

# AGENDA

## PLANNING COMMITTEE MEETING



Date: Thursday 12 January 2012  
Time: 6.00 p.m.  
Venue: Town Hall, High Street,  
Maidstone

### Membership:

Councillors Ash, Collins, Cox, English, Harwood,  
Hinder, Lusty (Chairman), Nelson-  
Gracie, Newton, Paine, Paterson,  
Mrs Robertson and J.A. Wilson

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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 Items withdrawn from the Agenda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 - Any unfinished business will be carried forward to the meeting of the Committee scheduled to be held on 26 January 2012

**Continued Over/:**

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**Issued on 4 January 2012**

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*Alison Broom*

**Alison Broom, Chief Executive, Maidstone Borough Council,  
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

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 15 December 2011 1 - 6
11. Presentation of Petitions (if any)
12. Report of the Head of Development Management - Deferred Items 7
13. MA/11/0679 : LAND R/O 125 TONBRIDGE ROAD, MAIDSTONE 8 - 37
14. MA/11/0701 : 11 GABRIELS HILL, MAIDSTONE 38 - 47
15. MA/11/0702 : 11 GABRIELS HILL, MAIDSTONE 48 - 54
16. MA/11/0744 : THE ORCHARDS, OFF SNOWEY TRACK , PARK LANE, BOUGHTON MONCHELSEA, MAIDSTONE 55 - 71
17. MA/11/1983 : RAGLAN HOUSE AND POWERHUB, ST PETERS STREET, MAIDSTONE 72 - 77
18. Reference from Council - Petition Calling Upon the Council to Help Protect the Open Countryside Around Wierton, Chart Sutton, Boughton Monchelsea and the Greensand Way 78 - 80
19. Report of the Head of Development Management - Appeal Decisions 81
20. Chairman's Announcements
21. Update on Matters Referred to the Leader of the Council and Cabinet Members for Environment/Economic Development and Transport

**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.**

## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON 15 DECEMBER 2011**

**Present:** Councillor Lusty (Chairman) and  
Councillors Ash, Butler, Chittenden, Collins, Cox,  
English, Harwood, Hinder, Nelson-Gracie, Newton,  
Paine and Paterson

**Also Present:** Councillor FitzGerald

215. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Mrs Robertson and J A Wilson.

216. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:-

Councillor Butler for Councillor J A Wilson  
Councillor Chittenden for Councillor Mrs Robertson

217. NOTIFICATION OF VISITING MEMBERS

Councillor FitzGerald indicated his wish to speak on the report of the Head of Development Management relating to application MA/10/1478.

218. ITEMS WITHDRAWN FROM THE AGENDA

MA/11/0325 - USE OF SITE FOR MOTOCROSS WITH ASSOCIATED ENGINEERING WORKS TO CREATE A FORMAL MOTOCROSS CIRCUIT, TOGETHER WITH THE PROVISION OF AN ANCILLARY PARKING AREA AND THE STATIONING OF ANCILLARY PORTABLE OFFICE AND TOOL STORE UNITS - LAND SOUTHEAST OF RUNHAM LANE, SANDWAY ROAD, LENHAM

It was noted that this application had been withdrawn by the applicant.

219. URGENT ITEMS

Update Report

The Chairman stated that, in his opinion, the update report of the Head of Development Management should be taken as an urgent item because it contained further information relating to applications to be considered at the meeting.

220. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Chittenden stated that since he had pre-determined application MA/10/1478, he would speak but not vote when it was discussed.

Councillor English disclosed a personal interest in application MA/10/1478. He stated that he was a Member of Tovil Parish Council and he had been involved in some discussions on the application, but not recently. He had not pre-determined the application and intended to speak and vote when it was considered.

221. EXEMPT ITEMS

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

222. MINUTES OF THE MEETING HELD ON 24 NOVEMBER 2011

RESOLVED: That the Minutes of the meeting held on 24 November 2011 be approved as a correct record and signed.

223. PRESENTATION OF PETITIONS

There were no petitions.

224. DEFERRED ITEMS

MA/11/0679 - ERECTION OF THREE DWELLINGS COMPRISING ONE DETACHED DWELLING WITH INTEGRAL GARAGE AND TWO SEMI-DETACHED DWELLINGS WITH ACCESS TO TONBRIDGE ROAD VIA ACCESS PERMITTED UNDER MA/08/2323 - LAND R/O 125 TONBRIDGE ROAD, MAIDSTONE

The Head of Development Management advised Members that work was continuing on this application.

225. MA/11/1153 - CHANGE OF USE OF AGRICULTURAL LAND TO RESIDENTIAL USE AND THE FORMATION OF A NEW ACCESS AND DRIVEWAY WITH TIMBER GATES ON BRICK PIERS - BRIDGEHURST OAST, HOWLAND ROAD, MARDEN

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

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

Voting:        13 – For        0 – Against        0 – Abstentions

226. MA/11/1565 - CHANGE OF USE AND EXTENSION (THROUGH INFILLING OF EXISTING REAR PROJECTION AT GROUND FLOOR LEVEL) FROM OFFICE (CLASS B1 USE) TO PROVIDE A 100 BEDROOM (WHITBREAD PREMIER INN) HOTEL (CLASS C1 USE) TO INCLUDE ALTERATIONS TO

THE EXISTING ELEVATIONS, ALTERATIONS TO EXISTING VEHICULAR ACCESS AND CAR PARKING, PROVISION OF DDA COMPLIANT PEDESTRIAN ACCESS, RECONFIGURATION OF EXISTING LOADING BAY AND PROVISION OF NEW LANDSCAPING - LONDON HOUSE, 5 - 11 LONDON ROAD, MAIDSTONE

All Members except Councillors Butler and Chittenden stated that they had been lobbied.

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

Mr Deering addressed the meeting on behalf of the applicant.

