parking and gate. (resubmission of 20/504039).*

2.02 In terms of external materials, the elevations will be of render at ground floor level and timber cladding at first floor level, except for ragstone at first floor on the south-western elevation; and both roof elements will be of natural slate. The vehicle access will be sited next to the existing vehicle access for Oast Cottage, with the new gates being generally of the same height as the existing close boarded fencing that surrounds the site. The existing ragstone (north-western) boundary wall will be retained.

2.03 This application is exactly the same proposal as that already approved under 20/504039; and this existing permission is extant and remains capable of implementation. The extant permission has not been implemented due to the applicant's ill health over the years.

## 3.0 POLICY AND OTHER CONSIDERATIONS

- Local Plan (2017): SS1, SP17, DM1, DM2, DM3, DM8, DM23, DM30
- Boughton Monchelsea Neighbourhood Plan (2021-2031): PWP1, PWP4, PWP6, PWP7, PWP8, PWP10, PWP11, PWP12, PWP13, PWP14, PWP15, RH1, RH5A, RH6,
- National Planning Policy Framework (2021) & National Planning Practice Guidance
- Landscape Character Assessment (2012 amended July 2013)
- Maidstone Landscape Capacity Study: Sensitivity Assessment (Jan 2015)
- Kent Minerals & Waste Local Plan (2013-30) as amended (2020)
- Regulation 22 Local Plan

### Local Plan

3.01 The application site is within the designated countryside. Local Plan policy SP17 states that new development will not be permitted unless it accords with other policies in this Plan and it will not result in harm to the character and appearance of the area. Furthermore, other policies in the Local Plan seek for new development in the countryside to: Respect the amenity of local residents; to be acceptable in highway safety, heritage and arboricultural terms; to protect and enhance any on-site biodiversity features where appropriate, or provides sufficient mitigation measures; and to be acceptable in flood risk terms. Landscapes of Local Value should also be conserved and enhanced.

### Boughton Monchelsea Neighbourhood Plan (BMNP)

3.02 The adopted BMNP forms part of the Development Plan. This Plan was adopted by the Council on 14<sup>th</sup> July 2021, after 20/504039 was permitted (11<sup>th</sup> Dec 2020).

3.03 Policy PWP1 seeks to ensure a sustainable and resilient community; and policy PWP4 (provision for new housing) states (of most relevance):

*Positive and appropriate provision for new housing development for Boughton Monchelsea parish, and as required by the Maidstone Borough Local Plan, is made as follows:*

*B Development may be supported on other windfall sites and through conversions where:*

- (i) It is in line with policies RH1 and RH6 of this plan in particular, is small scale and of high quality and in keeping with its location*

- (ii) AND results in significant benefits to the parish in resolving community issues identified in the Plan such as specific identifiable housing needs OR*
  - (iii) It constitutes enabling development contributing to the retention and sustainability of heritage and/or community assets OR*
  - (iv) It is within the Boughton village development boundary*
- C In other circumstances, and particularly where development would result in the coalescence of hamlets within the parish, development will not be supported.*

3.04 Policy RH1 (location of new residential development) states (inter alia): *New residential development to north of Heath Rd, will be supported where it is within Boughton village development boundary, retains the dispersed character of existing hamlets in the area and avoids visual or actual coalescence and subject to no significant adverse impact on landscape or infrastructure, including parking.* Policy RH6 relates to the design of new housing development.

#### **Maidstone Landscape Character Assessment**

3.05 The Maidstone Landscape Character Assessment identifies the application site as falling within the Farleigh Greensand Fruit Belt Landscape Character Area (Area 27-11). The landscape guidelines for this area are to 'RESTORE & IMPROVE'. Within the Council's Landscape Capacity Study, the overall landscape sensitivity of the Farleigh Greensand Fruit Belt LCA is 'HIGH', with the area being 'sensitive to change'.

#### **Regulation 22 Local Plan**

3.06 The emerging plan is a material consideration, but at this time limited weight is attached to it because of the stage it has reached, having not yet been the subject of full public examination.

#### **5yr housing supply**

3.07 At this time the Council is of the view that it can demonstrate more than a 5yr housing land supply.

### **4.0 LOCAL REPRESENTATIONS**

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

### **5.0 CONSULTATIONS**

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

5.01 **Boughton Monchelsea Parish Council:** Raise no objection to application.

5.02 **KCC Archaeology Officer:** Raise no objection (see main report).

5.03 **KCC Minerals Safeguarding:** Have no minerals or waste management capacity safeguarding objections or comments to make regarding this proposal.

5.04 **Env Protection Team:** Raised no objection on air quality; contamination and noise under 20/504039.

5.05 **MBC Landscape Officer:** Raised no arboricultural objection under 20/504039.

5.06 **KCC Highways:** Raised no objection under 20/504039.

### **6.0 APPRAISAL**

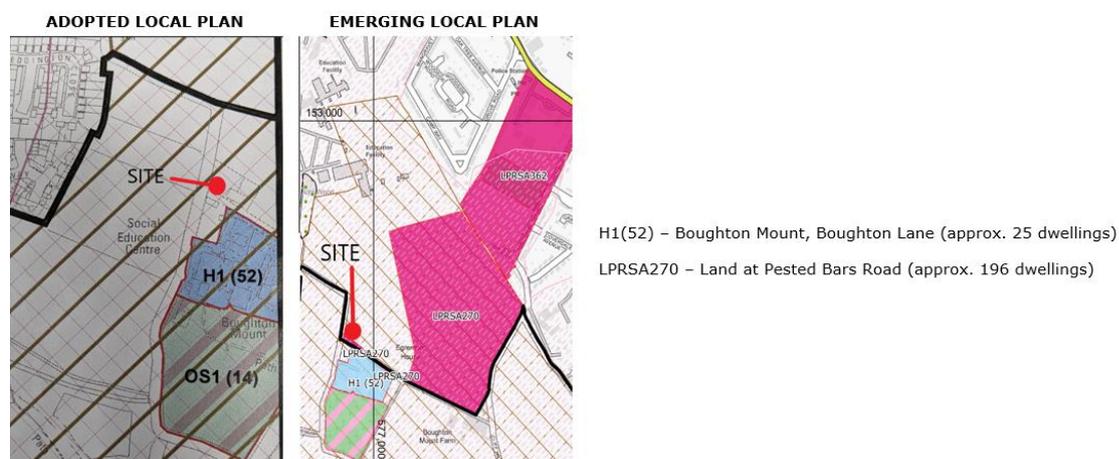
6.01 The key issues are:

- Location;
- Impact upon character and appearance of countryside;
- Residential amenity;
- Highway safety matters; and
- Other planning considerations.

6.02 The details of the submission will now be considered.

## Location

- 6.03 Local Plan policy SS1 identifies the focus for new residential development in the settlement hierarchy as firstly the urban area, then rural service centres, and lastly the larger villages. The proposal site is in the countryside for the purposes of the Local Plan. However in this instance it is a strong material consideration that there is already an extant planning permission for a dwelling on the site; and as considered before (under 20/504039), the site is less than 100m from the defined urban boundary of the site (see adopted Local Plan extract below). Furthermore, there are schools within immediate proximity of the site; Boughton Parade Local Centre is only around 1km to the north of the site; there is a public footpath some 280m to the south of the site that leads to a recreation ground (some 850m away in total); and there is a public footpath some 115m to the north of the site that leads to a supermarket (around 1km away). With this all considered, no objection is raised to the proposal in terms of its location.
- 6.04 It is also noted that the proposal site is within the defined urban area within the emerging Local Plan (see emerging Local Plan extract below). The extracts below, from the adopted Local Plan and the emerging Local Plan, also show that the surrounding area has been considered acceptable for new housing developments by the Council.



## Impact upon character and appearance of countryside

- 6.05 The proposal site is a reasonably prominent corner plot that is currently garden land associated to Oast Cottage. The garage building on the site is not particularly attractive and it sits end-on to the lane; and the site is enclosed by close boarded fencing and in part by an attractive ragstone wall.
- 6.06 As accepted under the extant planning permission (20/504039), whilst the proposal introduce more built form on the site and would cause some harm to the character and appearance of the countryside hereabouts, this harm is considered to be limited and the distinctive landscape character of the Loose Valley Landscape of Local Value would be conserved and enhanced.
- 6.07 Indeed, under 20/504039 it was judged that the mature planting to be retained along the north-western boundary of the site would provide a good level of screening when approaching the site from the north from Boughton Lane; and the site is only seen at short range views, when approaching the site from the south, given other existing surrounding development and landscaping. Furthermore, the set back of the 2-storey element of the house from the north-western and south-western boundaries would also help to reduce the overall bulk of the building, retaining a certain amount of openness within the site; the fenestration detail and the mixed palette of external materials would provide visual interest and relief from the bulk of the building; and existing views of the neighbouring oast from the road would not be significantly affected as a result of the development. The existing ragstone boundary wall will also be retained as part of the development, with the new access/gates going where there is only currently close boarded fencing.

- 6.08 In addition, with the property facing onto the lane, it would positively relate to the existing cluster of road frontage buildings; the footprint of the 2-storey element of the house is not significantly different to the surrounding properties; and the new house and Oast Cottage would have similar sized plots to Boughton Mount Oast. The modern design approach of the house is also not objectionable, and the use of the high quality materials proposed would ensure that the development would integrate well with the rural character of the area. The use of ragstone to the front of the dwelling is particularly welcome, as it picks up on the appearance of the surrounding properties; and it is noted that the property opposite also has render at ground floor level, with ragstone above. On this basis, it is considered that the development would not appear cramped, or harmfully at odds with the prevailing pattern of development in the locality; and nor would it appear unacceptably dominant or visually incongruous when viewed from any public vantage point.
- 6.09 Under 20/504039, the Council's Landscape Officer was also satisfied that the proposal would be achievable without compromising the planting along the roadside boundary of the site, subject to a recommended tree protection condition. This remains relevant and on this basis there continues to be no arboricultural objection to the proposal, subject to a pre-commencement condition requiring tree protection details. This condition has been agreed by the agent. To further safeguard the character and appearance of the area, suitable conditions are recommended to secure the quality of materials and landscaping; to retain the attractive ragstone wall along part of the north-western and south-western boundaries; and to control the impact of any external lighting. It is also considered reasonable to remove permitted development rights to extend the roof of the house and to erect any other hard boundary treatments.
- 6.10 In summary, the same proposal was judged to not cause unacceptable harm to the character and appearance of area under extant planning permission 20/504039, and this view remains; and there have been no significant changes to the site or its surroundings, to reach a different conclusion on this impact.
- 6.11 It is acknowledged that the proposal would not be strictly in accordance with Boughton Monchelsea Neighbourhood Plan policy PWP4, in that it would not result in significant benefits to the parish in resolving community issues identified in the Plan. However, the extant permission is a material consideration which weighs in favour of granting permission in this case. It is also considered that the proposal would accord with Neighbourhood Plan policies PWP1, RH1 and RH6, in that it would provide small scale windfall housing of high quality in keeping with its location; it would not cause visual or actual coalescence; and it would not have a significant adverse impact upon the landscape.

### **Residential amenity**

- 6.12 As accepted under 20/504039, the proposal would not have an adverse impact upon the living conditions of any resident when trying to enjoy their own property, in terms of privacy, light, outlook, being overbearing, and general noise and disturbance. Indeed, the proposed dwelling (and its parking area), whilst close to the shared boundary with Oast Cottage, would actually be more than 10m away from the neighbouring property; and whilst there is an outdoor patio area in between the two properties, this is not the only private outdoor amenity space the occupants benefit from. Furthermore, the first floor side openings in the south-eastern boundary of the site will be conditioned to be obscure glazed and fixed shut, to safeguard the amenity of the occupants of Oast Cottage. The occupants of Oast Cottage would also retain a relatively large garden, and so there is no objection in this respect. Given the separation distances, the proposal would not adversely impact any other resident when trying to enjoy their own property. Future occupants of the site would also continue to benefit from acceptable living standards (both internally and externally).

### **Highway safety matters**

- 6.13 The new dwelling would benefit from a new vehicle access point from the lane that runs along the southern boundary of the site, with Oast Cottage retaining the use of the existing vehicle access. This is considered to raise no highway safety concern, as accepted by the Highways Authority, who had previously raised no objection to the application under 20/504039. There are continues to be acceptable levels of on-site parking provision for both Oast Cottage and the new dwelling. On this basis, the development would not have a severe impact on the road network and it would not have an unacceptable impact in highway safety terms.

### **Other planning considerations**

- 6.14 It is accepted that there is unlikely to be any protected species on the site and so no further details are required in this respect prior to the determination of this application. Notwithstanding this, one of the principles of the NPPF is that "*...opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity*". On this basis, a suitable condition will be imposed requesting details of biodiversity enhancement on the site, including through integrated methods into the design and appearance of the dwelling.
- 6.15 The KCC Archaeology Officer confirms that the site lies within an area of archaeological potential associated with Iron Age and Post Medieval agrarian activity, and with this in mind they have recommended a condition to secure a watching brief. Such a condition is considered reasonable to ensure that features of archaeological interest are properly examined and recorded. Details are required prior to the commencement of development as groundworks are necessary to adhere to the condition, and the agent has agreed to this.
- 6.16 The Environmental Protection Team has previously raised no objection to the application in terms of air quality; contamination and noise, and so no further details are required in these respects. The proposal site is in Flood Zone 1; surface water will be disposed via soakaway; and foul sewage disposed by mains sewer. This is not objectionable and no further details are also required in these matters.
- 6.17 In accordance with Local Plan policy and in the interests of sustainability, suitable conditions will be imposed to secure the use of renewable technologies and bicycle parking on the site; no further details are required in terms of refuse storage/collection; external lighting can be controlled by way of condition, in the interests of amenity; and the KCC Minerals Safeguarding Officer has confirmed that KCC has no objection to the proposal on mineral or waste safeguarding concerns.
- 6.18 The KCC Minerals Safeguarding Team raises no objection on mineral or waste safeguarding concerns; and the KCC Public Rights of Way Officer has also raised no objection.
- 6.19 All representations received in relation to this application have been considered in this assessment; and due regard has been also had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application would not undermine the objectives of this Duty.
- 6.20 The development is CIL liable. The Council adopted a Community Infrastructure Levy in October 2017 and began charging on all CIL liable applications approved on and from 1<sup>st</sup> 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 if planning permission is granted or shortly after. The submission is not EIA development.

## 7.0 CONCLUSION

- 7.01 The proposal does not accord with policy SP17 of the adopted Local Plan, in that there are no exception policies for a new dwelling in this location and it would cause some harm to the character and appearance of the area.
- 7.02 However, in this instance it is a strong material consideration that the same proposal has already been approved under planning application reference: 20/504039 and that this permission is extant and still remains capable of implementation. There have also been no physical changes at the site to reach a different decision than that made in December 2020.
- 7.03 The Boughton Monchelsea Neighbourhood Plan has been adopted since that decision, and whilst the proposal would not strictly accord with policy PWP4, in that it would not result in significant benefits to the parish in resolving community issues identified in the Plan, the extant permission is a material consideration which weighs in favour of granting permission in this case. Furthermore, the proposal would accord with Neighbourhood Plan policies PWP1, RH1 and RH6, in that it would provide small scale windfall housing of high quality in keeping with its location; it would not cause visual or actual coalescence; and it would not have a significant adverse impact upon the landscape.
- 7.04 It has been established through case law that local authorities should ensure consistency in decision making and in this case there are no overriding reasons why a different decision should be reached.
- 7.05 On this basis, a recommendation to approve this planning application, subject to conditions, is therefore made.

## 8.0 RECOMMENDATION

8.01 **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.

- (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: KWTP.01; 02; 03; 04; 05; 06; 07; 08; 09; 10 (boundary treatment details); and 10 (proposed streetview).

Reason: For the avoidance of doubt.

- (3) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification 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. Details are required prior to the commencement of development as groundworks are necessary to adhere to the condition.

- (4) The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS:5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: To safeguard the character and appearance of the countryside that falls within the Loose Valley Landscape of Local Value. Details are required prior to the commencement of the development as tree protection needs to be in place beforehand.

- (5) As shown in the submission and prior to the commencement of development above damp-proof course level, written details of the materials to be used in the construction of the external surfaces of the building hereby approved shall be submitted to and approved in writing by the local planning authority. These details shall be:
- (i) Ragstone formation and pointing for first floor south western elevation;
  - (ii) Natural slate roof tiles;
  - (iii) Colour of painted render;
  - (iv) Vertical timber boarding; and
  - (v) Powder coated aluminium frames for external fenestration (grey or black powder in colour).

The development shall be constructed using the approved materials and shall be maintained as such thereafter.

Reason: To safeguard the character and appearance of the countryside that falls within the Loose Valley Landscape of Local Value.

- (6) The boundary treatments for the development hereby approved shall be carried out in accordance with the submitted plans (including the existing ragstone boundary wall), and shall be in place prior to the first occupation of the dwelling and maintained as such thereafter.

Reason: To safeguard the character and appearance of the countryside that falls within the Loose Valley Landscape of Local Value, and in the interests of residential amenity.

- (7) The existing ragstone boundary wall shall be retained as part of the development hereby approved. If any part of this wall is removed as a result of the building works associated to the approved development, then written details of a replacement ragstone wall shall be submitted to and approved in writing by the local planning authority. The approved details shall then be fully in place on site prior to the occupation of the dwelling hereby approved.

Reason: To safeguard the character and appearance of the countryside that falls within the Loose Valley Landscape of Local Value.

- (8) Prior to the commencement of development above damp-proof course level details of a scheme of hard and soft landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and long-term management, shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be designed using the principle's established in the Council's adopted Landscape Character Assessment (2012) and shall show:
- (i) Retention and strengthening of existing planting along north-western and north-eastern boundaries with 100% native planting, with details of location, planting species, amount and size); and
  - (ii) Materials/finish of any hardsurfacing within the site.

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

Reason: To safeguard existing trees and hedges; to safeguard the character and appearance of the countryside that falls within the Loose Valley Landscape of Local Value; and in the interests of biodiversity enhancement.

- (9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of a property, 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.

Reason: To safeguard existing trees and hedges and to safeguard the character and appearance of the countryside that falls within the Loose Valley Landscape of Local Value.

- (10) Prior to commencement of the development above damp-proof course level, details of ecological enhancements integrated into the design and fabric of the dwelling hereby approved, to include swift bricks, bat tubes and bee bricks, 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 dwelling and all features shall be maintained as such thereafter.

Reason: In the interests of biodiversity enhancements.

- (11) Prior to the commencement of the development above damp-proof course level, details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The approved details shall be installed and operational prior to the first occupation of the dwelling and shall be maintained as such thereafter.

Reason: To ensure an energy efficient form of development.

- (12) The development hereby approved shall provide useable and secure bicycle parking facilities prior to the first occupation of the dwelling, and these facilities shall be maintained as such thereafter.

Reason: In the interests of sustainable development.

- (13) No 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 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 development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.

Reason: In the interest of amenity.

- (14) Before the development hereby permitted is first occupied, the proposed first floor windows serving 'bedroom 1' in the south-eastern elevation of the dwelling hereby approved, as shown on the submitted plans, shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such thereafter.

Reason: In the interests of residential amenity.

- (15) The vehicle parking spaces, as shown on the submitted plans (including the garage), shall be completed prior to the first use of the development hereby approved and shall be permanently retained for parking thereafter and not used for any other purpose. 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: In the interest of parking provision.

- (16) Notwithstanding the details shown on the approved plans and the provisions of the Town and Country Planning General Permitted Development (Amendment) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development within Schedule 2, Part 1, Class B and Schedule 2, Part 2, Class A to that Order shall be carried out.

Reason: Reason: To safeguard the character and appearance of the countryside that falls within the Loose Valley Landscape of Local Value; and in the interests of residential amenity.

Informative(s)

- (1) The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25th October 2017 and began charging on all CIL liable applications approved on and from 1st October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.



Ordnance Survey - data derived from OS Premium

**REPORT SUMMARY**

<b>REFERENCE NO:</b> 23/500425/FULL		
<b>APPLICATION PROPOSAL:</b>  Erection of a garden sauna building in back garden. (Retrospective)		
<b>ADDRESS:</b> 2 Popes Wood Thurnham Maidstone Kent ME14 3PW		
<b>RECOMMENDATION:</b> GRANT – subject to the planning conditions set out in Section 8.0 of the report.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b>  For the reasons set out below it is considered that the outbuilding (garden sauna) is acceptable and would not cause significant visual harm, harm to neighbouring amenity nor would it be unacceptable in terms of any other material planning considerations. The proposed development is considered to be in accordance with current policy and guidance.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b>  The recommendation is contrary to the views of Thurnham Parish Council who have requested the application be presented to the Planning Committee.		
<b>WARD:</b>  Detling And Thurnham	<b>PARISH/TOWN COUNCIL:</b>  Thurnham	<b>APPLICANT:</b> Mr Mihaylov  <b>AGENT:</b> Miss Hristina Kehayova
<b>CASE OFFICER:</b>  Ping Tye	<b>VALIDATION DATE:</b>  13/02/23	<b>DECISION DUE DATE:</b>  10/04/23
<b>ADVERTISED AS A DEPARTURE:</b> NO		

**Relevant Planning History**

97/0544

Erection of 5 no. detached houses with garages and provision of internal access road as shown on dwg. nos. 9628/2 3 4 5 6 and 7 received on 18.04.97 and as amended by additional document 9628/1 rev A received on 30.05.97.  
Approved 08.08.1997

93/1415

Demolition of HGV maintenance buildings infilling of part of site erection of five detached two storey dwellings and garages with shared access as amended by drawing no. 93/00/37 dwg no.1 RevA received 30.11.93.  
Approved 04.01.1994

91/0824

Renewal of permission MA/88/0074N - Outline Application for residential development.  
Approved 09.08.1991

88/0074

Outline application for residential development as validated and amended by letter received on 2/6/88.  
Approved 05.09.1988

86/1079

O/A for extension to garage works of a 36m bay

Approved 22.09.1986

### **Enforcement History:**

22/500803/OPDEV  
Enforcement Enquiry  
DC Application Submitted

### **MAIN REPORT**

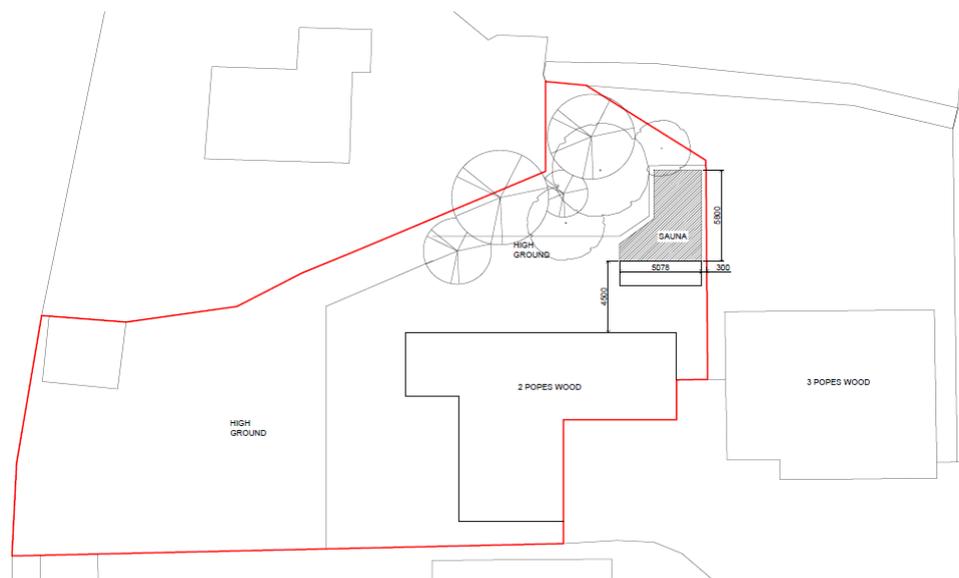
#### **1. DESCRIPTION OF SITE**

- 1.01 The application site relates to a detached, two-storey property located at the end of a small cul-de-sac of a development with 5 detached dwellings on Popes Wood, east of Hockers Lane. The site is located outside the settlement boundaries within the Parish of Thurnham, Maidstone. The land level in the garden slopes upwards in a north and north eastern direction. Brick retaining walls and steps have been incorporated in the site to negotiate the different garden levels with the paved patio surrounding the property.
- 1.02 The 5 detached dwellings within the cul-de-sac have a similar distinctive character, however they are not listed and no other land designations apply.