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

Voting: 13 – For 0 – Against 0 – Abstentions

227. MA/11/1779 - ERECTION OF A REPLACEMENT TWO STOREY DWELLING AND DETACHED DOUBLE GARAGE WITH THE DEMOLITION OF THE EXISTING DWELLING AND OUTBUILDINGS (RE-SUBMISSION OF MA/11/1031) - HAZELDENE, DEAN STREET, EAST FARLEIGH, MAIDSTONE

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

Councillor Charlton of East Farleigh Parish Council (in support) and Mr Potts, for the applicant, addressed the meeting.

RESOLVED: That permission be refused for the reason set out in the report.

Voting: 9 – For 4 – Against 0 – Abstentions

228. MA/10/1478 - APPLICATION FOR THE ERECTION OF TWO SIX STOREY APARTMENT BLOCKS WITH ASSOCIATED PARKING AND LANDSCAPING - LAND WEST OF ECCLESTON ROAD, MAIDSTONE

Councillors Ash, Cox, English, Harwood, Hinder, Nelson-Gracie, Newton and Paterson stated that they had been lobbied.

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

Councillor Mortimer of Tovil Parish Council, Mr Carter of the Coombe Farm and Tovil Development Group and Councillor FitzGerald addressed the meeting in support of a community facility contribution.

RESOLVED:

1. That the decision set out in Minute 306 (1) of the meeting held on 24 February 2011 be rescinded.
2. That subject to the prior completion of a Section 106 legal agreement in such terms as the Head of Legal Services may advise to secure the following:-

A contribution of £186,306 towards offsite affordable housing;

A contribution of £1,575 per dwelling (total of £55,125) for the improvement of the riverside walk or for the improvement of open space within Woodbridge Drive Play Area or, in the event that either all or part of the money is not utilised by either of these facilities within 12 months from the date of the receipt of the monies, the remainder to be used as a contribution to a community facility within 2km of the application site, such facility to be provided within 5 years of the receipt of the monies; and

That in the event that the construction of the dwellings has not commenced on site within 24 months from the date of the agreement, the applicants undertake to provide an updated viability assessment to be independently assessed by the District Valuer (or equivalent body) to enable reconsideration to be given to the potential for S106 contributions to be made in relation to the development and secure appropriate contributions accordingly together with the costs of the independent assessment,

the Head of Development Management be given delegated powers to grant permission subject to the conditions and informatives set out in the report.

Voting:        9 – For        2 – Against        1 – Abstention

Note:

1. Having stated that he had pre-determined this application, Councillor Chittenden did not participate in the voting.
2. Councillor Harwood requested that his dissent be recorded.

229. MA/11/1116 - ERECTION OF DETACHED ANNEXE BUILDING - CHURCH HOUSE, MARLEY ROAD, HARRIETSHAM, MAIDSTONE

Councillors Ash, Hinder, Nelson-Gracie and Paine stated that they had been lobbied.

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

Mr Harlock, an objector, Councillor Morris of Harrietsham Parish Council (against) and Mr Hick, for the applicant, addressed the meeting.

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

You are advised that the incorporation of bat boxes and bat tubes in the roof of the annexe is recommended to encourage biodiversity pursuant to advice contained within PPS9

Voting: 11 – For 1 – Against 1 – Abstention

230. MA/11/1866 - CHANGE OF USE TO PROVIDE AN MOT STATION WITHIN EXISTING BUILDING - RENAULT/HYUNDAI DEALERSHIP, BIRCHOLT ROAD, MAIDSTONE

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

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

Voting: 13 – For 0 – Against 0 – Abstentions

231. MA/11/0325 - USE OF SITE FOR MOTOCROSS WITH ASSOCIATED ENGINEERING WORKS TO CREATE A FORMAL MOTOCROSS CIRCUIT, TOGETHER WITH THE PROVISION OF AN ANCILLARY PARKING AREA AND THE STATIONING OF ANCILLARY PORTABLE OFFICE AND TOOL STORE UNITS - LAND SOUTH EAST OF RUNHAM LANE, SANDWAY ROAD, LENHAM

See Minute 218 above.

232. 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.

233. CHAIRMAN'S ANNOUNCEMENTS

The Chairman reminded Members that the next meeting of the Committee had been rearranged to take place at 6.00 p.m. on Thursday 12 January 2012 at the Town Hall.

234. UPDATE ON MATTERS REFERRED TO THE LEADER OF THE COUNCIL AND CABINET MEMBERS FOR ENVIRONMENT/ECONOMIC DEVELOPMENT AND TRANSPORT

It was noted that there was nothing to report at present.

235. DURATION OF MEETING

6.00 p.m. to 8.05 p.m.



## MAIDSTONE BOROUGH COUNCIL

### PLANNING COMMITTEE

12 JANUARY 2012

#### REPORT OF THE HEAD OF DEVELOPMENT MANAGEMENT

##### 1. DEFERRED ITEMS

- 1.1. The following application stands deferred from a previous meeting of the Planning Committee. The Head of Development Management will report orally at the meeting on the latest situation. The application may be reported back to the Committee for determination.

1.2.	<u>Description of Application</u>	<u>Date Deferred</u>
(1)	<u>MA/11/0679 - ERECTION OF THREE DWELLINGS COMPRISING ONE DETACHED DWELLING WITH INTEGRAL GARAGE AND TWO SEMI DETACHED DWELLINGS WITH ACCESS TO TONBRIDGE ROAD VIA ACCESS PERMITTED UNDER MA/08/2323 - LAND R/O 125 TONBRIDGE ROAD, MAIDSTONE</u>	13 OCTOBER 2011

Deferred for the submission of a fully detailed landscaping scheme to enable full consideration of the scheme and layout.

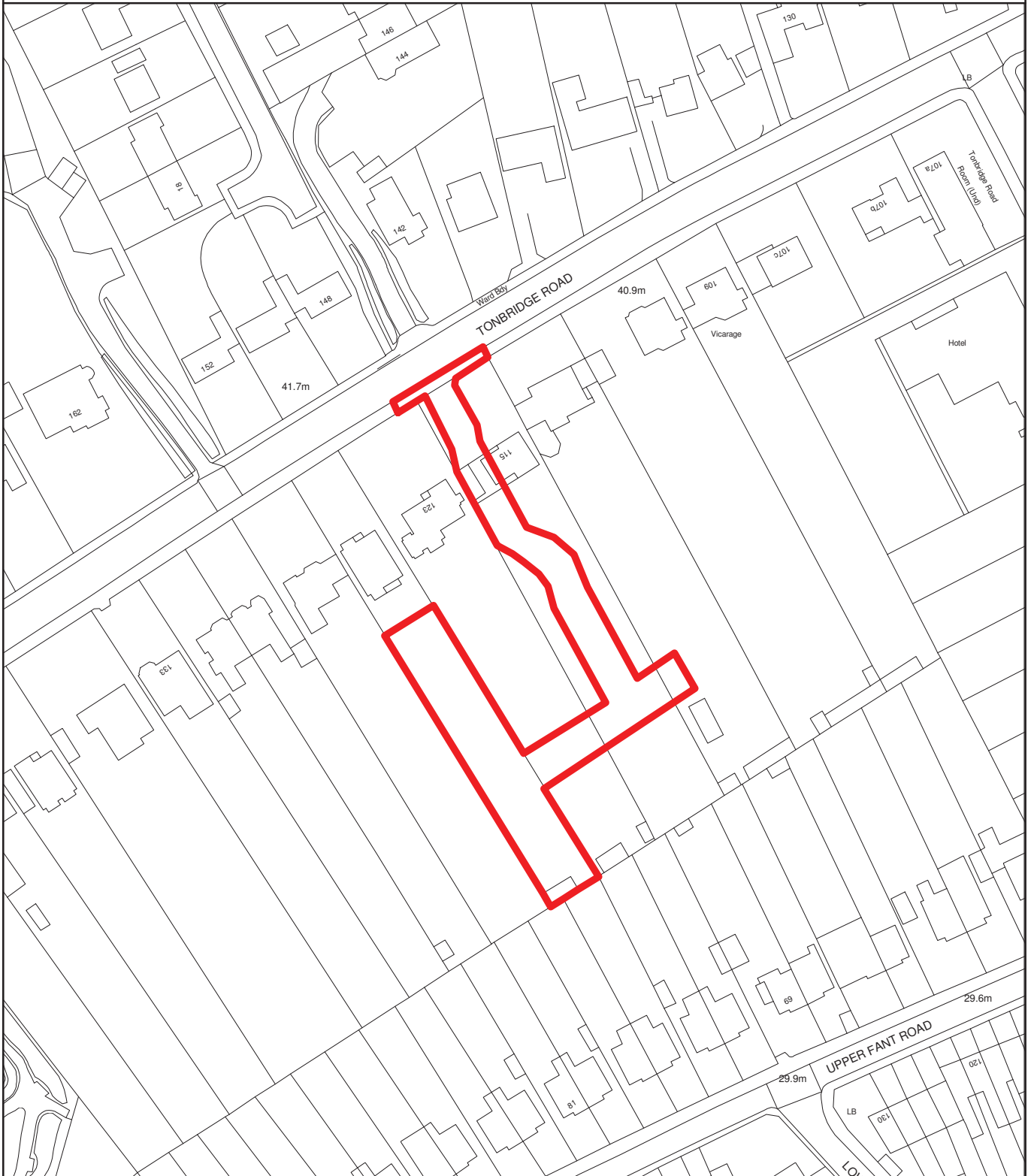
# Agenda Item 13

## THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/0679

GRID REF: TQ7455

LAND R/O 125 TONBRIDGE ROAD,  
MAIDSTONE.



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**Rob Jarman**  
Head of Planning

APPLICATION: MA/11/0679 Date: 26 April 2011 Received: 27 April 2011

APPLICANT: Mr G Norton, Wealden Homes

LOCATION: LAND R/O 125, TONBRIDGE ROAD, MAIDSTONE, KENT, ME16 8JS

PARISH: Maidstone

PROPOSAL: Erection of three dwellings comprising one detached dwelling with integral garage and two semi detached dwellings with access to Tonbridge Road via access permitted under (MA/08/2323) as shown on plan numbers PL-079-01, PL-079-02, PL-079-03, PL-079-04, PL-079-05, PL-079-06, PL-079-07, PL-079-08, PL-079-09, PL-079-10, PL-079-11, PL-079-12, PL-079-13, PL-079-14, PL-079-15, PL-079-16, design and access statement and application form received 27th April 2011 and plan number P030-035 received 15th March 2011.

AGENDA DATE: 12<sup>th</sup> January 2012

CASE OFFICER: Kevin Hope

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

Councillor Paine has requested it be reported for the following reasons:-

- The impact of the development upon neighbouring amenity
- The quality and quantity of landscaping within the proposed development

## **1. BACKGROUND**

This application was reported to Planning Committee on 13<sup>th</sup> October 2011 with a recommendation of approval with conditions. I attach a copy of my Committee Report and Urgent Update Report as an appendix hereto. Members deferred making a decision to enable:

- That this application be deferred for the submission of a fully detailed landscaping scheme to enable full consideration of the scheme and layout.

Discussions subsequently took place with the agent to discuss the reasons for this deferral and the details that would be required. Following these discussions a fully detailed landscaping scheme has been submitted.