#### **2. PROPOSAL**

- 2.01 The submission is a retrospective application for the erection of an outbuilding (garden sauna) in the back garden. Although the application is retrospective and appears completed, for ease of reference it will be called 'the proposal' for the remainder of the report.
- 2.02 The outbuilding (garden sauna) is located at the northeast corner of the rear garden. It is sited in a partially splayed corner previously occupied by an old outbuilding which has been demolished. The garden sauna measures 5.8m in depth, 5.08m in width (at the front elevation) and 2.96m to the rear. The footprint of the outbuilding is splayed to follow the existing brick retaining wall on the western side elevation, which then reduces the width of the outbuilding to approx. 2.96m (see Figure 1 below).

**Figure 1: Block Plan**



- 2.03 The outbuilding is finished with a flat metal roof with an eaves height of approx. 2.8m. On the roof, there is a 0.9m high metal chimney painted in brown which serves the wood stove burner within the sauna. The bi-fold patio doors open onto

an approx. 0.3m high x 1.2m deep timber decking that runs along the entire width of the front elevation. The timber decking is partially sheltered by a canopy which measures approx. 1.0m deep and also runs along the entire width of front elevation.

### 3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan (2011-2031): DM1, DM30 AND DM32

Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 22): LPRSP15, LPRHOU11, LPRQ&D4 and LPRSP9

The National Planning Policy Framework (NPPF):

National Planning Practice Guidance (NPPG):

Supplementary Planning Documents: Maidstone Local Development Framework: Residential Extensions SPD

### 4. LOCAL REPRESENTATIONS

**Local Residents:** 5 neighbours consulted. 1 letter of objection received from local residents raising the following issues:

1. Design, visual appearance and materials

*"The building is of substantial height and size (approximately 3m high) being inappropriately large positioned so close to the boundary fence. The roof line extends approximately 1.20m above the boundary fence. It is of utilitarian design and materials with the mono-pitched profile sheet metal roof giving it the appearance of an industrial style structure. The side elevation is not weatherboard but a smooth cement board.*

*There is a metal flue for a wood burning stove extending through the roof within just 0.75m of the boundary to my property. This is an 'eyesore' and in the sunshine, the strong reflected light dazzles our eyes (see 3. below regarding environmental health hazard)."*

2. Overlooking and Loss of Privacy

*"The building is within just 0.25m of the boundary fence to my property (3 Popes Wood) with a glazed frontage and is raised above ground level by a timber decked terrace under a canopy. The elevated position of the building results in a loss of privacy with it overlooking directly into my garden and living room over the 1.80m boundary fence. There are three bright recessed lights to the underside of the canopy which creates light pollution and shines directly into my property."*

3. Environmental impact due to smoke, smells and disturbance resulting from its use

*"The building is already being used as a sauna by the applicant and the wood-burner results in toxic smoke and fumes, along with ash and 'sparks' being emitted from the flue, which is just 8.80m from the back of my house and within 0.75 of the boundary fence. Due to its position, surrounded by tall trees and the fact that the rear garden slopes steeply creating an embankment, the ventilation and free flow of air around the flue is severely restricted resulting in the toxic smoke and fumes blowing directly into my back garden and the rear of my house through the windows into the kitchen, living rooms and bedrooms. The smoke is unsightly, smells and causes coughing and respiratory problems. It is completely inappropriate to have a flue in this location and the adverse effect on air quality and impact on my family's health is a significant concern."*

4. Loss of use and enjoyment of my property

*"The visual and environmental impact of this building is significant. I have a very small rear garden and my rights of enjoyment have been severely impacted by this development and most notably its use as a sauna with a wood-burner and flue."*

Issues 3 and 4 regarding environmental impact from smoke are not material planning considerations and will not be addressed by the Council. However, Environmental Health has been consulted and their recommendations will be included as an Informative. It is also noted that the flue is located towards the rear of the roof of the building, placing it further away from both No.2 and No.3 Popes Wood.

## **5. CONSULTATIONS**

### Thurnham Parish Council

5.01 Object to this application for the following reason:

*"This proposal is too large and obtrusive to the neighbouring property resulting in a loss of their privacy."*

### MidKent Environmental Health

5.02 Environmental Protection Team provided the following comments:

*"Although the property falls just outside Maidstone's Air Quality Management Area and taking into account the potential for nuisance from the wood burner I would recommend the Informative below:*

*Wood burners and multiple ifuel stoves - Residential in AQMA*

*Wood burners fuel stoves. These appliances are discouraged in highly urbanised areas within the AQMA since the pollutants from them can be a nuisance to the neighbouring occupants and enforcement over the use of the correct fuels in the domestic sector is difficult. In addition to the installation complying with the Clean Air Act requirements, the cleanest installation and fuel option should be considered (i.e. pellet preferable to chips, preferable to wood).*

*Reason: to minimise the impacts of the new development on local air quality."*

## **6. APPRAISAL**

The key issues are:

- Site background/Principles of Development/Policy Context
- Visual Impact
- Residential Amenity
- Other Matters

### **Site background/Principle of Development/Policy Context**

6.01 The application site is located in the countryside, as defined in the Local Plan, Policy DM32 of the local plan allows for residential extensions provided that:

i) The proposal is well designed and is sympathetically related to the existing dwelling without overwhelming or destroying the original form of the existing dwelling;

ii) The proposal would result in a development which individually or cumulatively is visually acceptable in the countryside;

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

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

6.02 Policy DM1 (ii) in terms of design refers to developments responding positively to the local character of the area, with regard being paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage. DM1 (iv) re-iterates consideration to be paid to adjoining neighbouring amenity.

6.03 Policy DM30 refers to design principles in the countryside, where development is proposed in the countryside the design principles set out in this policy must be met. DM30 (v) states:

Where an extension or alteration to an existing building is proposed, it would be of a scale which relates sympathetically to the existing building and the rural area; respect local building styles and materials; have no significant adverse impact on the form, appearance or setting of the building, and would respect the architectural and historic integrity of any adjoining building or group of buildings of which it forms part.

6.04 The Residential Extensions SPD in relation to this proposal sets out the following:

Garages and other outbuildings should not impact detrimentally on the space surrounding buildings or the character and openness of the countryside by virtue of their scale, form or location. Their scale should not be in excess of what might reasonably be expected for the function of the building.

### **Visual Impact**

6.05 As mentioned, the outbuilding (garden sauna) will be sited at the northeast corner of the rear garden where an old outbuilding was located. It is not visible from the streetscene and therefore it is not considered to have a detrimental impact on the streetscene or character of the area.

6.06 Concerns have been raised by the Parish Council and neighbour at No.3 regarding the size of the proposal. However, relative to the scale of the host dwelling, the single storey proposal is considered to be smaller in scale and clearly ancillary to the property (see Figure 1 above).

6.07 The flat roof is not in keeping with the roof form of the main dwelling, however considering the single storey nature of the proposal and that it would not be visible from any public views as it is situated at the rear of the property. The flat roof is considered to actually reduce visual impact and the building is sited on the lower garden level and hunkers against the base of where the ground level starts to rise, which further draws the eye away from the structure, reducing its visual prominence.

6.08 The proposed materials consist of fibre cement weatherboard cladding (grey wood effect) and fire rated cement weatherboard for the walls, brown corrugated metal for the roof, brown metal chimney and dark grey metal for the doors. The proposed materials do not match the materials used in the existing property, however, considering the proposal is located at the rear of the property, is a detached outbuilding and not visible from any public views, it is considered that this would not harm the overall character of the host dwelling. Very often outbuildings are not constructed from materials to match the main dwelling, nor, in most cases, would they be expected to. It is considered on balance, therefore, that the outbuilding would not detrimentally impact the character and appearance of the host dwelling.

6.09 Additionally, the siting of the outbuilding is considered not to result in adverse impact on the character or openness of the countryside as it is located close to the original dwelling, tucked away in a corner of the rear garden on the lowest garden level.

### **Residential Amenity**

- 6.10 The nearest neighbouring property is No.3 Popes Wood. All other neighbouring properties are considered to be a significant distance away to be unaffected by the proposal.
- 6.11 The outbuilding is in close proximity (approx. 0.3m) from the common boundary with neighbouring No.3 to the east. However, considering the modest height of the proposal at approx. 2.8m and the existing close boarded fencing, it is considered that no detrimental impact on neighbouring amenity in terms of loss of light or overshadow would result. Only a small section of the building would be visible over the fence line. Similar outbuildings to the proposal can be built within 2m of residential boundaries under permitted development rights up to a height of 2.5m. Therefore, the need for planning permission in relation to height is the additional 0.3m on this proposal. On balance, it is considered that this height is not unreasonable for a garden outbuilding.
- 6.12 Concerns have been raised by No.3 regarding three recessed lights to the underside of the canopy. Considering that these are standard downlights, it is not considered that there will be significant light pollution. A condition can be imposed in relation to lighting to ensure that any additional lighting on the outbuilding, would require consent.
- 6.13 In terms of loss of outlook, No.3 previously looked onto the old outbuilding and so the outlook will not be noticeably different.
- 6.14 Concerns have been raised by the Parish Council and neighbouring No. 3 that the proposal would result in loss of privacy. However, there is no adjacent facing fenestration, the windows look towards the rear of the application dwelling and the sauna is not a habitable space and is single storey. Therefore, it is considered that no additional overlooking and loss of privacy to neighbouring occupiers would result.
- 6.15 Taking the above into consideration, I do not consider that the proposal will cause unacceptable harm to the residential amenity of the neighbouring property.

### **Other Matters**

- 6.16 The proposal is sited on land that already contained a previous outbuilding, therefore, the proposal results in no loss of habitat. However, a biodiversity condition has been imposed to enhance the ecology and biodiversity on the site in the future. In this instance, this will be required to be within the site curtilage, rather than any methods incorporated into the construction/fabric of the building.

### **PUBLIC SECTOR EQUALITY DUTY**

- 6.17 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 For the reasons set out above it is considered that the proposal would be acceptable and would not cause significant visual harm, harm to neighbouring amenity nor would it be unacceptable in terms of any other material planning considerations. The proposal is considered to be in accordance with current policy and guidance.

## **8. 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:**

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

Site Location Plan

Sauna Floor Plan and Roof Plan – Drawing no. 010 Rev A

Sauna Front Elevation – Drawing no. 011 Rev A

Sauna Side Elevation – Drawing no. 012 Rev A

Sauna Side Elevation (from 3 Pope Wood Garden) – Drawing no. 013 Rev A

(All above received 25.01.2023)

Block Plan – Drawing no. 001 Rev B. Received 26.01.2023

Reason: To clarify which plans have been approved.

- 2) Within 3 months of the date of this decision, details of a scheme for the enhancement of biodiversity on the site shall be submitted for approval in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through the provision within the site curtilage of bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgehog corridors. The development shall be implemented in accordance with the approved details within 3 months of the date of the approval of the submitted details and all features shall be maintained thereafter.

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

- 3) Excluding any lighting indicated on the approved plans, no additional external lighting shall be installed on the outbuilding hereby permitted without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity.

**INFORMATIVES**

- 1) In addition to the installation complying with the Clean Air Act requirements, the cleanest installation and fuel option should be considered (i.e. pellet preferable to chips/wood).

Reason: To minimise the impacts of the new development on local air quality.

- 2) The grant of this permission does not convey any rights of encroachment over the boundary with the adjacent property in terms of foundations, eaves, guttering or external cladding, and any persons wishing to implement this permission should satisfy themselves fully in this respect. Regard should also be had to the

provisions of the Neighbour Encroachment and Party Wall Act 1995 which may apply to the project.

- 3) It is the responsibility of the developer to ensure, before the development hereby approved is commenced, that approval under the Building Regulations (where required) and any other necessary approvals have been obtained, and that the details shown on the plans hereby approved agree in every aspect with those approved under such legislation.
- 4) Details pursuant to Condition 2 should show, on a scaled drawing, the type and number of the proposed ecological enhancements as well as their intended positions, including, where appropriate, the height above ground level to demonstrate that this would be appropriate for the species for which it is intended. Any bird boxes should face north or east and bat boxes and bee bricks should face south. Where planting is proposed, please also supply details of the number of plants of each species as well as the intended size on planting (eg: pot size in litres). Some helpful advice may be found at:

<https://www.rhs.org.uk/science/conservation-biodiversity/wildlife/plants-for-pollinators>

<https://www.rspb.org.uk/birds-and-wildlife/advice/how-you-can-help-birds/>

<https://www.bats.org.uk/our-work/buildings-planning-and-development/bat-boxes>

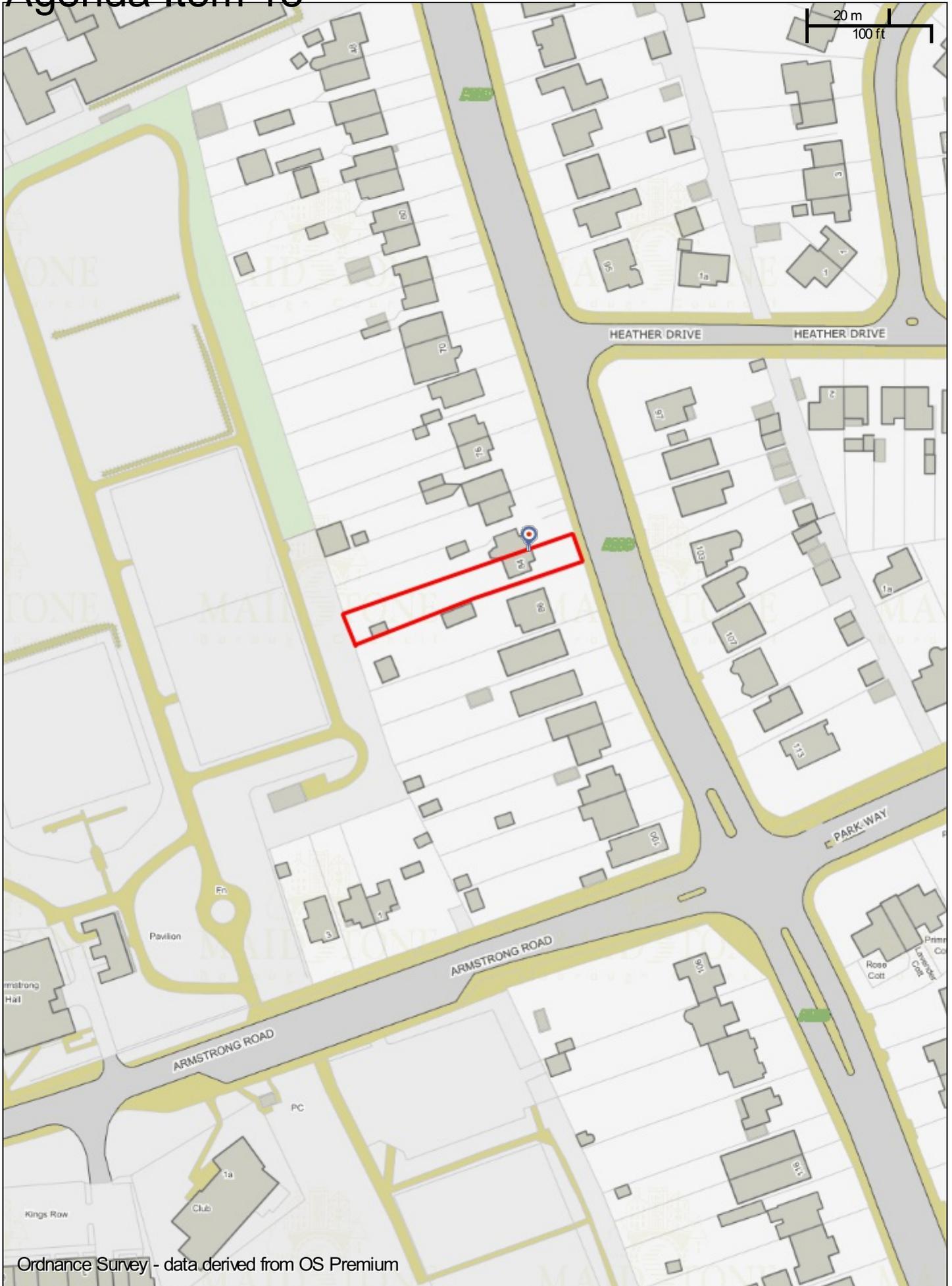
<https://www.wildlifetrusts.org/actions/how-build-hedgehog-home>

<https://www.woodlandtrust.org.uk/blog/2019/09/how-to-build-a-bug-hotel/>

Case Officer: Ping Tye

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

# Agenda Item 15



Ordnance Survey - data derived from OS Premium

23/501362/LAWPRO 84 Loose Road, Maidstone, Kent, ME15 7UA

Scale: 1:1250

Printed on: 9/5/2023 at 14:34 PM by JoannaW

## REPORT SUMMARY

<b>REFERENCE NO:</b> - 23/501362/LAWPRO		
<b>APPLICATION PROPOSAL:</b> Lawful Development Certificate for proposed hip to gable loft conversion with rear box dormer.		
<b>ADDRESS:</b> 84 Loose Road, Maidstone Kent ME15 7UA		
<b>RECOMMENDATION:</b> The proposed hip-to-gable loft conversion and rear box dormer would be considered lawful development and would not require planning permission from the Local Planning Authority such that it would comply with Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> The proposed development would meet the criteria set out in Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Application submitted by an elected member.		
<b>WARD:</b> High Street	<b>PARISH/TOWN COUNCIL:</b>	<b>APPLICANT:</b> Mr T Cannon <b>AGENT:</b> Building Design Studio
<b>CASE OFFICER:</b> Gautham Jayakumar	<b>VALIDATION DATE:</b> 20/03/23	<b>DECISION DUE DATE:</b> 2/6/23 (EOT agreed)
<b>ADVERTISED AS A DEPARTURE:</b> NO		

### Relevant Planning History

No Relevant Planning History

### MAIN REPORT

#### 1. DESCRIPTION OF SITE

1.01 The application site relates to a semi-detached two-storey dwellinghouse located on Loose Road within the urban boundary of Maidstone. The dwellinghouse is located on contoured land higher than the road level of Loose Road. The site is not located on any designated land nor are there any listed buildings or TPO's near the site. The site is not located within a flood zone.

#### 2. PROPOSAL

2.01 The proposal relates to a Lawful Development Certificate for proposed hip-to-gable loft conversion with rear box dormer.

2.02 Rear dormer : The dormer would sit within the rear roof-slope and have a width of approx. 5.96m, a height of approx. 2.78m and a maximum projection from the roof of approx. 2.96m.

2.03 Hip-to-gable : The existing hipped roof would be altered to become a gable. The gable would be built up off the existing side wall and the ridge would replicate the existing dwelling.

2.04 The case officer has calculated the volume to be approximately 35.92 cubic metres and materials would match the existing dwelling.