## **2. THE AMENDMENTS**

The submitted amended landscaping scheme now gives specific details of the shrub planting mix which includes 15 Periwinkle of 30cm in height, 10 Viburnum Davidii of 50cm in height, 15 Dogwood of 40cm in height, 10 Shrub Roses of 60cm in height and Hedera ssp of 20cm in height.

There are also specific details of the tree planting within this site which includes Flowering Cherry of 8-10 standard in size and Field Maple in 8-10 standard in size. The hedge planting proposed is privet hedging of 60cm in height.

This landscaping scheme shows the layout of the planting within the site and comprises native species including some climbing plants increasing coverage and greening within the streetscene.

A line of fencing has also been removed which previously extended along the front north eastern boundary of the plot A.

## **3. CONSULTATIONS (i.e. on the amendments)**

Landscape Officer - Recommends approval with the following comments:-

*"The issues concerning the lack of detail and species type have been addressed in the latest scheme submitted by Wealden Homes, 'Soft Landscaping & Planting', drawing no. PL-079-05 revision C, dated 04/04/11. The species and stature of shrubs and trees are more appropriate to the restricted nature of this small residential site and the inclusion of climbers will give an additional element of vertical greening".*

## **4. REPRESENTATIONS (i.e. on the amendments)**

Two representations have been received following a consultation on this amended landscaping scheme. The points raised refer principally to the suitability of the proposed planting mix. Comments have been raised with regard to the scale of the proposed planting not sufficiently compensating for the planting lost within this garden area, their suitability for providing habitat and food for birds, the maturity of the proposed planting, who will be responsible for the maintenance of the planting and the level of planting and species selected.

## **5. CONSIDERATIONS**

### **5.1 Landscaping**

5.1.1 The submitted landscaping scheme offers a number of positive amendments to the proposal. The removal of the fencing along the north eastern boundary of plot A boundary allows for more planting and will increase the visibility within

this area minimising the enclosed spaces within the streetscene. This is important as there is a pathway adjacent to this boundary which provides rear access to the neighbouring properties within All Angels Close. The removal of this fencing can only improve the appearance and character of this section of streetscene.

- 5.1.2 Full details have been provided with regards to the shrub planting mix within the site. The species selected including shrub roses, Dogwood, Periwinkle and Viburnum are considered to be appropriate given the limited size of the site and this would achieve an appropriate softness to the surrounding streetscene due to the variety of growth and coverage of these selected species. Representations have been received which question the species selected along with the size of the planting. However, the Landscape Officer has been consulted on this landscaping scheme and considers that the species selected are appropriate and would ensure a variety of ground cover as well as an additional height dimension with the inclusion of climbers. The stated size of the planting being 8-10 standard of planted size means that the trees would have a circumference of between 8 and 10cms measured 1 metre up from the level of the soil when planted. This would ensure a good standard of initial ground cover whilst ensuring that the planting is able to establish.
- 5.1.3 The details of tree planting include provision of Flowering Cherry and Field Maple. These species are considered again to be appropriate for the limited scale of this site and would achieve a suitable landscaped appearance both within the prominent location at the focal point of the streetscene and to the rear of plot A.
- 5.1.4 The provision of privet hedging to the rear boundary of plots B and C at a regular spacing of 33cm and 60cm in height would also ensure that suitable landscaped screening would be secured along this boundary in addition to the 1m high walling. There has been some concern that there may not be sufficient spacing for planting along this boundary, however, I consider that as the hedging would be in a single row and of a suitable Juvenile size, there is sufficient spacing to accommodate this boundary hedging. As such, I consider that this level of planting at this size would enable the hedging to establish and adequately mitigate the loss of the existing planting along this boundary.
- 5.1.5 A representation has raised the issue of the maintenance of the planting proposed. This will be the responsibility of the occupiers of the respective dwellings within the site which cannot be controlled against, although condition 6 secures the replacement of any planting which dies within the five years following the completion of the development.

## **5.2 Ecology**

5.2.1 The KCC Ecology Officer has been consulted on the submitted landscaping scheme and does not raise objections. However, comments have been raised with regard to the provision of bat and birds boxes within the landscaping scheme which would mitigate against the loss of the previous established vegetation at this site. As such, an additional condition will therefore be imposed to this effect to ensure that the development would enhance ecology at this site.

## **5.3 Provision for legal agreement**

5.3.1 Comments were raised by Members at the previous planning committee on 13<sup>th</sup> October 2011 with regard to whether contributions could be sought on this application. I have researched this issue and Legal advice has been sought.

5.3.2 During this research, one particular case has been highlighted which is relevant to the consideration of this application. The case of R (on the application of City of Westminster) v First Secretary of State and Brandlord Ltd [2003] JPL 1066 relates to a terraced building in Lancaster Gate, London which was separated in to two buildings. The two properties were purchased by different companies and were both developed with the construction of 7 flats and 12 flats of the two neighbouring sites. However, a condition was imposed upon the second approval securing the provision of two affordable housing units as the LPA had considered the two sites as one. The developer appealed against this condition and won. Subsequently, the LPA challenged this decision in the High Court which was dismissed. Therefore, it is important to consider the tests used by the original planning Inspector to decide whether to consider the two sites as one being 1) The ownership of the sites, 2) the physical relationship of the sites and 3) The development proposed.

5.3.3 With regard to the ownership, in the Brandlord Ltd case the Inspector considered that even though the two sites were purchased by two different companies, they had the same directors, shareholders and secretary. In this case, the Tonbridge Road site is not itself owned by Wealdon Homes, although Wealdon Homes are the applicants for this application as they were All Angels Close. Following discussions on this matter with the applicant, it is apparent that an option to develop this current site did not exist during the planning application process and subsequent approval of the neighbouring site (MA08/2323) of All Angels Close. The Inspector also stated in the decision that *"Common ownership will often be necessary to promote development involving more than one building or plot but cannot on its own be a determining factor in deciding what constitutes a single site or a single development"*.

- 5.3.4 With regard to the relationship of the site, in the Brandlord Ltd case the Inspector considered that the two sites were not interdependent on each other and were technically separate sites. In this case, the Tonbridge Road site includes part of the neighbouring site at All Angels Close as shown with the red outline on the site location plan, therefore it could be said that there is significant interdependence of parts of the site, albeit not the actual units.
- 5.3.5 With regard to the development proposed, in the Brandlord Ltd case the Inspector stated, *"One could also expect the part of the site being developed to be interdependent with the remainder for access or other infrastructure. These proposals constitute a windfall and number 15 is not dependent on what happens in numbers 16/17 or vice versa. They are separate sites and can be developed wholly independently of each other"*. In this case, the Tonbridge Road site is wholly reliant on the construction of All Angels Close and cannot be developed without it.
- 5.3.6 In the concluding paragraph, the inspector stated *"Had all three buildings been acquired by the same company, and a single application submitted for the conversion of all three to flats, then the Council might reasonably have anticipated provision of an element of affordable housing... A single development could still be proposed within the two sites, but the schemes for number 15 and numbers 16/17 are in no way interdependent, nor do they share any essential facilities or services. I therefore find nothing to suggest that they should be considered as two phases of the same development. Accordingly, there are no grounds for providing the two affordable housing units sought by the Council (under interim policy or first deposit policy H4 in the emerging UDP) as being consistent with the development of 19 flats"*.
- 5.3.7 The City of Westminster's affordable housing policy contains wording which states that *"in other cases which would have been equivalent to either of the above criteria but fall below these thresholds because of the exceptional size of the units of the phasing of the development"*. This is significant to the LPA's decision to impose the affordable housing condition which is backed up by planning policy. With regard to current policy, Policy OS1 of the Council's open space DPD states that contributions should be sought on developments of 10 dwellings or more, this proposal for 3 dwellings is clearly below this threshold and therefore the requirement for contributions on this proposal would be contrary to this policy. Furthermore, policy AH1 of the Council's affordable housing DPD states that affordable housing should be sought on developments of 15 dwellings or more or 0.5 hectares or greater, the application site falls below both of these thresholds and therefore, it would also be contrary to this policy to require affordable housing provision on this application. However, the draft Core Strategy does include wording within policy CS10 which does relate to this point. It states that, *"Sites will be expected to provide affordable housing at the appropriate rate on a whole site basis. Sub-division of a site that would bring*

*any particular application under the affordable housing threshold will be aggregated to ensure delivery of affordable housing is maximised across the whole site".* Whilst I acknowledge that this does not specifically cater for the development of subsequent neighbouring sites, the intention of this policy is clearly to prevent a succession of piecemeal developments as a tool to circumvent the affordable housing thresholds.

- 5.3.8 Therefore, as outlined in the considerations outlined above, the case for requesting contributions is balanced. There are points which are in favour of requesting contributions being the interdependent relationship of the proposed development upon All Angels Close, both this application and All Angels Close are to be developed by the same developer, emerging draft policy within the Core Strategy does cater for the deliberate avoidance of affordable housing contributions within policy CS10. Although at the same time, there are a number of points which are against seeking contributions including, the fact that Wealdon Homes are not the current owner of the application site, the Council does not have a current policy on phased developments and the issue of affordable housing has not been formally raised at any other point and was not a reason for deferral of this application. As previously stated, this is a finely balanced issue and I consider that given the considerations as outlined above it would not be reasonable to seek contributions in this case.
- 5.3.9 As such, I consider overall that to request formal contributions on this proposal could not be supported by current planning policies and would be unreasonable based upon the considerations as outlined above. Therefore, this application should be considered on a standalone basis for the erection of 3 dwellings.
- 5.3.10 There has been some concern that this proposal is piecemeal development. I do not consider this to be the case with this application, as previously stated, the developer did not have an option to develop this site during the planning process of All Angels Close and therefore there was no clear intention to development on a piecemeal basis. Due to the layout and design of this proposal, this development responds positively and is in keeping with the layout, design and character of All Angels Close which would have the appearance of a comprehensive development.
- 5.3.11 The applicant has advised that there are currently no other options to develop further garden sites to the rear of Tonbridge Road. The Council has advised that any further developments should be comprehensive and larger in scale to ensure that the rear gardens of Tonbridge Road to the south west of the site are not developed on a piecemeal basis in the future.



## **6. CONCLUSION**

- 6.1 In conclusion, the reasons for deferral raised by Members have been addressed with the submission of a landscaping scheme. These details are considered acceptable as outlined above together with the additional considerations as outlined above.
- 6.2 I therefore recommend a conditional approval with an additional condition as stated above and as previously recommended at the committee of 13<sup>th</sup> October 2011. A copy of this report is appended under appendix A of this report.

## **7. 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 materials to be used in the construction of the external surfaces of the dwellings hereby permitted shall be Weinerburger Bloomsbury Stock bricks and Redland duoplan tiles as previously permitted elsewhere within All Angles Close. Written consent shall be sought for the Local Planning Authority prior to the use of any other materials for the construction of the development hereby permitted.

Reason: To maintain the character and appearance of All Angles Close in accordance with the guidance stated within PPS3 and policies BE1 and CC4 of the South East Plan 2009.

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

Reason: Development without adequate parking/turning provision is likely to

lead to parking inconvenient to other road users and in the interests of road safety in accordance with PPG13.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a detailed scheme of landscaping, using indigenous species and showing the planting size of all soft landscaping within the site. This shall also include the provision of a native hedgerow to the rear south eastern boundaries of Plots B and C abutting the retained boundary wall. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines. The development shall be maintained as such unless the written consent of the Local Planning Authority is obtained;

Reason: No such details have been submitted and in the interests of the visual amenities of the locality in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000 and PPS1 and policies CC1 and CC6 of the South East Plan 2009.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

6. No development shall take place until details in the form of large scale drawings (at a scale of 1:20 or 1:50) of the following matters have been submitted to and approved by the Local Planning Authority;
  - i) Details of the roof overhangs.
  - ii) Details of windows and doors and recesses/reveals (which shall be a minimum of 70mm).
  - iii) Details of the soldier arches.