### 3. POLICY AND OTHER CONSIDERATIONS

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Permitted development rights for householders – Technical Guidance

### 4. APPRAISAL

- 4.01 Under section 192 of the Town and Country Planning Act 1990 an applicant can apply to seek to establish whether a proposed use of buildings or other land, or some operations proposed to be carried out in, on, over or under land, would be lawful for planning purposes.
- 4.02 The assessment of the submission is solely regarding whether the proposal, namely the proposed hip-to-gable loft conversion with rear box dormer would meet the criteria set in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). No assessment can be given to the planning merits of the proposal nor conditions attached through the consideration of the submission.
- 4.03 Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), allows for additions etc to the roof of a dwellinghouse, it is under the criteria contained within that class that the submission should be assessed.
- 4.04 The application site retains its permitted development rights under Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and no other designations apply.
- 4.05 Assessment of the proposed hip-to-gable loft conversion and rear dormer against Class B (Officer comments in bold)

*B. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.*

*Development not permitted*

**B.1** Development is not permitted by Class B if—

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use); **N/A**

(b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof; **The proposed works would not exceed the height of the highest part of the existing roof.**

(c) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway; **The proposed works are to the rear of the dwellinghouse and therefore would not extend beyond its principal elevation.**

(d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than—

(i) 40 cubic metres in the case of a terrace house, **Not applicable.** or

(ii) 50 cubic metres in any other case; **This property is a semi-detached house.**

**No volume calculations have been provided with the application.**

**Having calculated the volume of the rear box dormer and the hip-to-gable extension it would appear to not exceed 50 cubic metres with the calculation being approximately 35.92 cubic metres.**

**This has been calculated as follows:**

**Rear dormer: (2.78 (h) x 2.96 (projection from roof) / 2) \* 5.96 (width) = 24.52**

**Hip to gable: (6.49 (depth of roof) x 3.1 (h) x 3.4 (distance from ridge to eaves)) / 6 = 11.4**

**Total volume = 24.52 + 11.4 = 35.92**

**Therefore, the proposal complies with this criteria.**

(e) it would consist of or include—

(i) the construction or provision of a verandah, balcony or raised platform, **N/A** or

(ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe; **N/A** or

(f) the dwellinghouse is on article 2(3) land.; **The dwellinghouse is not on article 2(3) land.** or

(g) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).; **N/A**

or

(h) the existing dwellinghouse has been enlarged in reliance on the permission granted by Class AA (enlargement of a dwellinghouse by construction of additional storeys). **N/A**

### **Conditions**

**B.2** Development is permitted by Class B subject to the following conditions—

(a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse; **Plans submitted show materials used would be similar to the exterior of the existing dwellinghouse.**

(b) the enlargement must be constructed so that—

(i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension—

(aa) the eaves of the original roof are maintained or reinstated; **The proposed rear dormer would be set within the existing roof slope and the eaves of the original roof would be maintained.** and

(bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from

the outside edge of the eaves; **In line with the technical guidance, the proposed dormer would be set back approximately 0.23m from the eaves.** and

(ii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; **The proposed dormer would not extend beyond the outside face of any external wall of the original dwellinghouse.** and

(c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be—

(i) obscure-glazed, and

(ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. **N/A**

## **5. CONCLUSION**

5.01 Considering the details submitted with this application, it is concluded that the proposed hip-to-gable loft conversion and rear box dormer would be considered lawful development and would not require planning permission from the Local Planning Authority such that it would comply with Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

## **6. PUBLIC SECTOR EQUALITY DUTY**

6.01 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. RECOMMENDATION**

### **GRANT Lawful Development Certificate for the following reason**

with delegated powers to the Head of Planning and Development to be able to settle or amend the reason in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Reason :

- 1) The proposed development is permitted development by virtue of Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, planning permission is not required for this proposal and the Lawful Development Certificate is granted.

## **INFORMATIVES**

- 1) The application was determined on the basis of the following documents:  
Application form  
Drawing No. BDS-LR-P01 (Existing plans)  
Drawing No. BDS-LR-P02 (Proposed plans)
- 2) The applicant is reminded of the conditions set out in B.2 of Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development)

(England) Order 2015 (as amended) and the need to comply with those conditions as set out below —

(a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

(b) the enlargement must be constructed so that—

(i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension—

(aa) the eaves of the original roof are maintained or reinstated; and

(bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and

(ii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse.

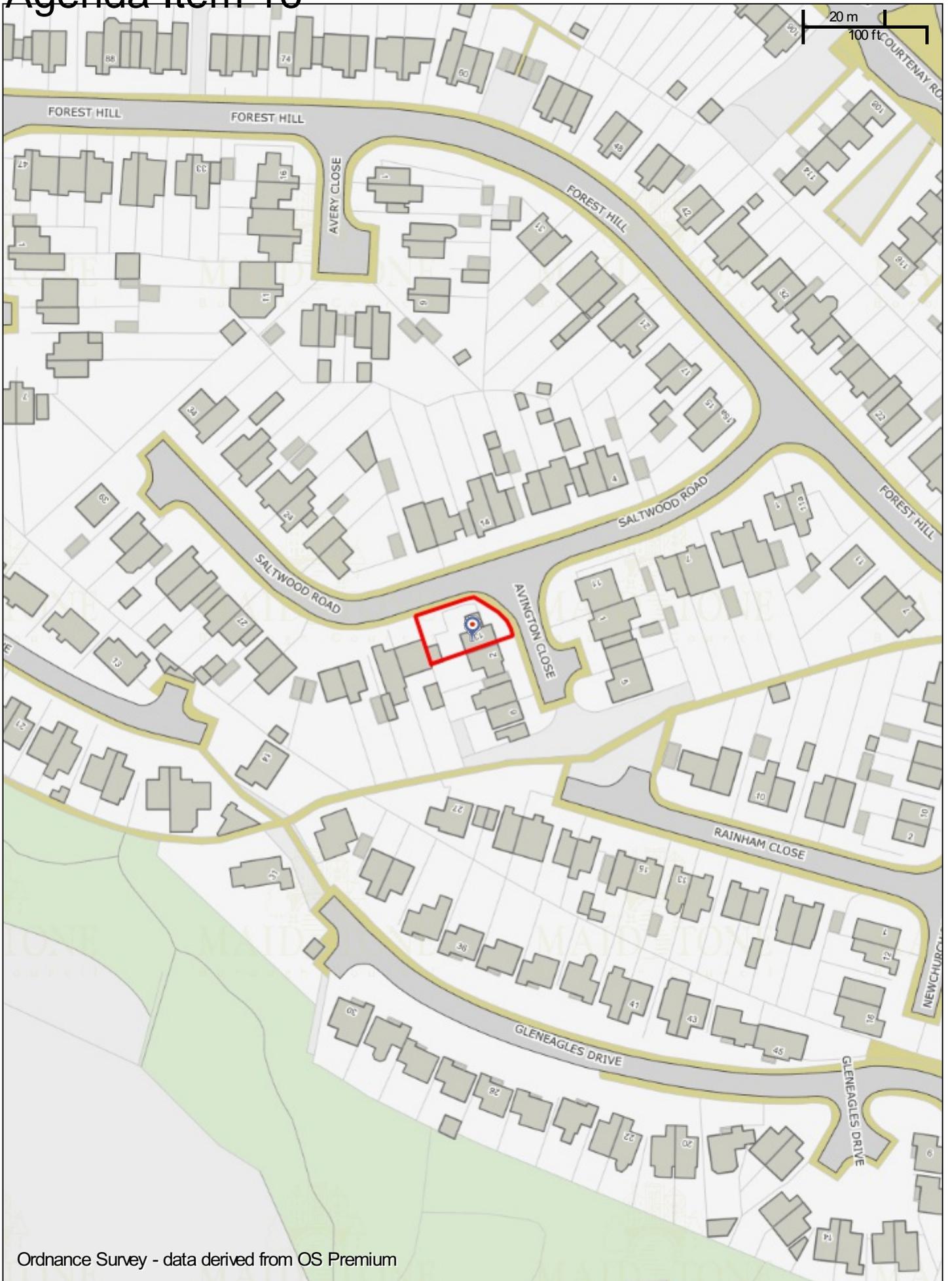
(c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be-

(i) obscure glazed, and

(ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres about the floor of the room in which the window is installed.

- 3) The grant of this permission does not convey any rights of encroachment over the boundary with the adjacent property in terms of foundations, eaves, guttering or external cladding, and any persons wishing to implement this permission should satisfy themselves fully in this respect. Regard should also be had to the provisions of the Neighbour Encroachment and Party Wall Act 1995 which may apply to the project.
- 4) It is the responsibility of the developer to ensure, before the development hereby approved is commenced, that approval under the Building Regulations (where required) and any other necessary approvals have been obtained, and that the details shown on the plans hereby approved agree in every aspect with those approved under such legislation.

# Agenda Item 16



Ordnance Survey - data derived from OS Premium

**23/500374/FULL 13 Saltwood Road, Tovil, Kent, ME15 6UY**  
Scale: 1:1250  
Printed on: 9/5/2023 at 14:37 PM by JoannaW

**REPORT SUMMARY**

<b>REFERENCE NO:</b> - 23/500374/FULL		
<b>APPLICATION PROPOSAL:</b> Erection of one-bedroom dwellinghouse		
<b>ADDRESS:</b> 13 Saltwood Road Tovil Kent ME15 6UY		
<b>RECOMMENDATION:</b> GRANT PERMISSION subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> 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.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> The reasons for referral to committee from Tovil Parish Council are detailed below within section 4 (Local Representations)		
<b>WARD:</b> South	<b>PARISH/TOWN COUNCIL:</b> Tovil	<b>APPLICANT:</b> MR M Minchev <b>AGENT:</b> Building Design Studio
<b>CASE OFFICER:</b> William Fletcher	<b>VALIDATION DATE:</b> 25/01/23	<b>DECISION DUE DATE:</b> 28/04/23
<b>ADVERTISED AS A DEPARTURE:</b> N		

**Relevant Planning History**

20/504423/FULL Erection of a front porch and two storey side extension, including extensions to front and rear dormers. Approved 19.11.2020 (not implemented but extant until 19.11. 2023)

Site Photo (02 February 2023)



**MAIN REPORT**

**1. DESCRIPTION OF SITE**

1.01 The application site is located on the southern side of the residential cul-de-sac Saltwood Road which is located within Maidstone Urban Area. The road is suburban

in character. Whilst there has been some loss of landscaped front gardens, enough grass verges and mature trees remain to prevent the area from appearing too urbanised.

- 1.02 The site is currently occupied by a 3 bedroom semi-detached chalet style bungalow with associated land and parking.
- 1.03 The existing dwelling is brick construction with a brown plain tile roof and brown tile hanging around a dormer window features at first floor. The gable end is clad with white weatherboard and it has white uPVC windows.

**2. PROPOSAL**

- 2.01 The proposal is to build a 1 bedroom 2 person, end of terrace chalet style bungalow, with garden and associated parking.
- 2.02 The dwelling will have an open plan lounge/kitchen/diner and WC at ground floor level and a large bedroom and bathroom at first floor level.
- 2.03 Access to the existing house will be moved from the side to the front facade. The proposed house will also be accessed from the front facade.
- 2.04 The parking for No 13 will be located to the front of the garage to the rear of the property. The proposed dwelling will utilise an existing parking space to the front of the dwelling that has been constructed via permitted development within the last 10 years.
- 2.05 The application site benefits from an extant permission to erect a two storey side extension which is of similar in appearance to the proposed development as depicted below.

Extant



Current



- 2.06 This earlier application initially sought a rendered front elevation at ground floor level. This was subsequently removed, as render is not being a building material particularly predominant within the road.

**3. POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough Local Plan (2011-2031):
- Policy SS1 - Maidstone Borough Spatial Strategy
- Policy DM1 – Principles of good design
- Policy DM2 – Sustainable design
- Policy DM11 – Residential Garden land
- Policy DM12 – Density of housing development
- Policy DM23 – Parking standards

Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 22) dated October 2021.

The Regulation 22 draft is a material consideration however weight is currently limited, as it is the subject of an examination in public that commenced on the 15 May 2023 (Stage 2 hearings ongoing). The relevant policies in the draft plan are as follows:

SS1 Maidstone Borough Spatial Strategy  
SP10 Housing  
SP15 Design  
TRA4 Parking standards (Appendix B)  
Q&D6 Technical Standards  
Q&D7 Private Amenity Space Standards

#### **4. LOCAL REPRESENTATIONS**

##### Tovil Parish Council

Objection. The Planning Committee of Tovil Parish Council recommends that this application is refused on the points listed below.

1. The application named above breaches the Maidstone Borough Council Local Plan 1 as the proposed dwelling does not respect the amenities of occupiers of neighbouring properties and does not provide amenities for future occupiers.

2. The application does not meet the criteria set out in the Maidstone Borough Council Local Plan for residential garden land.

3. The application breaches the National Planning Policy Planning Framework as this is an inappropriate development of a residential garden.

**Local Residents:** 2 representations received from local residents raising the following (summarised) issues

- Loss of sunlight and overshadowing
- Loss of privacy
- Design not in accordance with the surrounding area
- Loss of on street parking

#### **5. CONSULTATIONS**

##### KCC Highways

5.01 This consultee replied with their standing advice, this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

##### KCC Ecology

5.02 There are no matters of concern regarding noise, lighting or contaminated land. Therefore, there are no objections to the application from the perspective of Environmental Protection.

#### **6. APPRAISAL**

The key issues are:

- Site Location
- Visual Impact
- Standard of Accommodation
- Neighbouring Amenity
- Highways
- Ecology and Biodiversity

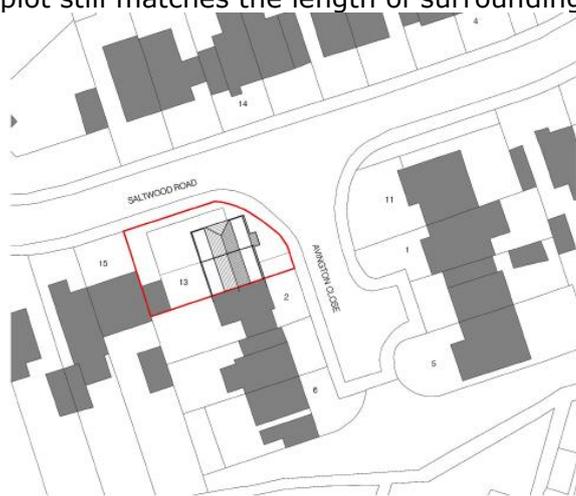
##### **Site Location**

6.01 Para 4.29 (Land availability) of SS1 (Spatial Strategy) states, 'The studies show that the local housing target can be met from within the existing built-up area and on sites with the least constraints at the edge of Maidstone, the rural service centres and the larger villages.'

- 6.02 This development proposal is located within the urban area of Maidstone, the most sustainable location in the Borough. For this reason, the proposal is considered compliant with policy SS1.

**Visual Impact**

- 6.03 Policy DM1 (Principle of good design) outlines the importance of high-quality design for any proposal. This includes taking into account the scale, height, materials, detailing, mass, bulk, articulation and site coverage, respecting the amenities of neighbouring occupiers and properties, incorporating adequate storage for waste and recycling, providing adequate parking facilities to meet adopted Council standards, protect and enhance biodiversity.
- 6.04 Policy DM9 of the Local Plan also requires that the scale, height, form and appearance should fit the character of the existing local area.
- 6.05 Policy DM11 also states that development of domestic garden land, to create new buildings that ensure that a higher density would not result in significant harm to the character and appearance of the area; no significant loss of privacy, light, or outlook for adjoining properties and/or their curtilage; that there would be suitable access to a highway and no significant noise or disturbance from traffic gaining access to the development will be permitted.
- 6.06 The application site is surrounded by residential properties mainly comprising two storey/chalet style semi-detached dwellings with gabled roofs and front facing dormers. The application site is unique in that it is a corner plot and as such does have a larger 'side' garden area.
- 6.07 Visually the proposed dwelling is similar to the extant side extension, and accords with the dwelling it is attached to, however this 'side extension' would be used to provide a separate dwelling, the assessment must consider the pattern of development in the area and whether or not the plot is a sufficient size to provide an individual dwelling.
- 6.08 Whilst the resulting plot shape does not entirely accord with that of surrounding dwellings it is not so discordant that a refusal is warranted on this basis alone. The plot still matches the length of surrounding properties.



- 6.09 It is not assessed that the dwelling would need to accord with the building line of Saltwood Road, this has been 'breached' already by No.11 Saltwood Road which planning inspectors felt sat well within the context of surrounding development. The proposed dwelling is in line with the dwellings to its east and as such would be seen within the context of surrounding development.

- 6.10 The proposed dwelling would be brought closer to the road, and whilst dwellings are set back from the roadside, the front elevation is still separated a similar distance as the properties to the south, only to the side is it 'significantly' closer. There is however still separation from the road, it is not assessed that this is so discordant with the pattern of development in the area that a refusal would be warranted.
- 6.11 A new driveway would be installed to serve 9A Jaggard Way, which would be located over the front garden area of No.13 the existing dwelling. Whilst this is not ideal, it is an alteration that can be carried out via permitted development as is evident in the area. This alteration does not warrant refusal.
- 6.12 Overall it is not assessed that the development would cause any more visual impact within Saltwood Road than the existing extant permission and as such complies with local plan design policies.

#### **Standard of Accommodation**

- 6.13 Policy DM1 details how development must safeguard the amenity of future occupants.
- 6.14 The dwelling which has a floor space of 64m<sup>2</sup> is in accordance with the national space standard for a 1 bed 2 storey dwelling (58m<sup>2</sup>). Future occupants would have a similar level of outdoor amenity space as other dwellings along the terrace row and rooms in the dwelling would be well lit. Local Plan Review policy Q&D7 Private Amenity Space Standards requires dwellings to have rear gardens that are equal to the ground floor of the dwelling, which the proposal is only marginally short of. It is not assessed that the development would have a harmful impact upon the amenity of future occupants.

#### **Neighbouring Amenity**

- 6.15 Policies DM1, DM9 and DM11 detail how development must respect the amenities of occupiers of neighbouring properties and provide residential amenities for future occupiers of the development by ensuring that development does not result in, or is exposed to, excessive noise, activity, activity or vehicular movements, overlooking or visual intrusion, and that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.
- 6.16 When considering the proposed dwelling would be attached to and match the built form of the terrace no harmful amenity impacts would occur to dwellings to the south. Dwellings to the north along Saltwood Road are 18m to the north of the proposed dwelling. No.15 Saltwood Road is located 11m to the west of the proposed dwelling, when considering the proposed dwellings siting it is not assessed that this dwelling causes any overshadowing to this dwelling.
- 6.17 Due to this distance it is not assessed that the dwelling would cause any amenity harm, the windows proposed on the side elevation would not cause any amenity harm, one is used to serve a lounge on the ground floor and one on the first floor, a high level window used to serve a walk in wardrobe.

#### **Highways**

- 6.18 Plans indicate the dwelling would be served by a single vehicle parking space. Appendix B of policy DM23 states 1 & 2 bed houses should have one space per unit, and so in policy terms the development is acceptable in this regard. There is publicly available, on street parking in the road.
- 6.19 Concerns have been raised regarding the loss of on street parking as a result of the conversion of the existing dwellings front garden area. These types of conversions are possible under permitted development, which a number of

dwellings in the vicinity have taken advantage of. Each dwelling has a parking space in accordance with the 'minimum' standard which applies in this area.

- 6.20 This additional parking space is presently being used by the existing 3 bedroom dwelling which should have a minimum of 2 parking spaces as per the standard. As detailed above, this additional space has been added via permitted development, the dwelling was not originally constructed with this space and as such its loss to No.13 Saltwood Road is not considered to result in harm to parking in the area.

#### **Ecology & Biodiversity**

- 6.21 Paragraph 2 of DM3 states the need to appraise the value of the borough's natural environment through the provision of an ecological evaluation of development sites and any additional land put forward for mitigation purposes to take full account of the biodiversity present, including the potential for the retention and provision of native plant species.
- 6.22 Plans submitted show that additional soft landscaping would be planted along the roadside boundary, which would offset some of the harm caused by introducing additional hard surfaces onto the application site i.e. the front parking area.
- 6.23 Given the application site is a side garden and located within a relatively densely populated suburban area it is not assessed that the application site provides a suitable habitats for any protected species. however, the development will need to demonstrate that it provides a 'net-gain' for biodiversity, this could be achieved by placing enhancements around the site, and incorporating enhancements into the dwelling itself, and this can be requested by way of condition if permission is granted.

#### **PUBLIC SECTOR EQUALITY DUTY**

- 6.24 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.

#### **CIL**

- 6.25 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

### **7. CONCLUSION**

- 7.01 The application site which is within the urban area (the most sustainable location for new residential development) and a relatively short distance from the Maidstone Town Centre boundary is a suitable location for a new dwelling.
- 7.02 The extensions proposed would not have a harmful impact upon the character and appearance of the host dwelling or the wider area.
- 7.03 The dwelling provides an appropriate level of residential amenity for future occupants.
- 7.04 The intensified use of the building would not result in a loss of privacy or amenity to neighbouring occupants nor do the external works to the building cause any loss of light or privacy.

- 7.05 Given the site is located in a sustainable location close to town centre, and conforms with minimum standards, it is not assessed that the development causes harm to the highway network or parking in the area.
- 7.06 Given the application site is developed land it is not considered to consist of protected species, however, the development will need to demonstrate that it provides a 'net-gain' for biodiversity, this could be achieved by placing bird and bat boxes around the site, and incorporating bat and bee bricks into the dwellings themselves, and this can be requested by way of condition if permission is granted.

## **8. RECOMMENDATION**

### **GRANT planning permission subject to the following conditions:**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of 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 shall be carried out in accordance with the following approved plans and documents:  
Application for planning permission  
BDS-SWR-P01 Site Location Block and Existing Plans  
BDS-SWR-P02A Proposed Block, Floor and Elevations Plans  
Design and Access Statement  
Reason: To clarify the approved plans and to ensure the development is carried out to an acceptable visual standard.
- 3) The materials to be used in the development hereby approved shall be as indicated on the approved plans unless otherwise approved in writing by the Local Planning Authority.  
Reason: To ensure a satisfactory appearance to the development
- 4) Upon completion, no further development permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order), shall be carried out.  
Reason: In the interests of the amenities of the area
- 5) The development hereby approved shall not commence above slab level until a landscape scheme designed in accordance with the principles of the Council's Landscape Guidelines (Maidstone Landscape Character Assessment Supplement 2012) has been submitted to and approved in writing by the local planning authority. The scheme shall use predominantly native or near-native species as appropriate and 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 also provide details of replacement planting to mitigate any loss of amenity and biodiversity value, the location of any habitat piles of cut and rotting wood and include a plant specification, implementation details, a maintenance schedule 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 dwelling shall not be occupied until all planting, seeding and turfing specified in the approved landscape details has been completed. All such landscaping shall be carried out during the planting season (October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first 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

- 7) Prior to development commencing above slab level a scheme for the enhancement of biodiversity on the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the dwelling by means such as swift bricks, bat tube or bricks. The development shall be implemented in accordance with the approved details prior to first occupation and all features shall be maintained and retained thereafter.

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

- 8) 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 to provide at least 10% of total annual energy requirements of the development, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation of the relevant dwelling and maintained thereafter;

Reason: To ensure an energy efficient form of development.

#### **INFORMATIVES**

- 1) 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 to provide at least 10% of total annual energy requirements of the development, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation of the relevant dwelling and maintained thereafter;

Reason: To ensure an energy efficient form of development.