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

Reason: To ensure a satisfactory external appearance to the development in the

interests of the visual amenity and character of the surrounding area in accordance with PPS1.

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

Reason: to ensure a sustainable and energy efficient form of development in accordance with policy CC4 of the South East Plan 2009, Kent Design 2000 and PPS1.

8. All hardstanding including the approved parking areas shall be constructed using a porous material and shall be carried out as shown in the submitted plan number P030-035 received 15th March 2011.

Reason: In the interests of visual amenity, and to reduce the level of surface water run off to surrounding land, in accordance with PPS1.

9. Removal of existing trees or hedgerows containing nesting birds shall take place outside of the bird-breeding season (generally March to August).

Reason: To ensure the protection of biodiversity on the site, in accordance with PPS9.

10. There shall be the provision of bat boxes, bird boxes and swift bricks included within the development.

Reason: To ensure the protection and enhancement of biodiversity on the site, in accordance with PPS9.

11. No development shall take place until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area in general pursuant to Policy ENV49 of the Maidstone-Wide Local Plan 2000.

12. Other than where stated in the conditions above, the development hereby permitted shall be carried out in accordance with the following approved plans:

Plan numbers PL-079-01, PL-079-02, PL-079-03, PL-079-04, PL-079-05, PL-079-06, PL-079-07, PL-079-08, PL-079-09, PL-079-10, PL-079-11, PL-079-12, PL-

079-13, PL-079-14, PL-079-15, PL-079-16, design and access statement and application form received 27th April 2011 and plan number P030-035 received 15th March 2011.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with policies ENV6 and T13 of the Maidstone Borough Wide Local Plan 2000 and policies BE1, CC1, CC4, H5 and of the South East Plan 2009.

13. Prior to commencement of this development, details showing the provision of bird and bat boxes within the site shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the ecology of the site in accordance with policy NRM5 of the South East Plan 2009 and the guidance contained within PPS9.

#### **Informatives set out below**

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

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

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

No vehicles may arrive, depart, be loaded or unloaded within the general site outside 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.

Reasonable and practicable steps should be used during any demolition or removal of existing structure and fixtures, to dampen down, using suitable water or liquid spray system, the general site area, to prevent dust and dirt being blown about so as to cause a nuisance to occupiers of nearby premises.

Where practicable, cover all loose material on the site during the demolition process so as to prevent dust and dirt being blown about so as to cause a nuisance to occupiers of nearby premises.

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

The applicant is informed of the possibility of breeding birds within this area. If breeding birds are discovered, it is advised that no work must be carried out in that area until all the young have fledged.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

APPLICATION: MA/11/0679 Date: 26 April 2011 Received: 27 April 2011

APPLICANT: Mr G Norton, Wealden Homes

LOCATION: LAND R/O 125, TONBRIDGE ROAD, MAIDSTONE, KENT, ME16 8JS

PARISH: Maidstone

PROPOSAL: Erection of three dwellings comprising one detached dwelling with integral garage and two semi detached dwellings with access to Tonbridge Road via access permitted under (MA/08/2323) as shown on plan numbers PL-079-01, PL-079-02, PL-079-03, PL-079-04, PL-079-05, PL-079-06, PL-079-07, PL-079-08, PL-079-09, PL-079-10, PL-079-11, PL-079-12, PL-079-13, PL-079-14, PL-079-15, PL-079-16, design and access statement and application form received 27th April 2011 and plan number P030-035 received 15th March 2011.

AGENDA DATE: 13th October 2011

CASE OFFICER: Kevin Hope

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

- Councillor Beerling has requested it be reported for the following reasons:-
  1. The impact of the development upon neighbouring amenity
  2. The quality and quantity of landscaping within the proposed development

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, T13, ENV49
- South East Plan 2009: CC4, NRM11, T4, CC1, H5, W1, W6, BE1
- Government Policy: PPS1, PPS3, PPS9

## **2. HISTORY**

**MA/08/2323** - The application is for the erection of thirteen new dwellings, consisting of one detached five bedroom property, and 12 terraced properties (within rows of three) which would be three bedroom units – Approved with conditions

**MA/08/0900** - Land at 113, 115 and 123 Tonbridge Road, Maidstone, Kent. Demolition of existing building and erection of fourteen new

dwellings with new access and landscaping – Refused – Appeal Dismissed.

**MA/03/1141** - 113 Tonbridge Road, Maidstone, Kent. Erection of a two storey side extension – Approved with conditions

### **3. CONSULTATIONS**

#### **3.1 Councillor Beerling** – Raised the following comments:-

*"Cllr Black and I met with residents on Upper Fant Road to hear their concerns about the extension of Angel's Close. Residents were worried about loss of privacy, overshadowing of gardens, and the loss of historic open garden space. There was also concern about the lack of any strategic plan for this stretch of land between Tonbridge Road and Upper Fant Road, and they have requested the council look at a potential design guide, neighbourhood plan, or some form of area character assessment here. Cllr Black and I feel that the landscaping proposed could be improved considerably to add to the privacy of residents on Upper Fant Road, and we urge the council to explore options to control any possible future applications off Angel's Close"*

#### **3.2 Southern Water** – stated that a formal application should be made to southern water for the connection to the sewer and therefore an informative to this effect shall be included within the recommendation.

#### **3.3 UK Power Networks** – Raise no objection to the proposal.

#### **3.4 KCC Highways** – Raise no objection with the following comments:-

*"Permission has been granted for a new access off Tonbridge Road to serve a development of 12 dwellings and this is currently under construction. This application seeks to provide an additional 3 dwellings - 1 x 4 bedrooms and 2 x 2 bedrooms. The site access is designed to adoptable standards and a turning area is provided to allow all vehicles requiring access to the site to turn and leave the site in a forward gear. 6 parking spaces are proposed for the 3 new houses, of which 4 are independently accessible. This meets the recommendations given in the Kent Design Guide Interim Guidance Note 3".*

#### **3.5 Environmental Health** – Raise no objections with the following comments:-

*"The site is in a residential area on the busy A26 and traffic noise may be a problem. An acoustic assessment should be carried out to determine the noise category and to recommend any appropriate mitigation measures. The council's contaminated land database and historic maps do not indicate that contamination should be a problem at this site. As the proposed dwellings are to be built within a largely residential area, the normal informatives relating to noise, dust and odour should be applied to any consent granted. I note that the applicant has made provision for the storage of waste and for recycling facilities".*

- 3.6 **Landscape Officer** – Recommends that there are no landscape/arboricultural grounds to refuse the application but that the submitted soft landscape scheme is currently unacceptable due to lack of information as detailed above with the following comments:-

*"The landscape scheme submitted by Wealden Homes, 'Soft Landscaping As Proposed', drawing no. PL-079-05, dated 04/04/11, lacks sufficient detail to enable it to be properly considered. The scheme currently lacks plant sizes, designation and numbers (although I would have to assume one of each shrub). I would also add that there are no native or near native shrub species incorporated into the scheme and that the ornamental species listed will grow too large for their location. I would suggest blocks of smaller stature shrubs would be more appropriate".*

#### **4. REPRESENTATIONS**

- 4.1 Four neighbour representations have been received raising a variety of issues on this application. The particular points raised within these letters included concerns over the level and type of landscaping proposed to the south eastern boundary of the site which borders the rear gardens of properties within Upper Fant Road. There were also concerns expressed with regard to the privacy and security that this boundary treatment provides to the garden amenity areas and dwellings within Upper Fant Road to the south east of the site. One neighbouring representation stated that a development framework should be created for the area between St Michael's Road and Claire Park by the council. This purpose of this would be to outline the density, design, landscaping and parking for any future developments. The representations received also raised concerns with regard to overlooking of properties within Tonbridge Road and Upper Fant Road from the proposed dwelling at plot A due to its scale and proximity within the site.

#### **5. CONSIDERATIONS**

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

- 5.1.1 The application site is located within the urban area of Maidstone, on the southern side of Tonbridge Road. The application site lies within a predominantly residential area and a principle route in and out of the town being the Tonbridge Road (A26). It is a site which is considered to be on the fringe of the town centre, with a variety of different types of properties in scale, design and form. Fronting onto Tonbridge Road are a number of substantial, detached properties, which vary in age, as well as scale. Some of these do rise to three storey, although they are predominantly two storey in height. The widths of plots within this area are also relatively varied, although there is a good level of separation between the buildings along this particular section of Tonbridge Road. The site falls away towards Upper Fant Road, by approximately 5metres, and the land



then falls away at a steeper gradient within the rear gardens of Upper Fant Road.

- 5.1.2 The site itself comprises the rear garden area of 125 Tonbridge Road. This building is currently in use as an orthodontists and has been for a number of years. The rear garden area now been separated with the bottom half, which is the subject of this application, now cleared and used for the storage of building materials in conjunction with the neighbouring development under construction (MA/08/2323). The site has maintained some established planting along the north western boundary of the site and has a wall measuring approximately 1m in height along the south eastern boundary. Prior to the clearance of this site, the garden comprised a maintained lawn with a number of trees planted throughout. There was also established planting to the north east and south eastern boundaries which has now been lost.
- 5.1.3 The area to the south east of the site comprises the rear gardens of dwellings within Upper Fant Road, most notably, the rear gardens of numbers 73, 75 and 77. These gardens have a sloping topography that rises towards the application site and typically extend approximately 30m in length from the rear most part of the dwellings. This row of semi detached properties has a distinct Cox style, with white render elevations and clay terracotta tiled roofs. Some of these dwellings have also been extended with a first floor side extension.
- 5.1.4 From a wider aspect, the surrounding area consists largely of residential properties, although there are a number of businesses including that occupying 125 Tonbridge Road together with a dentist and nursery to the South West of the site also fronting Tonbridge Road.

## 5.2 **Proposal**

- 5.2.1 This application seeks planning permission for the erection of three dwellings comprising one detached dwelling with integral garage and two semi detached dwellings with access to Tonbridge Road via the access permitted under MA/08/2323.
- 5.2.2 The proposed two and a half storey detached dwelling sited within plot A would comprise five bedrooms and would measure approximately 9.3m in width and would extend approximately 9.3m in length. The property would be of a pitched roof design with gabled ends and a ridge height and eaves height of approximately 10m and 5.1m respectively. The proposed detached dwelling would also have provision for accommodation within the roof space and would include four modest flat roofed dormer windows with two to each roof slope. The proposed dwelling would have a private garden to the rear extending approximately 13m in length and 12.5m in width. In addition, there is also a modest area of garden space to the front. The dwelling would be of brick

construction with tiled roof. This is identical that the dwelling which fronts Tonbridge Road and is currently under construction within the neighbouring site.