Case Officer: William Fletcher

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



Ordnance Survey - data derived from OS Premium

22/503943/FULL Land off Bull Lane, Stockbury, Kent, ME9 7UB

Scale: 1:1250

Printed on: 9/5/2023 at 14:53 PM by JoannaW



<b>REFERENCE NO - 22/503943/FULL</b>		
<b>APPLICATION PROPOSAL</b> Formation of a new maintenance access (resubmission of 21/506304/FULL).		
<b>ADDRESS</b> Land off Bull Lane Stockbury Kent ME9 7UB		
<b>RECOMMENDATION: REFUSE PLANNING PERMISSION</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
<ul style="list-style-type: none"> <li>The proposed new vehicle access by virtue of the loss of a substantial stretch of existing well-established hedgerow in this prominent location in an area of national landscape importance, and associated regrading of the bank along the Bull Lane frontage would have a detrimental urbanising impact on the streetscene and the surrounding rural area. The proposal would result in unacceptable visual harm to the character and appearance of the countryside which would be contrary to the objectives of designation of the Area of Outstanding Natural Beauty where great weight should be given to conserving and enhancing the areas natural beauty. As such, the development is contrary to policies DM1, DM3, DM30, and SP17 of the Maidstone Borough Local Plan (October 2017), policies SD1 and SD2 of the Kent Downs AONB Management Plan 2021-2026 and section 12 and 15 of the National Planning Policy Framework (NPPF).</li> <li>The application fails to demonstrate that the proposal would not have an adverse impact on protected species including in terms of the loss of the hedgerow and the regrading of the bank. This is contrary to policies DM1 and DM3 of the Maidstone Local Plan (2017); Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations &amp; Their Impact Within the Planning System; and the aims of the National Planning Policy Framework (2021).</li> <li>The application fails to demonstrate that the proposal would not have a severe adverse impact on highway safety in terms of the visibility for vehicle divers accessing and egressing the site. This would be contrary to the aims of Policy DM1 of the Maidstone Local Plan (2017) and the aims of the National Planning Policy Framework (2021).</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Call in from Councillor Garter due to overwhelming support for the application from local residents.		
<b>WARD</b> North Downs	<b>PARISH/TOWN</b> Stockbury	<b>COUNCIL</b>  <b>APPLICANT</b> Mr. Clive Morris <b>AGENT</b> Kent Planning Consultancy Ltd
<b>CASE OFFICER:</b> Jake Farmer	<b>VALIDATION DATE:</b> 07/09/22	<b>DECISION DUE DATE:</b> 01/06/23 (EOT)
<b>ADVERTISED AS A DEPARTURE:</b> No		

**Relevant Planning History**

21/506304/FULL - Formation of a new maintenance access. Refused on 04 Mar 2022 for the following reasons:

- The proposed new vehicle access by virtue of the loss of a substantial stretch of existing well-established hedgerow in this prominent location in an area of national landscape importance, and associated regrading of the bank along 46 Bull Lane frontage would have a detrimental urbanising impact on the streetscene and the surrounding rural area. The proposal would result in unacceptable visual harm to the character and appearance of the countryside which*

would be contrary to the objectives of designation of the Area of Outstanding Natural Beauty where great weight should be given to conserving and enhancing the areas natural beauty. As such, the development is contrary to policies DM1, DM3, DM30, and SP17 of the Maidstone Borough Local Plan (October 2017), policies SD1 and SD2 of the Kent Downs AONB Management Plan 2021-2026 and section 12 and 15 of the National Planning Policy Framework (NPPF).

2. The submission fails to demonstrate that the proposal would not have an adverse harmful impact on protected species including in terms of the loss of the hedgerow and the regrading of the bank. This would be contrary to the aims of policies DM1 and DM3 of the Maidstone Local Plan (2017); Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System; and the aims of the National Planning Policy Framework (2021).

22/504726/FULL - Erection of a detached dwelling with associated garden, access, parking and landscaping and biodiversity enhancements. – Refused for the below reasons:

1. The proposed 3-bedroom house, together with the change of use of agricultural land to domestic garden land, would have a detrimental urbanising impact on the existing intrinsic character of the countryside consisting of an open rural landscape. **The proposal fails to contribute positively to the conservation and enhancement of this nationally important protected landscape with the harm increased by the formation of the new access through the existing vegetated front boundary** and domestic paraphernalia in this countryside location in the Kent Downs AONB, and the proposal is contrary to policies SS1, SP17, DM1, DM30 and DM33 of the Maidstone Borough Local Plan (2017), and the Kent Downs AONB Management Plan and the National Planning Policy Framework (2021).
2. The proposed 3-bedroom house is located in an unsustainable location where future occupiers would be heavily reliant on the private motor vehicle to travel for their day to day needs. This would be contrary to the aims of sustainable development as set out in in Policies SS1, SP17, and DM1 of the Maidstone Borough Local Plan (2017), and the National Planning Policy Framework (2021).

## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

- 1.01 The application site is on the west side of Bull Lane. Bull Lane is a classified road. This section of Bull Lane is of rural character bounded by roadside verge mature hedgerows and trees. Further to the west, the application site links to an area of open field which is a former orchard.
- 1.02 For the purposes of the Maidstone Borough Local Plan (2017) the site is in the countryside, and in the Kent Downs Area of Outstanding Natural Beauty (AONB). Nettlestead House (Grade II listed), is circa 40 metres south of the application site on the opposite side of Bull Lane.

### **2. PROPOSAL**

- 2.1 The application involves the formation of a new maintenance access and service track

### **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017 SS1, SP17, DM1, DM3, DM4, DM30  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Kent Downs AONB Management Plan 2021-2026 Policies  
Maidstone Landscape Character Assessment (amended 2013)  
Maidstone Landscape Capacity Study: Sensitivity Assessment - January 2015

Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 22) dated October 2021.

The Regulation 22 draft is a material consideration however weight is currently limited, as it is the subject of an examination in public that commenced on the 15 May 2023 (Stage 2 hearings ongoing). The relevant policies in the draft plan are as follows: LPRSP15, LPRQ&D4, LPRSS1, LPRSP9

#### **4. LOCAL REPRESENTATIONS**

##### **Local Residents:**

- 4.01 18 local representations have been received in support for the following summarised reasons:
- The access would not be detrimental to the character and appearance of the area.
  - The proposal is well-designed.

#### **5. CONSULTATIONS**

##### **KCC Highways**

- 5.01 Objection on the basis that the application fails to demonstrate that the proposal is acceptable in terms of highway safety.

##### **AONB Unit**

- 5.02 Objection due to the detrimental harm to the rural character of the historic Bull Lane.

##### **KCC Ecological Advice Service**

- 5.03 Objection on the basis that the application fails to demonstrate that the proposal is acceptable in terms of the impact on biodiversity.

#### **6. APPRAISAL**

##### **Main issues**

- 6.01 The key issues for consideration are:
- Character and appearance
  - Ecology and biodiversity
  - Transport and highways

##### **Assessment**

- 6.02 The site is in the countryside as defined by the Maidstone Borough Local Plan (2017). The starting point for assessment of applications in the countryside is Local Plan Policy SP17 of the Maidstone Local Plan (2017).
- 6.03 Policy SP17 of the Maidstone Local Plan (2017) states that development proposals in the countryside will not be permitted in the countryside unless:
- a) they do not result in harm to the character and appearance of the area and
  - b) they accord with other Local Plan policies.

##### **SP17 a) Character and appearance**

##### **Countryside and landscape character**

- 6.04 Supporting text to Policy SP17 advises 'The countryside has an intrinsic character and beauty that should be conserved and protected for its own sake.
- 6.05 Policy DM1(ii) states that the design should "Respond positively to, and where possible enhance, the local, natural...character of the area....". Policy DM30 states that development should maintain, and where possible, enhance the local distinctiveness of an area. Policy

DM30 (iiii) says that proposals will not be permitted where they result in unsympathetic change. Similarly, policy DM3 seeks to protect the visual character of Maidstone landscape.

- 6.06 The application site is located within the Bredhurst and Stockbury Downs Landscape Character Area which itself is included within the Dry Valleys and Downs Borough wide Landscape Character Area. Within these areas it is recommended that efforts should be made to conserve the "species rich hedgerow boundaries and promote enhanced species diversity within hedgerows where this has been weakened".
- 6.07 The Landscape Character Assessment also advises that one of the key characteristics of the Bredhurst and Stockbury Downs Landscape Character Area is its prevalence of very narrow lanes.
- 6.08 The front boundary of the application site consists of a substantial hedgerow and mature trees. This boundary makes a significant contribution to the visual appearance and character of the area, and the wider countryside.
- 6.09 The ground level on the application site is higher than the Bull Lane carriageway. The proposal would break up the existing bank and hedgerow with an engineered access and hard surfaced driveway. A 4.2 metre section of the hedgerow along Bull Lane would be removed in addition to some of the steep historic bank which gives the rural lane its traditional sunken character.
- 6.10 Having considered the above, the proposed new access by virtue of its prominent location, the loss of the hedgerow along the frontage to Bull Lane, would have an urbanising impact on the character of the area. The loss of well-established hedgerow and regrading of the bank would cause unacceptable visual impact to the character and appearance of the countryside.

#### Impact on Kent Downs AONB

- 6.11 The site is in the Kent Downs AONB which is a nationally important landscape. Designation as an AONB confers the highest level of landscape protection with the area providing amenity space and accommodating a diverse range of wildlife and biodiversity. Policy SP17 requires new development in the AONB to demonstrate that it meets the requirements of policy and the Kent Downs AONB Unit's design guidance.
- 6.12 The AONB Management Plan describes local character as including species-rich hedgerows and road verges, headlands, and the sunken lanes of the Downs are a special, diverse and distinctive feature. Often the road verges and hedges are rich in plant and animal diversity, providing important and very beautiful habitats and connectivity.
- 6.13 One of the main issues identified in the AONB Management Plan is the reinforcement of the special historic landscape character and the local distinctiveness of ancient routeways through the statutory planning process. The AONB Unit notes that the new access would punch through the existing bank and hedgerow with an engineered access and hard surfaced driveway. While a new hedgerow would be planted, it would be set back eroding the sense of enclosure experienced along the lane. The regraded and positioned bank would similarly fail to reflect historic landscape character, resulting in harm to the rural character and failing to conserve or enhance the AONB.
- 6.14 The Kent Downs AONB Unit has stated that the proposal would result in a detrimental change to the rural character of the historic Bull Lane. The proposal would result in harm to the rural character and would fail to conserve or enhance the nationally important character of the Kent Downs AONB.

#### **SP17 b) Accordance with other Local Plan policies**

- 6.15 Other relevant Local Plan policies include DM1 (Principles of good design), DM3 and DM30 (Design principles in the countryside).

Polices DM1 and DM3 - Ecology and biodiversity

- 6.16 The application site is identified as supporting Priority Habitat (Traditional Orchard) under Section 41 of the Natural Environment and Rural Communities Act (2006). This is defined as areas with a range of semi-natural habitat types that were identified as being the most threatened and requiring conservation action.
- 6.17 Policy DM1 sets out that development should respond to the location of the site and sensitively incorporate natural features such as trees, and hedges worthy of retention. Further, DM1(v) states that particular attention should be paid in rural areas and seeks the retention and addition of native planting that is appropriate to the local landscape character and reflects the natural characteristics of the area. DM1(ii) also requires development to respond positively to local natural and historic character. Policy DM3 seeks to protect positive landscape character, veteran trees, trees with significant amenity value, and important hedgerows from inappropriate development.
- 6.18 The NPPF (para 174) states that planning decisions should contribute to and enhance the natural and local environment providing net gains for biodiversity. Opportunities to improve biodiversity in and around developments should be integrated as part of their design. In general terms, both national and local planning policy and guidance seek to resist the loss of mature hedgerows that have the potential to provide habitats for various species and utilise the site for foraging and commuting.
- 6.19 The proposal involves the loss of a stretch of approximately 4.2 metres of mature hedgerow which has the potential to support a number of species. The application does not include either an Arboricultural survey, a Hedgerow Assessment, or information relating to potential harm to hazel dormouse, roosting bats, great crested newts and reptiles. KCC Ecological Advice Service have objected due to the failure of the application to demonstrate that the proposal will not harm biodiversity.
- 6.20 It is concluded that the application fails to demonstrate that the proposal would be acceptable in terms of adverse impact upon the ecological value of the site and biodiversity. The proposed development would be contrary to policies DM1 and DM3 of the Local Plan (2017) and the NPPF.

Policy DM1 - Transport and highway impact

- 6.21 DM1 (ix) says that development should safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access. The NPPF (para 110(b)) requires development to ensure that 'safe and suitable access to the site can be achieved for all users'.
- 6.22 The visibility splays annotated on drawing 5630-01 show visibility lines through the existing mature hedgerows, thereby severely limiting visibility for vehicles egressing the site onto the narrow Bull Lane. The application does not demonstrate that vehicles will be able to safely leave the site.
- 6.23 KCC Highways have objected on the basis that the application has failed to demonstrate that the proposal is acceptable in terms of highway safety. KCC Highways have reaffirmed their position following further consultation.
- 6.24 The application does not demonstrate that vehicles can safely enter and leave the site and as a result the proposals would result in an unacceptable impact upon highway safety. The proposed development is in conflict with the provisions set out within the Local Plan (2017) and the NPPF.

**PUBLIC SECTOR EQUALITY DUTY**

- 6.25 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.

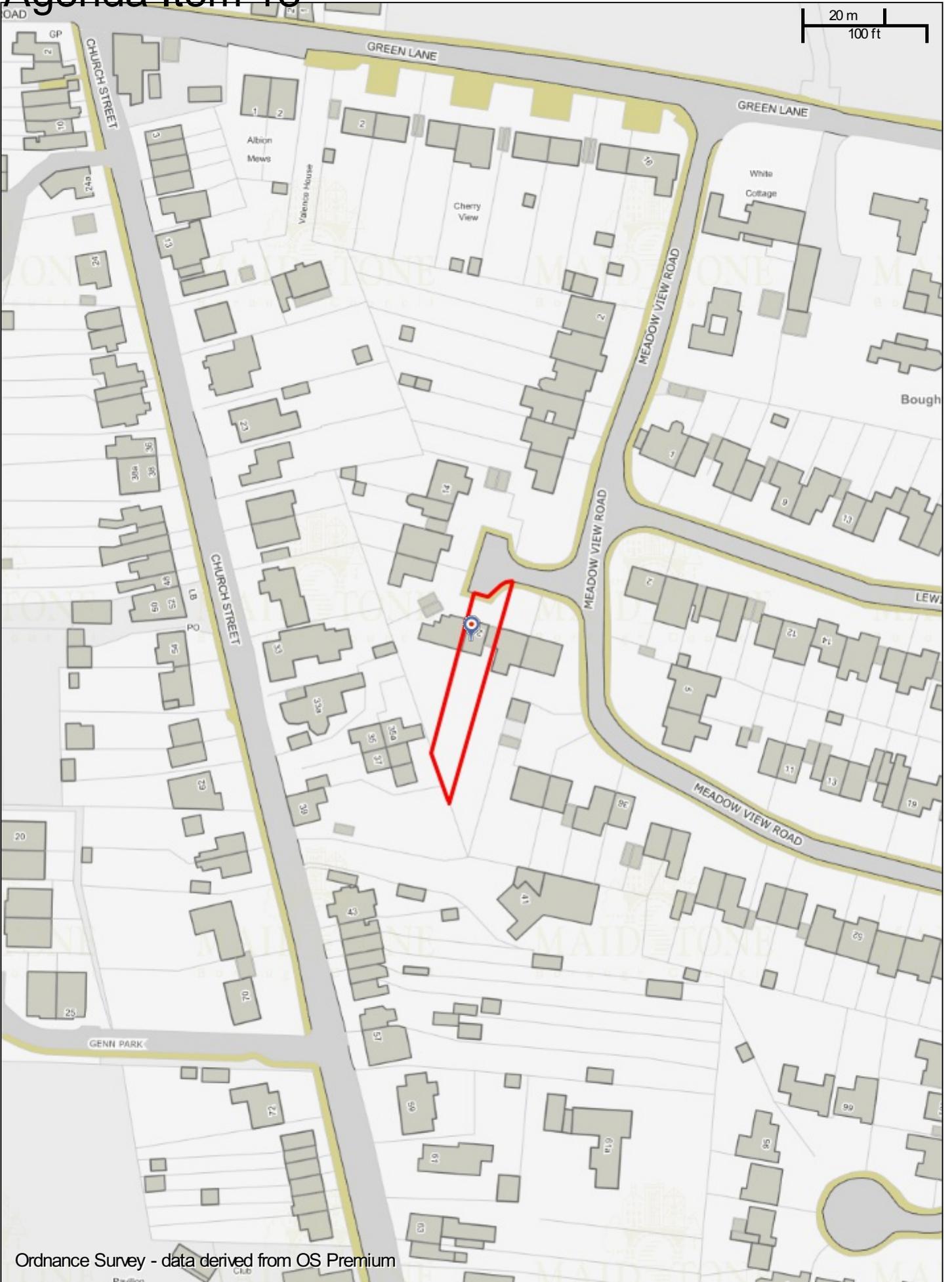
## **CONCLUSION**

- 6.26 The proposed new vehicle access by virtue of the loss of a substantial stretch of existing well-established hedgerow in this prominent location in an area of national landscape importance, and associated regrading of the bank along the Bull Lane frontage would have a detrimental urbanising impact on the streetscene and the surrounding rural area. The proposal would result in unacceptable visual harm to the character and appearance of the countryside which would be contrary to the objectives of designation of the Area of Outstanding Natural Beauty where great weight should be given to conserving and enhancing the areas natural beauty. As such, the development is contrary to policies DM1, DM3, DM30, and SP17 of the Maidstone Borough Local Plan (October 2017), policies SD1 and SD2 of the Kent Downs AONB Management Plan 2021-2026 and section 12 and 15 of the National Planning Policy Framework (NPPF).
- 6.27 The application fails to demonstrate that the proposal would not have an adverse impact on protected species including in terms of the loss of the hedgerow and the regrading of the bank. This is contrary to policies DM1 and DM3 of the Maidstone Local Plan (2017); Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System; and the aims of the National Planning Policy Framework (2021).
- 6.28 The application fails to demonstrate that the proposal would not have a severe adverse impact on highway safety in terms of the visibility for vehicle divers accessing and egressing the site. This would be contrary to the aims of Policy DM1 of the Maidstone Local Plan (2017) and the aims of the National Planning Policy Framework (2021).

## **7. RECOMMENDATION REFUSE PLANNING PERMISSION for the following reasons:**

- 1) The proposed new vehicle access by virtue of the loss of a substantial stretch of existing well-established hedgerow in this prominent location in an area of national landscape importance, and associated regrading of the bank along the Bull Lane frontage would have a detrimental urbanising impact on the streetscene and the surrounding rural area. The proposal would result in unacceptable visual harm to the character and appearance of the countryside which would be contrary to the objectives of designation of the Area of Outstanding Natural Beauty where great weight should be given to conserving and enhancing the areas natural beauty. As such, the development is contrary to policies DM1, DM3, DM30, and SP17 of the Maidstone Borough Local Plan (October 2017), policies SD1 and SD2 of the Kent Downs AONB Management Plan 2021-2026 and section 12 and 15 of the National Planning Policy Framework (NPPF).
- 2) The application fails to demonstrate that the proposal would not have an adverse impact on protected species including in terms of the loss of the hedgerow and the regrading of the bank. This is contrary to policies DM1 and DM3 of the Maidstone Local Plan (2017); Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System; and the aims of the National Planning Policy Framework (2021).
- 3) The application fails to demonstrate that the proposal would not have a severe adverse impact on highway safety in terms of the visibility for vehicle divers accessing and egressing the site. This would be contrary to the aims of Policy DM1 of the Maidstone Local Plan (2017) and the aims of the National Planning Policy Framework (2021).

# Agenda Item 18



Ordnance Survey - data derived from OS Premium



23/500671/FULL 24 Meadow View Road, Boughton Monchelsea, Maidstone, Kent, ME17 4LJ

Scale: 1:1250

Printed on: 15/5/2023 at 13:20 PM by JoannaW



## REPORT SUMMARY

<b>REFERENCE NO:</b> - 23/500671/FULL		
<b>APPLICATION PROPOSAL:</b> Erection of a single-storey rear and a two-storey side extension including a new vehicle crossover.		
<b>ADDRESS:</b> 24 Meadow View Road, Boughton Monchelsea, Maidstone, Kent, ME17 4LJ		
<b>RECOMMENDATION: GRANT PLANNING PERMISSION</b> subject to the planning conditions set out in Section 8.0 of the report		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> For the reasons set out below it is considered that the proposed development would be acceptable and would not cause significant visual harm, harm to neighbouring amenity or highway safety nor be unacceptable in terms of any other material planning considerations such that the proposed development is considered to be in accordance with current Development Plan Policy and planning guidance.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> The application has been called in by Boughton Monchelsea Parish Council by reason of the recommendation being contrary to their comments (see report below for reasons).		
<b>WARD:</b> Boughton Monchelsea And Chart Sutton	<b>PARISH/TOWN COUNCIL:</b> Boughton Monchelsea	<b>APPLICANT:</b> Mr Josh Head <b>AGENT:</b> Keith R Hammond Ltd
<b>CASE OFFICER:</b> Angela Welsford	<b>VALIDATION DATE:</b> 16/02/23	<b>DECISION DUE DATE:</b> 30/06/23
<b>ADVERTISED AS A DEPARTURE: NO</b>		

### Relevant Planning History

22/503878/PNEXT

Prior notification for a proposed single storey rear extension which: A) Extends by 4.4 metres beyond the rear wall of the original dwelling. B) Has a maximum height of 3.7 metres from the natural ground level. C) Has a height of 2.4 metres at the eaves from the natural ground level.

Prior Approval Granted 14.09.2022 (*Not yet implemented*)

71/0230/MK3

Erection of porch.

Approved 25.06.1971

### MAIN REPORT

#### 1. DESCRIPTION OF SITE

- 1.01 The application site is a semi-detached, two-storey dwelling located in a cul-de-sac on Meadow View Road, within the village settlement boundary of Boughton Monchelsea. The majority of properties surrounding the application site are of a similar scale, with many benefiting from front, side and rear extensions.
- 1.02 The area is identified as having the potential for discovery of archaeological remains.

## **2. PROPOSAL**

- 2.01 The application seeks permission to extend the existing dwelling by way of a two-storey side extension and single-storey rear extension. Matching materials are proposed.
- 2.02 The two-storey side extension would be built partially above the existing garage and partially behind it. The front building line of its first floor would be stepped back 1m from the front building line of the host dwelling, which would mean the extension ridge line would be dropped down approximately 0.5m below the main ridge line. The extension would protrude approximately 2.3m from the existing flank wall. Its first floor would not be built right up to the common side boundary with the non-attached neighbouring dwelling. This would allow a 3m gap to remain between the roof verges and a slightly larger gap wall to wall at first floor level.
- 2.03 The single-storey extension would protrude 4.4m from the original rear wall of the dwelling and would run right across the rear elevation of both the existing house and the proposed two-storey side extension. It would have a shallow-pitched, lean-to style roof with eaves approximately 2.4m and a maximum height of 3.7m.
- 2.04 The part of the single-storey extension that would be built behind the existing dwelling is the same as that granted Prior Approval under 22/503878/PNEXT and has mistakenly been shown on the 'Existing' drawings as being in existence even though it has not been built out yet. However, it is considered that this does not prejudice determination of the application in any way because the description does clearly refer to a single-storey rear extension in any case, without making any reference to its size. Moreover, it is quite plain from an inspection of the site that that extension does not yet exist and as it is clearly shown on the proposed plans and elevations as an integral part of the resulting development, the occupiers of adjoining properties can be in no doubt as to what is proposed.
- 2.05 The proposal also includes a new vehicle crossover to extend the existing dropped kerb and so enable parking in front of the dwelling as well as on the existing driveway. However, as Meadow View Road is not a classified road, that does not require planning permission.

## **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan (2011-2031): Policies DM1, DM9, DM23

Emerging Policies: Maidstone Borough Council – Local Plan Review Regulation 22 Submission. The Regulation 22 Submission comprises the draft plan for submission (Regulation 19) dated October 2021, the representations and the proposed main modifications. It is a material consideration and some weight must be attached to the document because of the stage it has reached. This weight is limited, as it has yet to be the subject of an examination in public.

Policy LPRSP15 – Principles of Good Design

LPRHou 2 – Residential extensions, conversions, annexes and redevelopment in the built-up areas

Policy LPRTRA4 - Parking Matters

Neighbourhood Plan: Boughton Monchelsea Neighbourhood Development Plan - Policies PWP7, PWP8, PWP12

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Supplementary Planning Documents: Residential Extensions SPD (adopted May 2009)

#### 4. LOCAL REPRESENTATIONS

**Local Residents:** No representations received from local residents.

#### 5. CONSULTATIONS

##### Boughton Monchelsea Parish Council

##### 5.01 Response to original proposal:

"The Parish Council wish to see the application refused for the following planning reasons. If MBC are minded to approve it then the application should be reported to planning committee for decision.

- The two storey side extension would create a terracing effect in a row of semi-detached houses, contrary to policy DM9 of the adopted MBC Local Plan and the adopted Residential Extensions SPD and would result in an incongruous form of development which is harmful to the character and appearance of the street scene
- If this proposal were approved then it would take away the right of the neighbour to do a similar extension. MBC's adopted Residential Extensions SPD makes it clear that the pattern of gaps between the properties in a street scene should be maintained and that 'there should normally be a minimum gap of 3 metres between side wall of the two-storey side extension and the adjoining property for the full height of the extension'
- Constructing and maintaining the proposal would not be possible without access onto neighbouring property [*Officer comment: This would be a civil issue between the parties; it is not covered by planning legislation and is not therefore a material planning consideration.*]
- The single storey rear extension substantially increases the footprint of the property"

Response to amended proposal:

"The Parish Council's original objections still stand. We wish to see the application refused and if the officer is minded to approve it, reported to planning committee for decision."

##### KCC Archaeological Advisor

##### 5.02 No response to consultation.

#### 6. APPRAISAL

The key issues are:

- Visual impact
- Impact on residential amenity

##### **Principle of Development/Policy Context**

##### 6.01 Policy DM1 sets out the principles of good design. In particular, proposals should respond positively to local character and particular regard should be paid to scale, height, materials, detailing mass and bulk.

- 6.02 More specifically, Policy DM9 sets out the criteria for domestic extensions within built up areas. It states that proposals should be permitted if:
- i. *"The scale, height, form, appearance and siting of the proposal would fit unobtrusively with the existing building where retained and the character of the street scene and/or its context;*
  - ii. *The traditional boundary treatment of an area would be retained and, where feasible, reinforced;*
  - iii. *The privacy, daylight, sunlight and maintenance of a pleasant outlook of adjoining residents would be safeguarded; and*
  - iv. *Sufficient parking would be provided within the curtilage of the dwelling without diminishing the character of the street scene."*
- 6.03 The Supplementary Planning Document Residential Extensions (2009) provides further guidance which includes (points summarised):
- Extensions should respond sensitively to the positive features of the area which contribute to the local distinctive character and sense of place in terms of scale, proportion and height. It is also desirable that the form, proportions, symmetry and detail of the original building should be respected. The scale, proportion and height of an extension should not dominate the original building, should be subservient to the original house and should fit unobtrusively with the building and its setting. The form of an extension should be well proportioned and present a satisfactory composition with the house (paragraphs 4.37 – 4.42).
  - The infilling of spaces between detached and semi-detached dwellings with two-storey extensions could create a terraced appearance at odds with the rhythm of the street scene. Where there is a pattern of gaps, as a guide a minimum gap of 3m should be retained between the side wall of an extension and the that of the adjoining property. A side extension built flush with the front elevation of the existing house may also affect the symmetry of a semi-detached pair with adverse impact on the street scene, so a side extension should be subordinated to the original building (paragraphs 4.16, 4.17 & 4.18).
  - Extensions should respect the amenities of adjoining properties in terms of privacy, daylight and sunlight and should maintain an acceptable outlook from a neighbouring property (paragraphs 4.70 – 4.79).
- 6.04 The Boughton Monchelsea Neighbourhood Development Plan contains a number of parish-wide policies of relevance:
- PWP8 – development should incorporate energy efficiency/renewable energy measures;
- PWP12 - all new development should incorporate measures to maintain and improve biodiversity.
- 6.05 The application site is situated in a sustainable location within the Boughton Monchelsea Larger Village Settlement Boundary and as such, the principle of development in this location is considered acceptable subject to the material planning considerations discussed below.
- Visual Impact**
- 6.06 Looking first at the impact on the host dwelling, the design of the two-storey side extension incorporates measures from the design guidance in the adopted Residential Extensions SPD to subordinate it to the host building. It would be stepped back 1m from the front building line of the host dwelling and its ridge line

- would therefore be dropped down approximately 0.5m below the main ridge line. At only 2.3m wide, its proportions are considered acceptable and would be clearly less than half the width of the host dwelling. It would therefore appear subservient and fit unobtrusively with the host property. The use of matching materials would give a sympathetic finish and help the development to blend with the host building.
- 6.07 The single-storey extension would appear subordinate because of its significantly lower height and its position behind the host dwelling. These factors would offset the increase in footprint. It should also be remembered that the part of the single-storey extension that would be positioned behind the existing dwelling could already be built in any case, as it has been granted Prior Approval under reference 22/503878/PNEXT. This accounts for more than two-thirds of the footprint of the single-storey extension now proposed.
- 6.08 Turning to the impact on the street-scene, the proposed side extension would significantly narrow the gap at first floor level between the host property and the next door property No.26, however, the submitted drawings demonstrate that a gap of 3m would remain between the roof verges and a slightly larger gap would remain wall to wall at first floor level. This complies with the design guidance in the adopted Residential Extensions SPD, which states that the pattern of gaps between the properties in a street scene should be maintained and that *"there should normally be a minimum gap of 3 metres between the side wall of the two-storey side extension and the adjoining property."* As such, it is considered that an adequate gap would remain between the properties at first floor level to prevent a terracing effect. The proposed extension would meet the requirements set out in the adopted SPD, and thereby those of Local Plan Policy DM9 with regard to visual impact, and is not considered to be harmful to the character or appearance of the street-scene.
- 6.09 Furthermore, it is considered that the development would not be out of keeping or incongruous to its surroundings. Meadow View Road is predominately made up of two storey semi-detached dwellings of a similar design to the application property and chalet-style bungalows of a similar period. The site visit showed that a number of properties both in the immediate vicinity and in the surrounding estate have had two-storey side extensions, including some that appear to extend close to the property boundary and some that are not subordinated. Whilst three properties in the same cul-de-sac as the application site have had such extensions, all three of those are 'end' properties without another house directly beside them. However, 10 Meadow View Road is an 'in line' property of the same design, located just seven doors away, which has a two-storey side extension that was recently granted on appeal (20/505546/FULL). Whilst each case must always be decided on its own merits, it is considered that there are a number of strong similarities between that case and the current application in terms of the design and situation of the host dwelling and its juxtaposition with the neighbour, the scale and design of the proposed two-storey side extension, the key issue being visual impact and the relevant planning policies. As such, it is considered that the Planning Inspector's findings and granting of that permission are material considerations in the determination of the current application. A particularly pertinent point is that, in that case, the retained gap was only 2.9m and not the 3-3.2m (approx.) currently proposed. Another is that the current proposal incorporates a greater degree of set-back of the front elevation and lowering of the ridge than the scheme granted on appeal, so the current extension would be proportionally smaller and more subordinate. The Planning Inspector concluded that the development now constructed at 10 Meadow View Road would not harm the character or appearance of the host property or the street scene, and it is considered that the two-storey side extension now proposed at No.24 would not do so either.
- 6.10 Boughton Monchelsea Parish Council has raised concern that if this proposal were to be approved, it would take away the right of the neighbour to do a similar

extension because to do so would result in a terracing effect. The Planning Inspector also considered this point in relation to the appeal extension at No.10 and concluded that "*While I recognise that such a scenario might not appear fair, I must determine the appeal on the basis of the information before me. I have no substantive information about the prospect, timing and nature of any proposal to extend No.8 and therefore I cannot attach any significant weight to this consideration*". Since that appeal decision is a material consideration, the same approach should be applied to the current application and as there is no substantive information about the prospect, timing and nature of any proposal for a two-storey side extension to No.26, it is considered that no significant weight can be attached to this consideration.

- 6.11 The proposed single-storey rear extension would not affect the street-scene.
- 6.12 It is therefore concluded that the proposed development would not harm the character or form of the host dwelling or the character or appearance of the street-scene.

### **Residential Amenity**

#### 22 Meadow View Road

- 6.13 This is the attached house and is positioned to the west. It has patio doors on the ground floor rear elevation closest to the common boundary. These are understood to serve a habitable room.
- 6.14 The proposed single-storey rear extension would fail the 45° BRE loss of light test described in the adopted SPD in relation to the neighbour's patio doors, however, given that that part of the proposal can already be constructed as it has been granted Prior Approval (21/503878/PNEXT), it is not considered that this is a sustainable ground of refusal. Overall, taking account of the orientation, the roof design and the permitted development fall-back position, the impact of a rear extension of the proposed depth and height on the levels of light and outlook enjoyed by this neighbour was previously judged to be acceptable and there are not considered to be any grounds to reach a different conclusion now.
- 6.15 The two-storey side extension would not affect this neighbour as it would be screened by the existing house.
- 6.16 No new openings are proposed in a position to cause a harmful loss of privacy to this neighbour.

#### 26 Meadow View Road

- 6.17 This is the non-attached house and is positioned to the east. It has a single-storey side/rear extension set in approximately a door's width from the common boundary. This extension has a door and what appears to be a secondary window in its flank elevation facing the application site (main window faces rearwards). There is also a first floor flank window on the original part of the dwelling, which is understood to serve a non-habitable room.
- 6.18 The proposed extensions would run in direct line of sight of the side-facing openings at No.26, and in close proximity to those in its single-storey extension. However, none of those openings appear to be primary openings to habitable rooms and no objections have been received from this neighbour indicating otherwise. In these circumstances, it is not considered that the proposal could be judged to have a sufficiently harmful impact on levels of light and outlook such that a refusal of planning permission is justified, even though the impact on those particular openings themselves is likely to be significant.

- 6.19 Again, it is not considered that the proposal would create any significantly harmful new views over this property.

### **Other Matters**

- 6.20 As pointed out in section 2.05, the proposed new vehicle crossover to extend the existing dropped kerb does not require planning permission. There are not considered to be any other highways impacts associated with this proposal.
- 6.21 The site is in an area identified as having the potential for discovery of archaeological remains, however, in the absence of advice from the County Archaeological Advisor and taking account of the relatively limited groundworks proposed (much of which can already be carried out under the granted Prior Approval 22/503878/PNEXT), it is not considered that a condition requiring archaeological mitigation measures is justified.
- 6.22 There are no significant trees that will be detrimentally impacted by this development.
- 6.23 Policy DM1 of the Local Plan sets out, at point viii, that proposals should '*protect and enhance any on-site biodiversity and geodiversity features where appropriate, or provide mitigation.*' Due to the nature and relative scale of the proposal and the existing residential use of the site, it is not considered appropriate/necessary to require any ecological surveys. However, both the NPPF and the NDP encourage the enhancement of biodiversity in the interests of sustainable development and consequently, it is considered appropriate to attach a condition requesting that some form of on-site enhancement is provided. This should be provided both on the extended dwelling and within the curtilage.
- 6.24 The NPPF, Local Plan, NDP and Residential Extensions SPD all seek to promote the use of renewables and energy efficient buildings. This matter has been discussed with the applicant, who has expressed a willingness to accept a condition securing a small-scale renewable energy installation as part of the development (such as solar panels on the single-storey extension roof and/or provision of an electric vehicle charging point). It is considered that a condition securing a small-scale renewable energy installation would not be unreasonable to offset the environmental impact of the building works and the resultant larger building.

### **PUBLIC SECTOR EQUALITY DUTY**

- 6.25 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 For the reasons set out above it is considered that the proposed development would be acceptable and would not cause significant visual harm, harm to neighbouring amenity or highway safety nor be unacceptable in terms of any other material planning considerations such that the proposed development is considered to be in accordance with current Development Plan Policy and planning guidance. Subject to appropriate conditions, therefore, approval is recommended

## **8. 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:

- 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:  
  
Site location plan and drawing number 290722/07 received on 06/02/2023, and drawing numbers 290722/01 Rev B, 290722/02 Rev B, 290722/03 Rev B, 290722/04 Rev B and 290722/06 Rev B received on 17/04/2023;  
  
Reason: To clarify which plans have been approved.
- 3) The materials to be used in construction of the external surfaces of the development hereby permitted shall match those used in the existing building.  
  
Reason: To ensure a satisfactory appearance to the development.
- 4) The development shall not proceed above damp-proof course level until details of a scheme for the enhancement of biodiversity on the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through methods integrated into the design and appearance of the extension, by means such as swift bricks, bat tubes or bee bricks, and through the provision within the site curtilage such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgehog corridors. The development shall be implemented in accordance with the approved details prior to first use of the extensions and all features shall be retained and maintained thereafter.  
  
Reason: To enhance the ecology and biodiversity on the site in the future.
- 5) The development shall not proceed above damp-proof course level until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation of the development and shall be retained and maintained thereafter;  
  
Reason: To ensure an energy efficient form of development. Details are required prior to commencement as these methods may impact or influence the overall appearance of development.

## **INFORMATIVES**

- 1) Details pursuant to Condition 4 should show, on a scaled drawing, the type and number of the proposed ecological enhancements as well as their intended positions, including, where appropriate, the height above ground level to demonstrate that this would be appropriate for the species for which it is intended. Any bird boxes should face north or east and bat boxes and bee bricks should face south. Where planting is proposed, please also supply details of the

number of plants of each species as well as the intended size on planting (eg: pot size in litres). Some helpful advice may be found at:

<https://www.rhs.org.uk/science/conservation-biodiversity/wildlife/plants-for-pollinators>

<https://www.rspb.org.uk/birds-and-wildlife/advice/how-you-can-help-birds/>

<https://www.bats.org.uk/our-work/buildings-planning-and-development/bat-boxes>

<https://www.wildlifetrusts.org/actions/how-build-hedgehog-home>

<https://www.woodlandtrust.org.uk/blog/2019/09/how-to-build-a-bug-hotel/>

- 2) It is the responsibility of the developer to ensure, before the development hereby approved is commenced, that approval under the Building Regulations (where required) and any other necessary approvals have been obtained, and that the details shown on the plans hereby approved agree in every aspect with those approved under such legislation.
- 3) Planning permission does not convey any approval for construction of the vehicular crossing, or any other works within the highway, for which a statutory licence must be obtained separately. Applicants should contact Kent County Council Highways ([www.kent.gov.uk](http://www.kent.gov.uk) or 03000 41 81 81) for further information.
- 4) The grant of this permission does not convey any rights of encroachment over the boundary with the adjacent property in terms of foundations, eaves, guttering or external cladding, and any persons wishing to implement this permission should satisfy themselves fully in this respect. Regard should also be had to the provisions of the Neighbour Encroachment and Party Wall Act 1995 which may apply to the project.
- 5) Your attention is drawn to the following working practices which should be met in carrying out the development:
  - Your 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: if necessary you should contact the Council's environmental health department regarding noise control requirements.
  - Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Council's environmental health department.
  - Plant and machinery used for demolition and construction should only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.
  - Vehicles in connection with the construction of the development should only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.
  - The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside the normal

working hours is advisable. Where possible, the developer shall provide residents with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work.

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

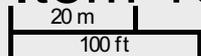
- It is recommended that the developer produces a Site Waste Management Plan in order to reduce the volumes of waste produced, increase recycling potential and divert materials from landfill. This best practice has been demonstrated to both increase the sustainability of a project and maximise profits by reducing the cost of waste disposal.

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

If relevant, the applicant must consult the Environmental Health Manager regarding an Environmental Permit under the Environmental Protection Act 1990.

Case Officer: Angela Welsford

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



Ordnance Survey - data derived from OS Premium



22/505947/FULL Burford Farm, Redwall Lane, Linton, Maidstone, Kent, ME17 4BD

Scale: 1:1250

Printed on: 15/5/2023 at 13:25 PM by JoannaW



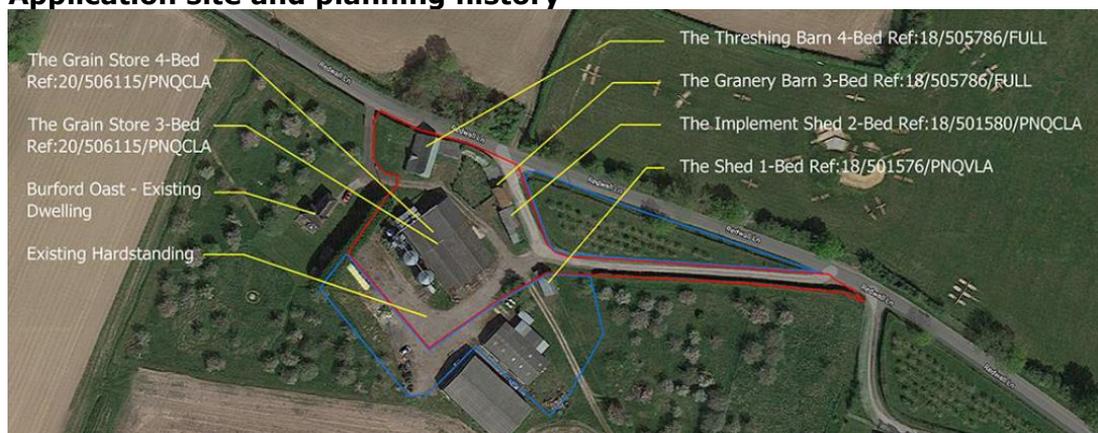
**REPORT SUMMARY**

<b>REFERENCE NO:</b> - 22/505947/FULL		
<b>APPLICATION PROPOSAL:</b> Demolition of The Granary building and erection of a four-bedroom residential dwelling including landscaping parking and access.		
<b>ADDRESS:</b> Burford Farm Redwall Lane Linton Maidstone Kent ME17 4BD		
<b>RECOMMENDATION:</b> REFUSE PLANNING PERMISSION		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b>		
<ul style="list-style-type: none"> <li>• The proposed replacement dwelling represents substantial reconstruction of the Granary which results in "less than substantial" harm to a non-designated heritage asset. The proposed scheme for rebuilding is of poor design relative to the character and appearance of those heritage assets within an historic rural farmstead and therefore their loss has not been sufficiently outweighed by any public benefit.</li> <li>• The overly domestic design of the proposal causes harm to the character and appearance of the countryside.</li> <li>• Due to the above the proposal is contrary to policies SP17, SP18, DM1, DM4, and DM30 of the Maidstone Borough Local Plan 2017 and the aims of the National Planning Policy Framework (2021).</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE:</b>		
The reasons for referral to committee from Hunton Parish Council are detailed below within section 4 (Local Representations)		
<b>WARD:</b> Coxheath And Hunton	<b>PARISH/TOWN COUNCIL:</b> Linton	<b>APPLICANT:</b> GHK Developments <b>AGENT:</b> MRW Design
<b>CASE OFFICER:</b> William Fletcher	<b>VALIDATION DATE:</b> 03/01/23	<b>DECISION DUE DATE:</b> 02/06/23
<b>ADVERTISED AS A DEPARTURE:</b> No		

**Directly Relevant Planning History**

The applicant has included a photo of the site with the buildings and planning permissions associated with them labelled, this is included below.

**Application site and planning history**



18/505786/FULL (The Threshing Barn & The Granary)  
Conversion of a redundant Threshing Barn and Granary Building to create 2.no residential dwellings with associated access, parking and amenity space. Approved 11.03.2019

21/504236/FULL

Redevelopment of buildings on site (including Grain Store, Implement Store, Granary and Threshing Barn) and erection of 6(no) dwellings including associated works and parking. Refused 24.10.2022 Appeal dismissed 10/05/2023

The decision above included the following reason for refusal related to the current application "The proposed replacement dwellings on plots 2 and 3 represent substantial reconstruction of the Granary/Wagon Lodge and Threshing Barn which results in "less than substantial" harm to non-designated heritage assets. The proposed scheme for rebuilding is of poor design relative to the character and appearance of those heritage assets within an historic rural farmstead and therefore their loss has not been sufficiently outweighed by any public benefit. The design of the proposal is also harmful to the character and appearance of the countryside. The proposal is contrary to policies SP17, DM1, DM4, DM30 and DM31 of the Maidstone Borough Local Plan 2017."

In the subsequent appeal the inspectorate concluded "the effects of the development in relation to the character and appearance of the area, including non-designated heritage assets, would be unacceptable, giving rise to conflict with the development plan.". (Please see Appendix A for the full appeal decision.)

### **Adjacent Planning History**

18/501576/PNQCLA (The Shed)

Prior notification for the change of use of agricultural building to one dwelling house. For its prior approval to: - Transport and Highways impacts of the development. - Contamination risks on the site. - Flooding risks on the site. - Noise impacts of the development. - Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed - Design and external appearance impacts on the building. Prior Approval Granted 16.05.2018

18/501580/PNQCLA (The Implement Shed)

Prior notification for the change of use of change of use of agricultural building to one dwelling house. For its prior approval to: -Transport and Highways impacts of the development. - Contamination risks on the site - Flooding risks on the site. - Noise impacts of the development. - Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed - Design and external appearance impacts on the building. Prior Approval Granted 07.06.2018

20/506115/PNQCLA (The Grain Store)

Prior notification for the change of use of part of an agricultural building to 3(no) dwellinghouses and associated operation development. For it's prior approval to: Transport and Highways impacts of the development; Noise impacts of the development; Contamination risks on the site; Flooding risks on the site; Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change from agricultural use to C3 (dwellinghouses); Design and external appearance impacts on the building, and Provision of adequate natural light in all habitable rooms of the dwellinghouses. Prior Approval Granted 18.02.2021

### **MAIN REPORT**

#### **1. DESCRIPTION OF SITE**

1.01 The application site is in the countryside as defined by the adopted Local Plan. The site is approximately 2km south of the Coxheath (designated a 'Larger Village'), which is circa 4.5km south of the town centre of Maidstone. Other than the development associated with the farm the area is relatively undeveloped and is resolutely rural in character.

### View from Redwall Lane

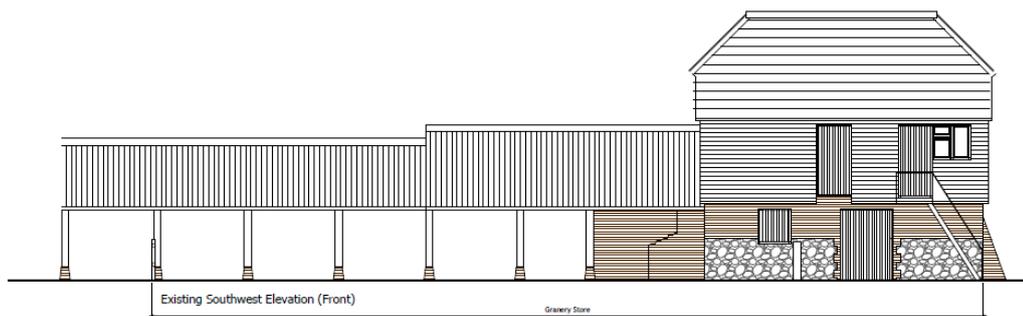


- 1.02 Burford Farm is situated on Redwall Lane, which runs east to west linking Linton Hill (A229) and Hunton Hill. The site is to the south of Redwall Lane and consists of a collection of redundant farm building and storage barns. All the buildings on the site are of various stages of construction and have been built and altered over a period of time. There is no consistent design, with external finishes ranging from traditional dark timber weatherboarding to modern asbestos and metal sheeting. The collection of buildings have a variety of different roof heights and massing. There is no significant planting on the site with the majority of the site having hardstanding. To the north of the access road is an apple orchard, this will be retained and is not part of the proposals.
- 1.03 The partially demolished application building is a non-designated heritage asset While. the Granary has seen alterations it nevertheless is of historic and architectural interest due to its former use, architectural details and range of vernacular materials. The building sustained substantial damage in storm earlier this year. To preserve the historic timbers, they have been removed and stored on site. The timbers have been catalogued and will be used in the reinstatement of the building. It should be noted the Local Planning Authority were not informed that the building had been taken down.

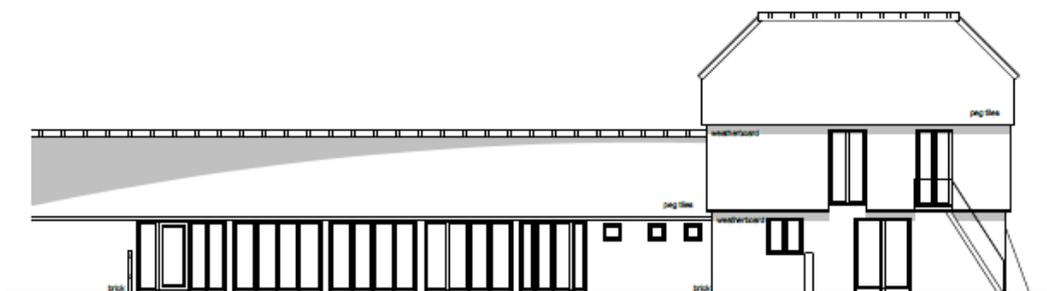
## 2. PROPOSAL

- 2.01 The proposal is described by the applicant as follows "The proposals are to take down the granary and re-construct it on the same site. The building will provide a 4-bedroom dwelling with its own private garden space. The internal layout has been kept in-line with modern developments and styles of living using a large kitchen, breakfast, and dining room as the centre of the dwelling. The proposed scheme provides generous living accommodation and good-sized bedrooms. As can be seen from the floor plans the proposed accommodation has been laid out to maximise the living accommodation with views into the garden. The scheme also includes a study in-line with lifetime home standard and creates a flexible living environment."
- 2.02 The proposal also involves the 'conversion' of the adjoining "Wagon Lodge". The full front elevation of the existing building is included below.
- 2.03 The application follows a 2018 planning permission which sought to convert the building. Most recently an application seeking a similar development to the one being considered now was refused, this is currently subject to an appeal. The front elevation of the existing building (which has now undergone substantial deconstruction), the 2018 application and the current proposal are depicted below.

**Existing front elevation**



**18/505786/FULL front elevation (previously approved)**



**Proposed front elevation (as part of current application)**



**3. POLICY AND OTHER CONSIDERATIONS**  
Maidstone Borough Local Plan (2011-2031):

- SS1 Spatial strategy
- SP17 Countryside
- SP18 Historic buildings
- DM1 Principle of good design
- DM2 Sustainable design
- DM3 Natural environment
- DM4 Development affecting designated and non-designated heritage assets
- DM30 Design principles in the countryside

Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 22) dated October 2021.

The Regulation 22 draft is a material consideration however weight is currently limited, as it is the subject of an examination in public that commenced on the 6 September 2022 (Stage 2 hearing started on 15/05/2023). The relevant policies in the draft plan are as follows:

SS1 Maidstone Borough Spatial Strategy  
SP9 Development in the Countryside  
SP10 Housing  
SP15 Design  
Env1 Development affecting heritage assets  
TRA4 Parking standards (Appendix B)  
Q&D4 Design Principles in the Countryside  
Q&D6 Technical Standards  
Q&D7 Private Amenity Space Standards

Kent Waste and Minerals Plan (amended 2020):  
The National Planning Policy Framework (NPPF):  
National Planning Practice Guidance (NPPG):  
Supplementary Planning Documents:

Landscape Character Assessment 2013: The application site is situated between the Beult Valley and Yalding Farmlands landscape character areas. The Maidstone Landscape Character Assessment (2013) guidelines state both these landscapes should be conserved.

#### **4. LOCAL REPRESENTATIONS**

##### Hunton Parish Council

Hunton Parish Council recommends that this planning application is permitted. If the Planning Officer is minded to refuse the application, we would request that it is referred to the MBC Planning Committee for determination.

##### Local Residents

As well as the posted site notice 6 neighbouring properties were consulted by direct mail, no representations were received.

#### **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)*

##### MBC Conservation

5.01 Objection. The building on the application site was a non-designated heritage assets and therefore consideration needs to be made regarding the impact on its character.

5.02 In design terms the proposed development shows little resemblance to the pre-existing Granary building. The number of windows proposed positioning and type are in no way like the pre-existing structure. The design is very different to the original building and given the change in design it would result in less than substantial harm. The proposal therefore cannot be supported in its current form.

##### Environmental Health

5.03 No objections subject to conditions

##### KCC Highways

5.04 This consultee replied with their standing advice, the development proposal does not meet the criteria to warrant involvement from the Highway Authority.

#### **6. APPRAISAL**

The key issues are:

- Site location
- Impact on character and appearance
- Heritage

- Spatial strategy
- Residential amenity
- Neighbouring amenity
- Highways
- Landscape/ecology

**Site location**

6.01 The application site is in the countryside and the starting point for assessment of all applications in the countryside is Local Plan Policy SP17. Policy SP17 states that development proposals in the countryside will not be permitted unless:

- a) they will not result in harm to the character and appearance of the area and
- b) they accord with other Local Plan policies

6.02 The application site was previously used for agricultural activities and the definition of 'Previously Developed Land' (brownfield) in the NPPF excludes "...land that is or was last occupied by agricultural or forestry buildings". With agricultural land/buildings excluded from the definition of brownfield land and the proposal involving a new dwelling, LP polices DM5 (brownfield land) and DM32 (rebuilding and extending rural dwellings) are not relevant and offer no policy support to this planning application.

6.03 The following photos demonstrate the buildings appearance before and after and demolition works, and these demolition works would prevent the implementation of any prior approval application.

**Previous**



**Current**



- 6.04 The decisions to give prior approval as a result do not provide any fallback position. As a building on the site has never been used for residential use and the partial demolition of the building that on the site policy DM31 which relates to the conversion of rural buildings is not relevant.

**Character and appearance**

- 6.05 The supporting text to policy SP17 advises "The countryside has an intrinsic character and beauty that should be conserved and protected for its own sake". The application site is between the Yalding Farmlands and Beult Valley landscape character areas. The recommendations relating to this location include:
- Conserve the largely undeveloped rural landscape and the remote quality of existing development
  - Conserve the rural setting of traditional buildings and farmhouses
  - Conserve the undeveloped character of the landscape
  - Conserve and restore the fabric of historic bridges and traditional agricultural buildings.
- 6.06 In relation to SP17 a) and considering the impact of development on the character and appearance of the countryside the relevant adopted local plan policies are DM1 and DM30.
- 6.07 Policies DM1 and DM30 both set out that development (including the type, siting, materials and design, mass and scale of buildings, and activity should maintain, or where possible enhance, local distinctiveness, and any impacts on the appearance and character of the landscape should be appropriately mitigated.
- 6.08 Local Plan policy DM31 only applies to rural buildings of high quality (such as Oast houses), with the policy seeking to secure the long-term building survival by permitting conversion to other uses. In granting the earlier permission for the 'conversion' of the original building on the application site, officers considered that the building design and appearance had this quality in line with Local Plan policy DM31. It is accepted that the building conversion would have resulted in domestic paraphernalia, this harm would be balanced against the benefit of securing the valuable rural building.
- 6.09 The two main issues with the current situation are firstly that the original quality building has been lost and secondly that the design and appearance of the proposed replacement building represents a poor, ill-considered, over domesticated, urban copy of the original building with the additional harm caused by associated domestic paraphernalia.
- 6.10 The design of the proposed building is over-domesticated and fails to respect the architectural interest, agricultural function and of the original building, as well as the rural character of the countryside in general. The building design introduces excessive domesticated openings in terms of size and location, especially where none existed, e.g., on the rear roadside elevation. The configuration of some of the openings does not respect the original building, especially the absence of the first-floor loft doors and external staircase.
- 6.11 The overly domestic design of the proposal is harmful to the character and appearance of the countryside. The new build proposal in the countryside, with the insertion of fenestration and domestic paraphernalia, would fail to conserve this rural setting and the original traditional agricultural building. The proposal is contrary to policies SP17, DM1, and DM30 of the Maidstone Borough Local Plan 2017, the Landscape Character Assessment (2012 amended July 2013) and the National Planning Policy Framework (2021).

**Heritage**

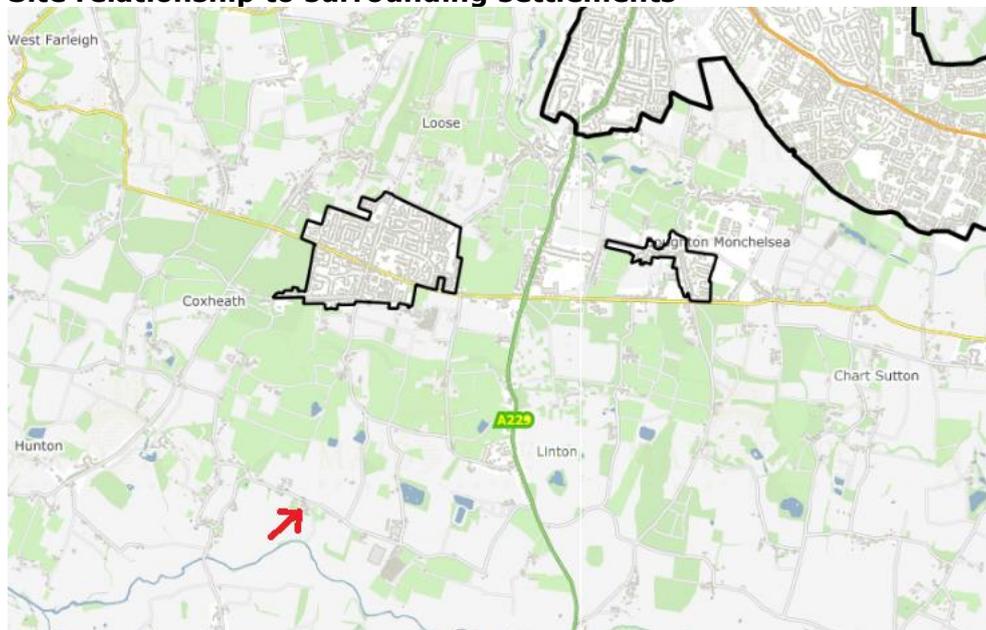
- 6.12 Policy DM4 states "Applicants will be expected to ensure that new development affecting a heritage asset incorporates measures to conserve, and where possible enhance, the significance of the heritage asset and, where appropriate, its setting".
- 6.13 The NPPF states "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset".
- 6.14 Paragraph 196 of the NPPF states "Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision". The partial demolition of the original building has resulted in the loss of a non-designated heritage asset.
- 6.15 As detailed above the application building is of historic and architectural interest due to its former use, architectural details and range of vernacular materials.
- 6.16 In term of design, the proposed development shows little resemblance to the pre-existing Granary building. The number of windows proposed, positioning and type are in no way like the pre-existing structure. Conservation officers have assessed that the change in design would result in less than substantial harm.
- 6.17 Paragraph 13 of the recently dismissed appeal relating to 21/504236/FULL detailed in the above planning history section states "Though the replacement building would exhibit some generalised similarities in terms of form and layout, and some salvaged material could be incorporated within its construction, it would clearly lack the character or identity of the buildings replaced. Indeed, the differences would be such that the replacement building would present itself as a modern domestic dwelling styled to appear vaguely agricultural. This impression would be reinforced viewed relative to the 4 dwellings proposed on the sites of the grain and implement stores, which would all be similarly styled. To the extent that the granary and waggon lodge retain significance, this would be lost, and the general contribution they make to local distinctiveness would also be significantly diminished."
- 6.18 Paragraphs 16 – 19 of the appeal decision all detail how the prior approval and previously permitted applications retained the original agricultural character of the building and that the refused proposal (which is visually the same as the current application) would result in a domestication of the application site which would be at odds with its location and agricultural character of the application site.
- 6.19 The inspectorate has concurred with the Local Planning Authorities reasons for refusing the application on design and heritage harm grounds. Due to the overly domestic design which fails to respect the and heritage assets on site which are agricultural in character, the proposal is contrary to policies DM1, DM4, and DM30 of the MBLP by reason of poor design relative to the non-designated farmstead heritage asset it replaces as well as the rural/agricultural character of the area and application site. The application does not 'conserve' the application building or the surrounding area and as such is not in accordance with the Maidstone Landscape Character Assessment. Any resubmission to regularise the situation must better respect the architectural interest and character of the heritage asset by taking on board the comments of the Conservation Officer.
- 6.20 The proposed replacement dwelling represents substantial reconstruction of the Granary with the design of the new building bearing little resemblance to the agricultural heritage, character, and appearance of the original building. The submitted proposal results in "less than substantial" harm to a non-designated

heritage asset. The proposal is contrary to policies SP18, DM1, DM4 and DM30 of the Maidstone Borough Local Plan 2017, the Landscape Character Assessment (2012 amended July 2013) and the National Planning Policy Framework (2021).

**Spatial strategy**

- 6.21 Policy SS1 provides the spatial strategy for the borough, with the Maidstone urban area the primary focus for new housing. In the hierarchy, designated rural service centres and larger villages are the secondary focus for new development.

**Site relationship to surrounding settlements**



- 6.22 The application site is in the countryside as defined by the adopted Local Plan. The application site is approximately 1.5 miles (from point to point) from Coxheath and Sutton Valence, both designated as 'Larger Villages' in the local plan and approximately 2.5 miles from the boundary of Maidstone Urban area.
- 6.23 The current application is contrary to the provisions of the NPPF and policy SS1 of the Maidstone Borough Local Plan Adopted October 2017 which seeks to direct housing development to sustainable locations in the borough.
- 6.24 When considering the extant prior approval applications on site, planning inspectors have not assessed that the additional trips generated by the development would be a cause of harm (paragraphs 23 – 26.)

**Neighbouring amenity**

- 6.25 Policy DM1 states that development proposals must "Respect the amenities of occupiers of neighbouring properties...by ensuring that development does not result in...excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion, and that the built form would not result in an unacceptable loss of privacy or light ...".
- 6.26 The closest property would be approximately 30 metres from the threshing barn. Set at an angle to the application site, any views from the windows would be oblique. Any increase to the bulk and height of the buildings would be minimal, and the distance between the properties would be sufficient for any impact regarding overbearance and overshadowing issues to be minimised.
- 6.27 The renovated elevations would include satisfactory fenestration providing good levels of light and outlook from the building. All other neighbours would be a

sufficient distance for any impact in terms of overbearance and overshadowing to be minimised which would be compliant with DM1.

**Standard of accommodation**

- 6.28 Policy DM1 states development proposals must "...provide adequate residential amenities for future occupiers of the development by ensuring that development... is (not) exposed to, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion..."
- 6.29 The proposed dwelling would be a 4 bedroom dwelling with an internal floor space of approximately 160m<sup>2</sup>, this is in excess of the space standard for a 2 storey, 4 bedroom (8 person) dwelling (124m<sup>2</sup>).
- 6.30 Plans indicate the dwelling would be served by a significant private amenity area, larger than the footprint of the ground floor of the proposed dwelling in accordance with local planning policies as well as policies within the local plan review.

**Highways, access, and servicing**

- 6.31 Local Plan policy DM1 sets out that new development should "...safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access".
- 6.32 KCC Highways commented that the proposal would rely on the access previously approved as part of a 1993 application. It was considered that the visibility lines were acceptable.
- 6.33 The dwelling would be served by two vehicle parking spaces which is sufficient for a 4 bedroom dwelling and in accordance with appendix B of policy DM23. Plans indicate bin storage areas, should members be minded to approve the application cycle storage provision could be conditioned.
- 6.34 There would be sufficient parking for the occupiers on the site to avoid on street parking and, as such, the application was acceptable in Highways terms.

**Landscaping/Ecology**

- 6.35 Local Plan policy DM3 highlights the need to appraise the value of the boroughs natural environment through the provision of an ecological evaluation to take full account of the biodiversity present, including the potential for the retention and provision of native plant species.
- 6.36 Plans indicate that climbing plants would be established on the walls around the proposed dwellings rear garden area. When considering the nature of the application site, i.e., predominantly covered in hardstanding it is not assessed that the development causes any harmful impacts to any trees on site. If members are minded to approve conditions could be imposed requiring further details of landscaping and biodiversity enhancements as well as implementation details.

**PUBLIC SECTOR EQUALITY DUTY**

- 6.37 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 existing building has been disassembled/demolished to such an extent that the proposal is not assessed as being a conversion but would be a new build dwelling in an area designated in the local plan as being in the countryside. There is no exception policy allowing residential development in this location.

- 7.02 The development would cause harm to the character and appearance of the countryside due to the design and character of the proposal and the associated domestic paraphernalia. Agricultural buildings are outside the definition of brownfield land.
- 7.03 The proposed replacement dwelling represents substantial reconstruction of the Granary which results in "less than substantial" harm to a non-designated heritage asset. The proposed scheme for rebuilding is of poor design relative to the character and appearance of those heritage assets within an historic rural farmstead and therefore their loss has not been sufficiently outweighed by any public benefit. The overly domestic design of the proposal is also harmful to the character and appearance of the countryside. The proposal is contrary to policies SP17, SP18, DM1, DM4, and DM30 of the Maidstone Borough Local Plan 2017, the Landscape Character Assessment (2012 amended July 2013), and the National Planning Policy Framework.

**8. RECOMMENDATION REFUSE planning permission for the following reason(s):**

- 1) The overly domestic design of the proposed new build dwelling and the associated domestic paraphernalia in this rural location would be harmful to the character and appearance of the countryside. The proposal is contrary to policies SP17, DM1, and DM30 of the Maidstone Borough Local Plan 2017, the Landscape Character Assessment (2012 amended July 2013) and the National Planning Policy Framework (2021).
- 2) The proposal for a new dwelling fails to provide an adequate standard of design relative to the character and appearance of heritage assets within an historic rural farmstead and the poor design is not outweighed by any public benefit. The proposed replacement dwelling represents substantial reconstruction of the Granary which results in "less than substantial" harm to a non-designated heritage asset. The proposal is contrary to policies SP18, DM1, DM4 and DM30 of the Maidstone Borough Local Plan 2017, the Landscape Character Assessment (2012 amended July 2013) and the National Planning Policy Framework (2021).

**Informative**

- 1) The applicant is advised that the Maidstone Community Infrastructure Levy (CIL) Charging Schedule is in effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted. Thus, any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website Community Infrastructure Levy - Maidstone Borough Council



# Appeal Decision

Hearing held on 18 April 2023

Site visit made on 18 April 2023

**by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 May 2023**

**Appeal Ref: APP/U2235/W/22/3312659**

**Burford Farm, Redwall Lane, Linton, Maidstone, Kent ME17 4BD**

- 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 Grant Tomlin of GHK Developments Ltd against the decision of Maidstone Borough Council.
- The application Ref 21/504236/FULL, dated 9 August 2021, was refused by notice dated 24 October 2022.
- The development proposed is redevelopment of buildings on site (including Grain Store, Implement Store, Granary and Threshing Barn) and erection of 6(no) dwellings including associated works and parking.

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Planning permission was granted for conversion of the barn, the granary, and the adjoining 'waggon lodge' in 2019 (the previous permission), with the approved scheme subject to a recent non-material amendment (NMA). The latter allowed for a more strongly domesticated design than was originally approved. The appellant claims that the previous permission has been commenced and part implemented through full conversion of the threshing barn, whose appearance and layout for the most part matches the plans approved in relation to the NMA. Though apparently content in terms of the latter, the Council considers that the works did not constitute 'conversion', and that they are not therefore covered by the previous permission.
3. The works undertaken in relation to the threshing barn had not commenced at the time the application subject of this appeal was submitted. This covered all the buildings subject of the previous permission as well as others. Insofar as the schemes overlapped, the plans differed. Even given the changes subsequently authorised by the NMA, differences still exist between the 2 sets of plans, which are furthermore physically expressed by the building currently on site. As such, and although the Council has sought to present the appeal scheme as seeking retrospective approval for works undertaken in relation to threshing barn, the previous permission and the appeal proposal can be logically viewed as showing 2 alternative schemes of development.
4. The appellant stated at the Hearing that the appeal scheme did not seek planning permission for the works undertaken to the threshing barn, and that no works for which permission was sought had therefore been commenced. It

nonetheless remains the case that the threshing barn forms a component of the appeal scheme. I therefore deduce that the appellant has, in effect, already sought to implement the previous permission in preference to the appeal scheme. This raises some doubt as to whether, if allowed, the appeal scheme would itself remain capable of implementation.

5. The broader question of whether or not the previous permission has itself been correctly or validly implemented falls beyond the scope of this appeal. It will therefore remain a matter for the Council to resolve whatever my decision.
6. Given all the above I shall proceed to determine the appeal as set before me, and on the basis of the submitted plans, whilst taking account of the fact that the threshing barn both no longer exists in its previous form, and has been subject of a separate scheme of development.
7. Since the application subject of the appeal was submitted the implement store has been demolished due to storm damage, as has the upper portion of the granary. Elements of the timber framing of the latter have however been stored on site, and the appellant believes that it could be reassembled. The submitted plans and photographs otherwise provide details of both buildings when intact. I have therefore taken this evidence into account in assessing the scheme.

### **Main Issues**

8. The main issues are whether the site would be a suitable location for the proposed development having regard to:
  - its effects on the character and appearance of the area, including non-designated heritage assets; and
  - the potential for future occupants to access services by means other than use of private motor vehicles.

### **Reasons**

#### *Background*

9. Policy SS1 of the Maidstone Borough Local Plan 2017 (the Local Plan) sets out the Council's spatial strategy. This aims to achieve a sustainable distribution of development focussed within identified broad locations and named settlements, neither of which would be applicable in relation to the appeal site. Policy SS 1 does not prevent development elsewhere but states that in other locations the rural character of the Borough will be protected. This is reiterated by Policy SP 17 of the Local Plan which relates to development in the countryside. In this regard the Council's concerns chiefly relate to the effect of the development on the character and appearance of the area, and to a lesser extent on future access to services.

#### *Character and appearance*

10. The site occupies an isolated rural location within a strongly agricultural setting. It contains a small group of buildings comprising a modern grain store, the dwelling held to have been formed through implementation of the previous permission, the ground floor walls of the building described as the granary, and another structure in poor condition described as a 'waggon lodge'. The latter appears more likely to have once functioned as a shelter shed. The immediate

setting contains other large modern agricultural buildings, together with a historic oast house which has been the subject of a previous residential conversion, and stands apart from the buildings on site.

11. In assessing the scheme, the Council identified the granary, waggon lodge and threshing barn as non-designated heritage assets. All, together with the oast house, appear to be shown on the 1838 tithe map, at which time they were associated with a farmhouse which ceased to exist at some point in the late C19th. Based on the evidence before me, when intact, the building described as the granary appears to have held significance due to its age, traditional vernacular construction, and its historic functional character and identity. The same was true of the threshing barn, and remains true in relation to the waggon lodge, despite its poor condition. The integrity and identity of the group has been eroded by the works already undertaken in relation to the threshing barn, and by partial demolition of the granary. To the now limited extent that historic fabric survives and remains externally visible, some interest is however retained, and this makes a broader positive contribution to local distinctiveness.
12. The grain store is in contrast a large metal clad structure of functional modern design. It is however a building type consistent with the agricultural location and setting, and so it does not appear in any way incongruous, even if it does lack any obvious visual merit. Similar was also true of the implement store, albeit this was a building of much more modest size.
13. The development would entail demolition of the waggon lodge and the remains of the granary, and their replacement with a building of a different design and dimension, and whose pattern of openings, and use of materials would also differ. Though the replacement building would exhibit some generalised similarities in terms of form and layout, and some salvaged material could be incorporated within its construction, it would clearly lack the character or identity of the buildings replaced. Indeed, the differences would be such that the replacement building would present itself as a modern domestic dwelling styled to appear vaguely agricultural. This impression would be reinforced viewed relative to the 4 dwellings proposed on the sites of the grain and implement stores, which would all be similarly styled. To the extent that the granary and waggon lodge retain significance, this would be lost, and the general contribution they make to local distinctiveness would also be significantly diminished. I shall return to this matter again below.
14. The parties dispute whether or not the previous permission exists as a fallback. As this relates to the appellant's claim to have part implemented the previous permission, resolution of the matter again lies outside the scope of this appeal. However, it is relevant to note that even were the appellant's claim to be accepted, the previous permission approved an apparently sensitive change of use of the granary and waggon lodge, not their replacement with a new building of differing design and dimension.
15. Though the appellant further states that the appeal scheme would bring the granary and waggon lodge back into use, this would clearly not be the case given that the buildings would effectively cease to exist.
16. As noted above, the dwelling held to have been formed through conversion of the threshing barn itself exhibits a strongly domesticated form and appearance. This was not what the scheme approved by the previous permission originally

envisaged, and, until the NMA, was more closely reflective of the outcome proposed in relation to the appeal scheme. The dwelling indeed exhibits only a loose external resemblance to the threshing barn as it previously existed, again appearing more like a modern new build dwelling. Even if it benefits from the previous permission, which is nonetheless a matter that remains to be determined, this does not provide a basis to consider that the separate harm that would arise in relation to the granary and waggon lodge would be acceptable.

17. The 4 dwellings proposed on the sites of the grain and implement stores would all be readily identifiable as domestic buildings. Indeed, given my findings above, when viewed as a whole, the development would present itself as a small housing estate arranged around a cul-de-sac. The resultant sense of suburbanisation would be starkly at odds both with the character of the isolated rural location and its agricultural setting.
18. The 3 dwellings proposed on the site of the grain store would stand in a roughly similar location to that of the farmhouse shown on old maps. The farmhouse has however been absent for well over a century, and I have been given no reason to suppose that the group of 3 dwellings proposed would in any way resemble or recall its past presence in any meaningful way. The simple fact that a farmhouse once stood at the site does not therefore provide a basis to consider that its suburbanisation would be acceptable.
19. Prior approval has previously been given for the change of use of the grain store to 3 dwellings together with reasonably necessary building operations. This remains extant, and an acknowledged fallback. The schemes however again differ in significant ways, principally given that the prior approval scheme would see the existing building reused. In this regard its essential characteristics would remain intact, and it would continue to be identifiable as a modern agricultural shed, despite the addition of windows and doors. Consequently, its character and appearance would not be at odds with that of the location, unlike the 3 domestic dwellings proposed as part of the appeal scheme. This fallback does not therefore alter my findings above.
20. Insofar as a similar prior approval was also previously given in relation to the implement shed, this cannot be considered as a fallback as the building no longer exists. In any case, the schemes once again differ.
21. My findings above indicate that the appeal scheme would cause significant harm to the rural character and appearance of the area. Paragraph 203 of the National Planning Policy Framework further states that a balanced judgement will be required having regard to any harm or loss arising to the significance of a non-designated heritage asset. Insofar as I have identified such harm above, modest social and economic benefits would be generated by the appeal scheme's provision of new housing. These benefits would not however be wholly unique to the appeal scheme, given the existing potential to provide housing on site, and to do so more sensitively. Harm arising to the significance of non-designated heritage assets, taken in combination with broader harm that would be caused to the character and appearance of the area, would not therefore be outweighed.
22. For the reasons outlined above I conclude that the site would be an inappropriate location for the proposed development based on the unacceptable effect it would have on the character and appearance of the area,

including non-designated heritage assets. It would therefore conflict with Policy SS 1 and Policy SP 17 of the Local Plan as outlined above; Policy DM 4 of the Local Plan which seeks to secure development that conserves and where possible enhances non-designated heritage assets; and Policy DM 30 of the Local Plan, insofar as this requires development to maintain and where possible enhance local distinctiveness.

### Access

23. The nearest settlement named within Policy SS 1 of the Local Plan is Coxheath, which is classified as a third tier 'larger village'. This supports services held to provide for the day-to-day needs of local communities and the wider hinterland, but it lies some distance from the site. Linton, which is not named within Policy SS 1, lies closer and supports a bus stop, but otherwise contains far fewer services. Neither can be safely reached on foot given the reasonably long distance a pedestrian would be required to walk along narrow unlit lanes lacking footways, which, on route to Linton, are regularly used by HGVs. Cycling would be similarly hazardous. It is therefore probable that future occupants of the development would be reliant on the use of private motor vehicles to access services. This could give rise to environmental harm related to exhaust emissions.
24. Taking account of the previous permission and the extant prior approval, the Council has raised objection only in relation to the dwelling proposed on the site of the implement shed. This is notwithstanding its claim that the previous permission does not exist as fallback. It is otherwise logical to take account of the effects likely to arise from implementation of a fallback scheme.
25. It remains the case that the likely effects in relation to each future occupant would be broadly similar. Within this context, the 2-bed dwelling proposed on the site of the implement shed would be the smallest of the dwellings proposed, and thus likely to generate the least number of trips. As such, it is unlikely that it would contribute any more than a minor fraction of the overall vehicle exhaust emissions likely to be generated by future occupants of the development in accessing services; emissions which are otherwise held to be acceptable. Set within this context, and considering the development as a whole, the harm arising from trips generated by future occupants of the 2-bed dwelling would not be unacceptable.
26. For the reasons outlined above I conclude that the site would not be an inappropriate location for the proposed development in relation to the likely reliance on private motor vehicles to access services. No clear conflict would thus arise with Policy SS1 of the Local Plan as set out above.

### Conclusion

27. For the reasons set out above the effects of the development in relation to the character and appearance of the area, including non-designated heritage assets, would be unacceptable, giving rise to conflict with the development plan. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

*Benjamin Webb*

INSPECTOR

**APPEARANCES****For the Appellant**

Peter Court	Peter Court Associates Ltd
Deborah Gardner	Dgc (Historic Buildings) Consultants Ltd
Lee May	Brachers Solicitors LLP
Grant Tomlin	Appellant
Matthew Woodhams	MRW-Design Ltd

**For the Council**

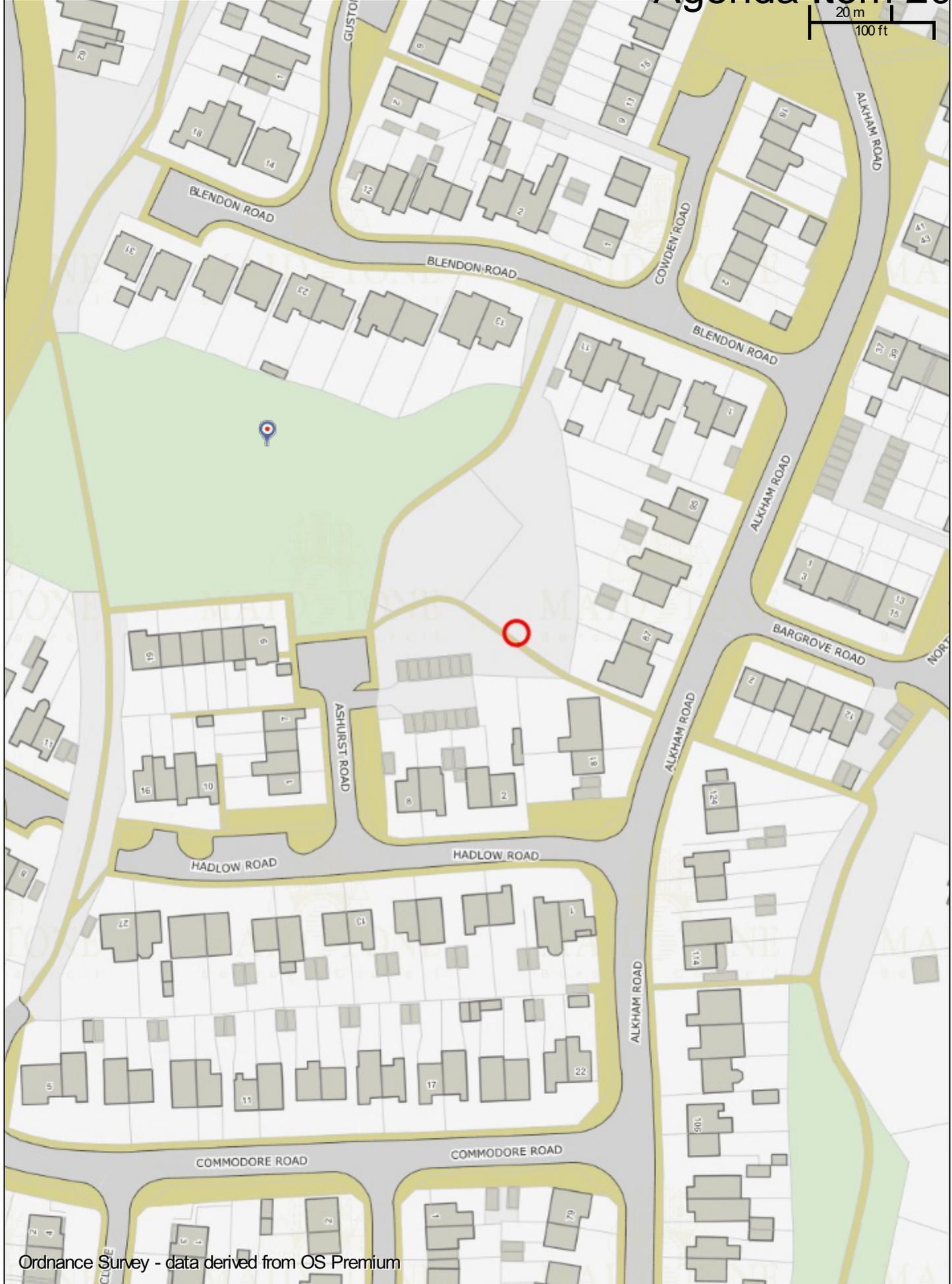
Jeremy Fazzalano	Principal Conservation Officer
Marion Geary	Principal Planning Officer

**Interested parties**

David Heaton	Hunton Parish Council
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**Documents presented at the Hearing**

NMA plans and supporting statement



Ordnance Survey - data derived from OS Premium

23/500453/TPOA Ashurst Road Open Space, Ashurst Road, Maidstone, Kent, ME14 5PZ

Scale: 1:1250

Printed on: 9/5/2023 at 15:03 PM by JoannaW



## REPORT SUMMARY

<b>CASE REFERENCE:</b> 23/500453/TPOA		
<b>ADDRESS:</b> Ashurst Road Open Space, Ashurst Road, Maidstone, ME14 5PZ		
<b>PROPOSAL:</b> TPO application to coppice one Hawthorn tree.		
<b>RECOMMENDATION:</b> <b>Application Permitted</b> – subject to CONDITIONS and INFORMATIVES		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> Works are considered appropriate arboricultural management		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> The application has been made by Maidstone Borough Council.		
<b>PARISH:</b>	<b>WARD:</b> East	
<b>APPLICANT:</b> Maidstone Borough Council	<b>AGENT:</b> Qualitree Services	
<b>CASE OFFICER:</b> Phil Gower	<b>SITE VISIT DATE:</b> 02.02.2023	
<b>DATE VALID:</b> 26.01.2023	<b>CONSULTATION EXPIRY:</b> 10.03.2023	<b>DECISION DUE:</b> 23.03.2023

## RELEVANT PLANNING HISTORY

### Planning:

**22/504772/TDD** - Removal of Dead and or hanging branches from trees located behind play area goal posts. - **No Objection** - **29.09.2022**

**22/505588/TPOA** - TPO Application to T1 (dead stem previously removed under exemption notice). Clean out crown & complete crown reduction (of remaining stem).

- **Proposal Amended** - **10.01.2023**

## MAIN REPORT

### 1. DESCRIPTION OF TREES

1.01 The tree subject to this application is a small Hawthorn located within falling distance of the play park and footpath. The tree itself is in a state of decline with a recently failed stem which was removed under a 5-day notice.

## **2. PROPOSAL**

- 2.01 The proposal seeks permission to coppice the tree in the hope of regenerating a healthier tree from the existing stock.

## **3. PLANNING CONSTRAINTS**

- 3.01 Tree Preservation Order No. 3 of 1971:

A1 – Consisting of 48 various species.

## **4. POLICY CONSIDERATIONS**

- 4.01 Government Policy:

National Planning Policy Framework (2021)

Planning Practice Guidance Tree Preservation Orders and trees in conservation areas, March 2014.

The Town and Country Planning (Tree Preservation)(England) Regulations 2012

- 4.02 Compensation:

A refusal of consent to carry out works on trees subject to a Tree Preservation Order can potentially result in a claim for compensation for loss or damage arising within 12 months of the date of refusal.

## **5. LOCAL REPRESENTATION**

- 5.01 None received.

## **6. CONSULTATIONS**

- 6.01 None made.

## **7. APPRAISAL**

- 7.01 Condition:

**Poor** – Obvious decline/health and/or structural integrity significantly impaired.

- 7.02 Contribution to public amenity:

**Good** – Clearly visible to the public.

- 7.03 Retention/Longevity:

**Short** – Safe useful life expectancy of fewer than 10 years.

## **8. CONCLUSION**

- 8.01 The tree in its current state, is of poor quality and low long-term value. By permitting this application, we provide an opportunity for regeneration. The conditions (detailed below) ensure that should regeneration fail, then a replacement tree of the same species will still be planted.
- 8.02 The works are therefore considered appropriate arboricultural management.

## 9. RECOMMENDATION

**GRANT CONSENT** – Subject to the following CONDITIONS and INFORMATIVES.

### Conditions:

- (1) All works hereby permitted shall be carried out in accordance with the provisions of the current edition of BS 3998 by a competent person;

Reason: To ensure the work complies with good arboricultural practice to safeguard the longevity, amenity and nature conservation value of the tree/s and its/their contribution to the character and appearance of the local area

- (2) Any coppiced tree, which dies within two years from the date of the coppicing work, shall, in the same location, be replaced during the next planting season (October to February) by another tree of the same species. The tree shall be of not less than Nursery standard size (8-10cm girth, 2.75-3m height), conforming to the specifications of the current edition of BS 3936, except where an alternative proposal has been submitted to and approved in writing by the local planning authority prior to that planting season, and shall be maintained thereafter;

Reason: To safeguard the successful regeneration and longevity of the coppice and its contribution to amenity and nature conservation together with the character and appearance of the local area

- (3) Any tree planted in accordance with the conditions attached to this permission, or in replacement for such a tree, which within a period of five years from the date of the planting is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, shall, in the same location, be replaced during the next planting season (October to February) by another tree of the same species and size as that originally planted, except where an alternative proposal has been submitted to and approved in writing by the local planning authority prior to that planting season;

Reason: To safeguard the amenity and nature conservation value of the tree/s that has/have been removed and to maintain and enhance the character and appearance of the local area

### Informatives:

- (1) Works to trees could result in disturbance to wild animals, plants and important wildlife sites protected by law. Therefore, the works hereby permitted should be carried out in a manner and at such times to avoid

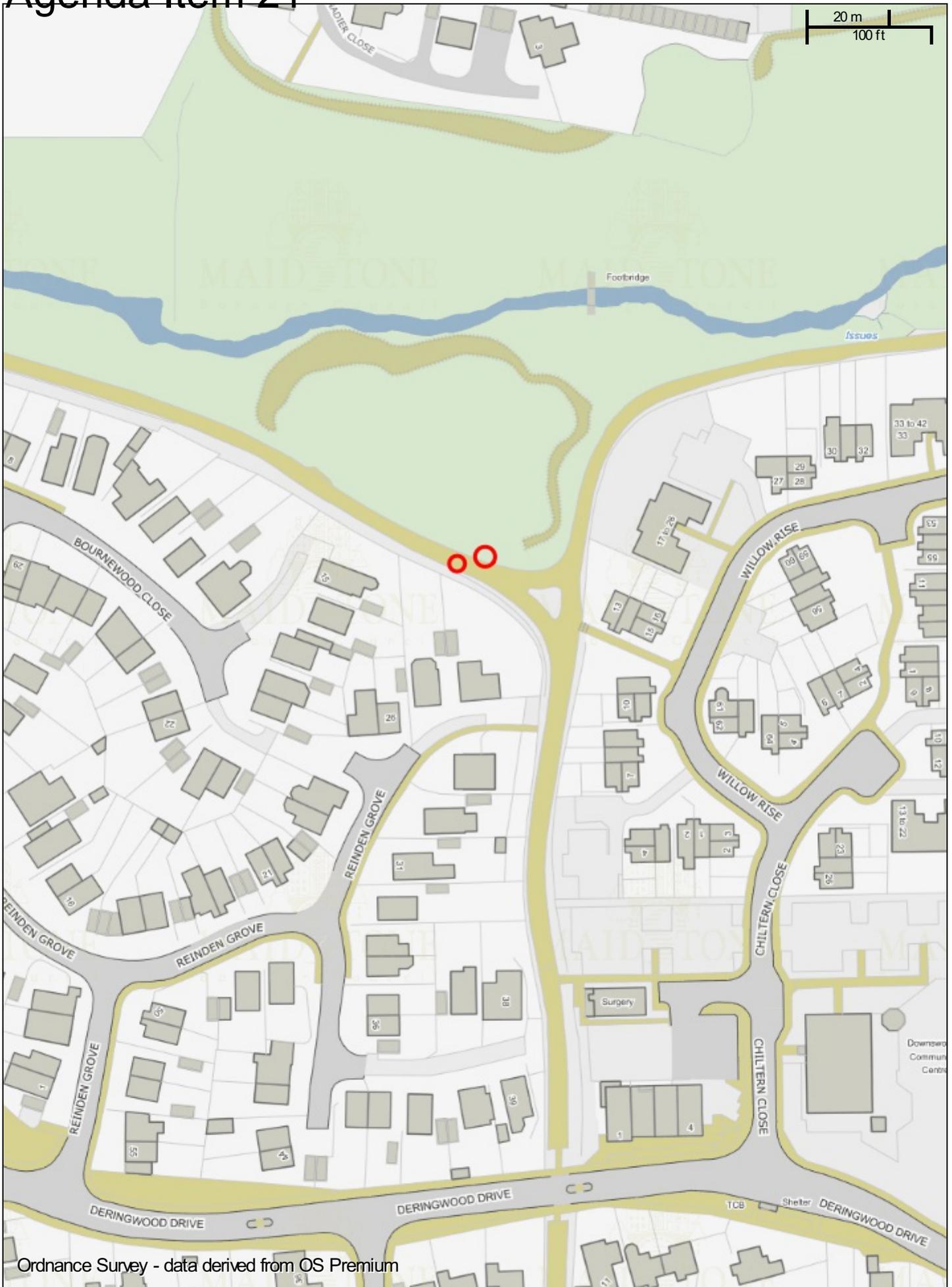
disturbance. Further advice can be sought from Natural England and/or Kent Wildlife Trust.

- (2) All cut timber/wood between 15cm and 60cm in diameter, together with any senescent and rotting wood, should be retained and stacked safely on site for the colonisation of saproxylic organisms, except where an alternative proposal has been submitted to and approved in writing by the local planning authority.

**Case Officer:** Phil Gower

NB – For full details of all papers submitted with this application, please refer to the relevant Public Access Pages on the Council’s website.

# Agenda Item 21



Ordnance Survey - data derived from OS Premium

**23/500557/TPOA The Nature Reserve, Spot Lane, Downswood, Kent**  
Scale: 1:1250  
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## REPORT SUMMARY

<b>CASE REFERENCE:</b> 23/500557/TPOA		
<b>ADDRESS:</b> The Nature Reserve, Spot Lane, Downswood		
<b>PROPOSAL:</b> TPO Application to remove lower limb from One Ash Tree (T1) above footpath and clean out crown. To re-coppice Hazel Tree (T2), re-coppice as the tree hangs over footpath and has failing sections.		
<b>RECOMMENDATION:</b> <b>Application Permitted</b> – subject to CONDITIONS and INFORMATIVES		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> The works are considered appropriate arboricultural management		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> The application has been made by Maidstone Borough Council		
<b>PARISH:</b> Downswood	<b>WARD:</b> Downswood and Otham	
<b>APPLICANT:</b> Maidstone Borough Council	<b>AGENT:</b> Qualitree Services	
<b>CASE OFFICER:</b> Phil Gower	<b>SITE VISIT DATE:</b> 27.03.2023	
<b>DATE VALID:</b> 21.02.2023	<b>CONSULTATION EXPIRY:</b> 17.04.2023	<b>DECISION DUE:</b> 18.04.2023

## RELEVANT PLANNING HISTORY

None.

## MAIN REPORT

### 1. DESCRIPTION OF TREES

- 1.01 The trees subject to this application include T1 – Ash, a large tree located on the junction of the public footpath and T2 – Hazel, a moderate-sized Hazel coppice located at the rear of the properties that run adjacent to the footpath.

### 2. PROPOSAL

- 2.01 The proposal seeks permission to remove a single lower limb from the Ash tree, which grows low and overextends across the public path. The proposal also seeks permission to re-coppice the hazel due to multiple failing branches which have been falling onto the public footpath.

### **3. PLANNING CONSTRAINTS**

#### 3.01 Tree Preservation Order No. 09 OF 1975:

W1 – Woodland comprising of mainly Willow, Alder, Ash, Sycamore and Hazel.

W2 – Woodland comprising of mainly Willow, Alder, Ash, Sycamore and Hazel.

### **4. POLICY CONSIDERATIONS**

#### 4.01 Government Policy:

National Planning Policy Framework (2021)

Planning Practice Guidance Tree Preservation Orders and trees in conservation areas, March 2014.

The Town and Country Planning (Tree Preservation)(England) Regulations 2012

#### 4.02 Compensation:

A refusal of consent to carry out works on trees subject to a Tree Preservation Order can potentially result in a claim for compensation for loss or damage arising within 12 months of the date of refusal.

### **5. LOCAL REPRESENTATION**

5.01 None received.

### **6. CONSULTATIONS**

6.01 Downswood Parish Council – No comments made.

### **7. APPRAISAL**

#### 7.01 Condition:

**Fair** – Both trees show minor signs of deterioration and/or defects.

#### 7.02 Contribution to public amenity:

**Good** – Clearly visible to the public that use the foot path.

#### 7.03 Retention/Longevity:

**Medium** – Estimated remaining life expectancy of at least 10 years for both trees.

### **8. CONCLUSION**

8.01 The proposed works are considered appropriate arboricultural management.

### **9. RECOMMENDATION**

**GRANT CONSENT** – Subject to the following CONDITIONS and INFORMATIVES.

Conditions:

- (1) All works hereby permitted shall be carried out in accordance with the provisions of the current edition of BS 3998 by a competent person;

Reason: To ensure the work complies with good arboricultural practice to safeguard the longevity, amenity and nature conservation value of the tree/s and its/their contribution to the character and appearance of the local area

- (2) Any coppiced tree, which dies within two years from the date of the coppicing work, shall, in the same location, be replaced during the next planting season (October to February) by another tree of the same species. The tree shall be of not less than Nursery light STD size (6-8cm girth, 2.5-2.75m height) , conforming to the specification of the current edition of BS 3936, except where an alternative proposal has been submitted to and approved in writing by the local planning authority prior to that planting season, and shall be maintained thereafter;

Reason: To safeguard the successful regeneration and longevity of the coppice and its contribution to amenity and nature conservation

- (3) Any tree planted in accordance with the conditions attached to this permission, or in replacement for such a tree, which within a period of five years from the date of the planting is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, shall, in the same location, be replaced during the next planting season (October to February) by another tree of the same species and size as that originally planted, except where an alternative proposal has been submitted to and approved in writing by the local planning authority prior to that planting season;

Reason: To safeguard the amenity and nature conservation value of the tree/s that has/have been removed and to maintain and enhance the character and appearance of the local area

Informatives:

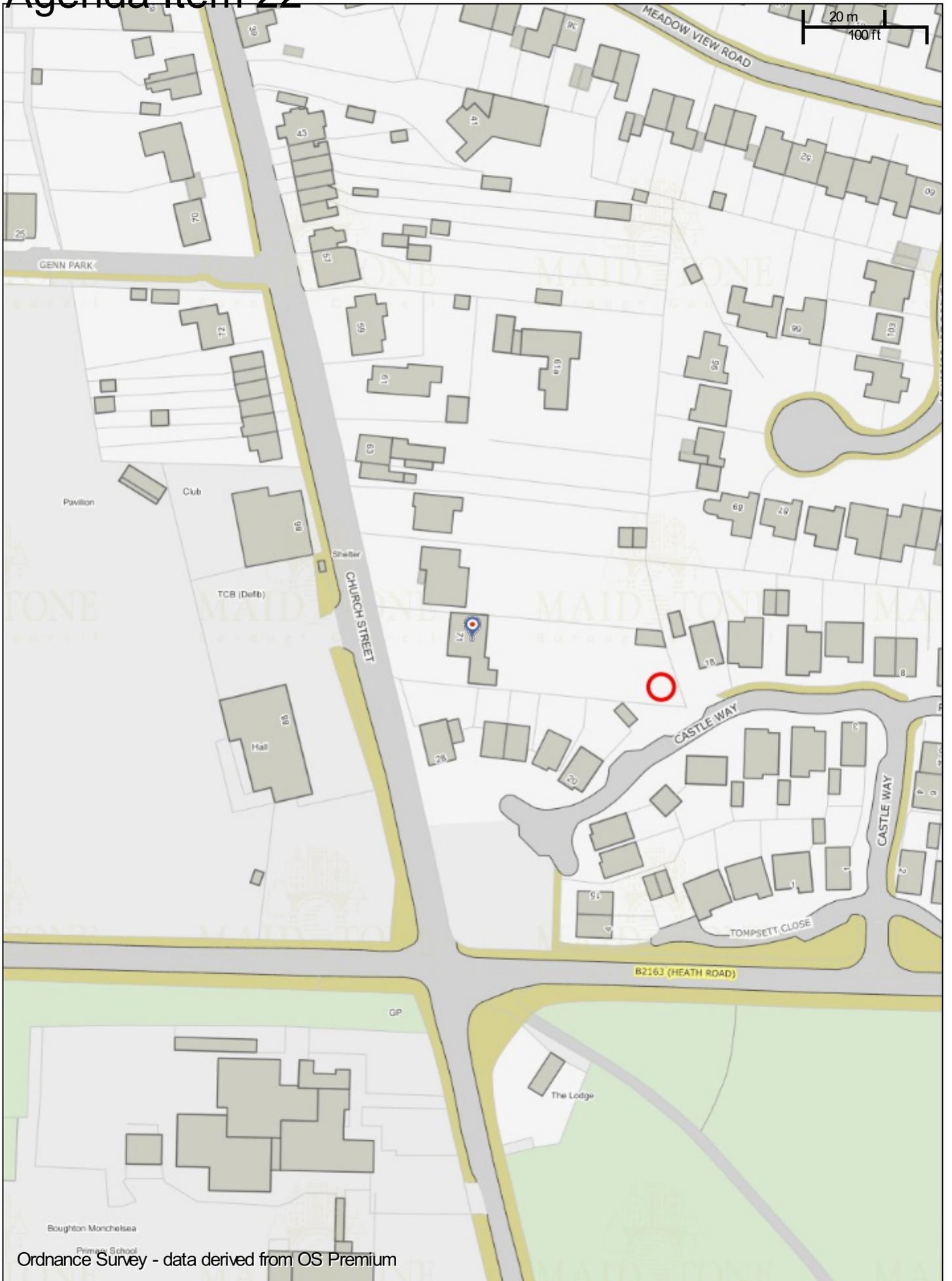
- (1) Works to trees could result in disturbance to wild animals, plants and important wildlife sites protected by law. Therefore, the works hereby permitted should be carried out in a manner and at such times to avoid disturbance. Further advice can be sought from Natural England and/or Kent Wildlife Trust.

- (2) All cut timber/wood between 15cm and 60cm in diameter, together with any senescent and rotting wood, should be retained and stacked safely on site for the colonisation of saproxylic organisms, except where an alternative proposal has been submitted to and approved in writing by the local planning authority.

**Case Officer:** Phil Gower

NB – For full details of all papers submitted with this application, please refer to the relevant Public Access Pages on the Council’s website.

# Agenda Item 22



Ordnance Survey - data derived from OS Premium

## REPORT SUMMARY

<b>CASE REFERENCE:</b> 5004/2023/TPO	
<b>ADDRESS:</b> 71 Church Street, Boughton Monchelsea, Maidstone, Kent ME17 4HN	
<b>RECOMMENDATION:</b>  <b>CONFIRM</b> Tree Preservation Order <b>No. 5004/2023/TPO</b> <b>WITHOUT MODIFICATION</b> as per the attached Order.	
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b>  The Council considers that the tree or trees contribute to amenity and local landscape character, and it is expedient to make a Tree Preservation Order (TPO).	
<b>REASON FOR REFERRAL TO COMMITTEE:</b>  An objection was received to the making of the TPO.	
<b>PARISH:</b> Boughton Monchelsea and Chart Sutton	<b>WARD:</b> Boughton Monchelsea and Chart Sutton
<b>CASE OFFICER:</b> Phil Gower	<b>SITE VISIT DATE:</b> 25.01.2023
<b>PROVISIONAL TPO MADE:</b> 09.02.2023	<b>PROVISIONAL TPO EXPIRY:</b> 09.08.2023
<b>PROVISIONAL TPO SERVED:</b> 09.02.2023	<b>TPO OBJECTION EXPIRY:</b> 16.03.2023

## RELEVANT PLANNING HISTORY

### Planning:

NONE

### Enforcement:

NONE

### Appeals:

NONE

## MAIN REPORT

### 1. INTRODUCTION AND BACKGROUND

1.01 The Maidstone Borough Council made the provisional Tree Preservation Order No. 5004/2023/TPO on 09.02.2023, which is attached.

- 1.02 The TPO was made at the request of the landowner following concerns that the neighbour wanted to 'cut back' the tree from his adjacent property. Although this in itself is not an issue to the Landowner, the concerns were specifically with the amount of which the neighbour would remove and the negative effects it could have on the long-term retention and health of the tree should it be done poorly.

## **2. DESCRIPTION OF TREES**

- 2.01 T1 (as identified on the schedule and plan) is a large-sized Oak tree, approximately 20m in height, with a large spreading canopy. The tree demonstrates a balanced canopy with good branch architecture and displays no evidence of previous pruning works.
- 2.02 The tree is located in the Southeast corner of the rear garden of 71 Church Street. The tree's widespread means that it significantly overhangs the adjacent development of Castle Way, including the road and nearby neighbours (18 Castle Way)

## **3. OBJECTIONS**

- 3.01 1 objection was received to the making of the TPO, which has been summarised below.

### 3.02 Objections Summary:

Concerns raised included:

- Overall size of the tree, with low-hanging lateral branches, some of which now reach the house. This caused concern for possible injury and/or damage to the occupants and property, especially in bad weather.
- The resident's car parking space for the property is located directly under the main canopy raising concern for damage from falling branches and bird excrement.
- Nothing can grow under the tree. The residents were asked to maintain the land at the time of purchase by the developers and so have spent considerable money in trying to do this.
- Concern for the admin that will be required in making regular applications for the future management and pruning of the tree should a Preservation Order be placed on it.
- Questions over liability and responsibility for the management of the tree.

## **4. REPRESENTATIONS**

- 4.01 No further representations were received regarding the making of this TPO.

## **5. APPRAISAL**

### 5.01 Condition:

The tree appeared to be in good health with no notable defects that would suggest an abnormal degree of risk is presented.

There is no evidence of previous historic works or damage.

5.02 Contribution to public amenity:

The tree contributes significantly to the visual public amenity of the local landscape as well as providing excellent biodiversity and tree cover. Full views of the tree are possible from the junction of Heath Road and from within Castle Way in both directions. Partial views are also possible from the front of No. 71 when viewed from church street, along with other partial views from over the adjacent properties.

5.03 Retention/Longevity:

The tree species has a typical life expectancy of 200-300 years. The tree in question is considered to be of mature age, and likely only two-thirds of the tree's natural life span has lapsed.

5.04 Impacts:

It is foreseeable that some management pruning of this tree will be required to retain the tree in a satisfactory condition. The lower canopy is quite low, and encroachment onto nearby properties can be observed.

## 6. CONCLUSION

6.01 It is considered that T1 – Oak is of significant value, providing extensive visual amenity to the public and local landscape as well as biodiversity and ecological benefits.

6.02 It is acknowledged that future management and pruning will be required as per the concerns of the objector. However, the designation of a Tree Preservation Order does not prevent the management of trees but rather regulates these works on their merit and necessity. There is a valid concern in this case for the extent of pruning that may be done if no control mechanism is put in place.

6.03 The permeant protection afforded to this tree through the Tree Preservation Order will ensure that only appropriate and necessary works are carried out with the Local Planning Authority (LPA) able to *permit, refuse, or allow lesser works*. The LPA will also be able to *condition* works to secure correct working standards are unhealed.

6.04 In further response to the unfortunate issues raised within the objection, it is regrettable to hear of such issues being experienced. However, they are considered standard occurrences that come with trees and, therefore, would have been a foreseeable constraint at the time of planning. This is an example of poor consideration of future pressure placed on trees as a result of inappropriate development design.

## 7. RECOMMENDATION

7.01 **CONFIRM** the Tree Preservation Order **No. 5004/2023/TPO** **WITHOUT MODIFICATION** as per the attached Order.

**Case Officer:** Phil Gower

**Date:** 02.05.2023

Note: *Tree Officer assessments are based on the condition of the trees on the day of inspection. Whilst every effort is made to ensure that the assessments are accurate, it should be noted that the considerations necessary for determining*

*applications/notifications may be able to be made off-site and, in any case, no climbing or internal inspections or excavations of the root areas have been undertaken. As such, these comments should not be considered an indication of safety.*

**Dated 9 February 2023**

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**Town and Country Planning Act 1990**

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**The Maidstone Borough Council**

**TREE PRESERVATION ORDER No. 5004/2023/TPO**

**71 Church Street, Boughton Monchelsea,  
Maidstone, Kent ME17 4HN**

# Town and Country Planning Act 1990

## The Maidstone Borough Council

### Tree Preservation Order No. 5004/2023/TPO

**71 Church Street, Boughton Monchelsea, Maidstone, Kent, ME17 4HN**

The Maidstone Borough Council in exercise of the powers conferred on them by Section 198 of the Town and Country Planning Act 1990 make the following Order –

#### Citation

1. This Order may be cited as The Maidstone Borough Council Tree Preservation Order No. 5004/2023/TPO 71 Church Street, Boughton Monchelsea, Maidstone, Kent, ME17 4HN

#### Interpretation

2. (1) In this Order “the authority” means The Maidstone Borough Council  
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

#### Effect

3. (1) Subject to Article 4, this Order takes effect provisionally on the date on which it is made.  
(2) Without prejudice to subsection (7) of Section 198 (power to make tree preservation orders) or subsection (1) of Section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in Regulation 14, no person shall –
  - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
  - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with Regulations 16 and 17, or of the Secretary of State in accordance with Regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

#### Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of Section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 9th day of February 2023

Signed on behalf of, The Maidstone Borough Council

*R. L. Jarman*

Rob Jarman  
Head of Development Management  
Maidstone Borough Council

Authorised by the Council to sign in that behalf

**Town and Country Planning Act 1990**

**The Maidstone Borough Council**

**Tree Preservation Order No. 5004/2023/TPO**

**71 Church Street, Boughton Monchelsea, Maidstone, Kent, ME17 4HN**

SCHEDULE

Specification of trees

**Trees specified individually**

(Encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Oak	Located in the rear garden of 71 Church Street, in the Southeast corner. (///W3W: spice.token.youth)

**Trees specified by reference to an area**

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

**Groups of trees**

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

**Woodlands**

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		



**THE MAIDSTONE BOROUGH COUNCIL**

Tree Preservation Order No. 5004/2023/TPO

71 Church Street, Boughton Monchelsea, Maidstone, Kent, ME17 4HN



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**Scale 1:691**



## **THE MAIDSTONE BOROUGH COUNCIL** **PLANNING COMMITTEE – 25<sup>th</sup> May 2023**

### **APPEAL DECISIONS:**

- 1. 21/504236/FULL**      **Redevelopment of buildings on site (including Grain Store, Implement Store, Granary and Threshing Barn) and erection of 6(no) dwellings including associated works and parking.**

**APPEAL:** DISMISSED

Burford Farm  
Redwall Lane  
Linton  
Maidstone  
Kent  
ME17 4BD

(Delegated)

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- 2. 19/504988/FULL**      **Material change of use of land for stationing of 3no. caravans for residential occupation by Gypsy Traveller families, with associated 3no. touring caravans, hard standing, cess pit and sheds (retrospective).**

**APPEAL:** ALLOWED

Ashtree Place  
Hampstead Lane  
Nettlestead  
Maidstone  
Kent  
ME18 5HN

(Delegated)

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- 3. 22/503804/FULL**      **Erection of a two storey side extension.**

**APPEAL:** ALLOWED

River Farm  
Chart Hill Road  
Staplehurst  
Tonbridge  
Kent  
TN12 0RW

(Delegated)

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- 4. 22/505539/FULL**      **Erection of single storey rear and first floor side extension (Resubmission of Planning Application ref: 21/506122/FULL)**

**APPEAL:** DISMISSED

15 Warden Close  
Maidstone  
Kent  
ME16 0JL

(Delegated)

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- 5. 22/502885/FULL**      **Demolition of an existing garage and outbuilding and construction of part single, part two storey rear and side extensions and associated works.**

**APPEAL:** DISMISSED

Vine Cottage  
Sutton Street  
Bearsted  
Kent  
ME14 4HP

(Delegated)

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- 6. 22/505825/FULL**      **Demolition of existing detached garage and erection of a first floor extension to dwelling, including new roof, canopy to front, and a part single storey, part two storey rear extension. (Resubmission of 22/504386/FULL).**

**APPEAL: DISMISSED**

Avalon  
Boxley Road  
Walderslade  
Kent  
ME5 9JE

(Delegated)

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- 7. 21/504959/FULL      Erection of detached annexe as part of existing fishery enterprise. (Resubmission of 20/503592/FULL)**

**APPEAL: DISMISSED**

Mousehole Fishing Lakes  
Maidstone Road  
Nettlestead  
Maidstone  
Kent  
ME18 5HR

(Delegated)

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- 8. 22/501154/FULL      Change of use of agricultural/former stable building to 1no. holiday let, with associated external alterations, access, parking and landscaping and enclosure of part of existing canopy.**

**APPEAL: ALLOWED**

Grays Meadow Farm  
Caring Lane  
Leeds  
Kent  
ME17 1TJ

(Delegated)

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- 9. 21/502827/SUB      Submission of Details to Discharge Condition 6 (Detailed Drawings - Balconies) Subject to 18/502791/FULL**

**APPEAL:** ALLOWED

**COSTS:** ALLOWED

Land Adjacent To Royal Engineers Road  
Maidstone  
Kent

(Delegated)

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