- 5.2.3 The proposed pair of semi detached two bedroom dwellings would measure approximately 9m in width and 9.3m in length. These properties would have a hipped roof design with a projecting pitched roof element to the front elevation. The ridge height and eaves height of the properties would measure approximately 8.9m and 5.1m respectively. The properties would have an area of private garden to the rear both extending approximately 9m in length and a width of 6m for plot C and 7m for plot B.
- 5.2.4 In terms of the layout of the proposed scheme, the development would be arranged with a pair of semi detached dwellings adjacent to the south western boundary and the larger detached dwelling adjacent to the north western boundary. This layout allows the existing highway of All Angels Close to be extended in to the proposed development with private driveways branching from this. There would be parking provision for six vehicles in total within this development, ensuring two spaces for each dwelling. This would be spread in the form of an integral garage and driveway for plot A, a driveway to the side of plot B and two parking spaces to the front of plot C.
- 5.2.5 Landscaping has been included within the scheme which is illustrated by the submitted landscaping plan (Plan number PL-079-05). This shows that there is soft landscaping in the form of shrub planting proposed to the front garden areas of the dwellings. Soft landscaping has also been provided to the open areas within the streetscape in the form of shrub planting of ornamental species to the north eastern boundary and a Field Maple tree adjacent to the south western boundary centrally sited at the focal point within the street. Following negotiations with the applicant, an amended plan has been received showing the removal of the turning head to the front of plot A and replaced with additional landscaping including shrub planting and a number of trees. The driveway to plot A would also be narrowed to enable a wider planting belt along the north eastern boundary to the front of plot A. Additional planting would then be provided with a number of trees placed along this area together with shrub planting. This would also include the provision of a tree on the corner of the boundary adjacent to the highway which would soften the entrance to the development
- 5.2.6 In terms of the quality and appearance of the development, the proposed dwellings would be of brick construction with a plain tile roof, identical to that of the neighbouring approved residential development. The dwellings are of a simple form reflecting that of the neighbouring residential development. The highway would be extended from All Angels Close and would comprise block paving to match. In terms of drainage, the dwellings would be connected to a mains drainage system for foul water with a connection to a pumping station to

the north east within All Angels Close. For surface water, a deepbore soakaway is centrally positioned adjacent to the north eastern boundary of the site which would serve the proposed dwellings.

- 5.2.7 The applicant stated that the proposed dwellings would achieve a minimum level 3 of the Code for Sustainable Homes. This again would ensure that the dwellings are of a suitable standard-with level 3 being the minimum level that the Council would expect.

### 5.3 Principle of Development

- 5.3.1 This site lies within the defined urban area of Maidstone with good links to the Town Centre surrounding areas. As such, residential developments of this type are acceptable in principle depending on the wider impact of the development and any other material considerations.

- 5.3.2 In terms of national policy, PPS1 urges the provision of a mix of sufficient, good quality new housing in suitable locations, whether by new development or conversions of existing buildings, the aim to ensure that everyone has the opportunity of a decent home, in locations that reduce the need to travel. This proposal meets this requirement with its location within an existing urban residential area and good public transport links with a number of bus routes stopping on Tonbridge Road including 85, 6 and 7 serving both the town centre and other areas including Maidstone Hospital, Tonbridge and Tunbridge Wells. The site is also within a reasonable walking distance of the town centre and Maidstone West rail station. As such, I consider that the site is located within a sustainable location where facilities exist to encourage the use of public transport rather than a continued dependence on the private vehicle.

- 5.3.3 PPS3 seeks to encourage a mix of housing, and make effective use of existing housing stock and cut carbon emissions. PPS3 also states that new housing development should be "well integrated with and compliments the neighbouring buildings and the local area more generally in terms of scale, density, layout and access". This proposal would provide three family homes which would reflect the existing scale and character of the surrounding area within Tonbridge Road. Although the proposal would not include any provision for social housing, I consider that this is acceptable in this case due to the scale of the development.

- 5.3.4 The amendment to Annex B of PPS3 is an important consideration within this application. This amendment to national policy has removed the classification of residential garden land as brownfield land. The garden of 125 Tonbridge Road is not a residential garden as such due to the occupation of the building by an orthodontists practice. However, the building and gardens were originally constructed and used for residential purposes and so has a residential character in terms of their form and scale identical to the neighbouring dwellings, although

I acknowledge that the area of the garden subject to this application has now been cleared. Whilst government policy has seen a change in terms of the principle of development within garden land sites under this amendment, the principle of development within this area has already been established through the granting of planning permission for the construction of thirteen dwellings on land to the rear of 113, 115 and 123 Tonbridge Road (MA/08/2323) which borders the application site. Therefore, the primary consideration for this proposal is the harm caused by further development within this area and the visual impact of this proposal within the vicinity.

5.3.5 In terms of local planning policy, the saved applicable policies within the Maidstone Borough Wide Local Plan 2000 are policies ENV6, concerning landscaping within developments including surfacing and boundary treatments, and policy T13 concerning parking standards. A number of policies within the South East Plan 2009 are also applicable in this case which relate to sustainable construction, quality of design, housing density and parking as outlined above.

#### 5.4 **Visual impact**

5.4.1 Due to the location of the site within the urban boundary, I consider that the main issues to consider are the impact upon visual amenity, the design and impact of the built development, the hard and soft landscaping proposed and the impact upon neighbouring amenity.

5.4.2 In terms of the visual impact of the built development, due to the siting of this proposal to the rear of 125 Tonbridge Road, together with the location of the access road to the north east of the site, it is clear that there would not be any significant views of the site from Tonbridge Road. As such, there would not be any significant visual impact from public vantage points within Tonbridge Road. In terms of the impact upon Upper Fant Road, it would be possible to gain views of the development through the spaces between the properties within the street. However, in my view, any views would not result in significant visual harm due to the distance of approximately 60m between the rear elevation of the proposed pair of semi detached dwellings and the dwellings within Upper Fant Road. As such, I consider that there would not be a significant impact upon the streetscene of Upper Fant Road.

5.4.3 With regard to the pattern of development, the existing dwellings within the vicinity follow a linear pattern of development which lines Tonbridge Road to the north west and Upper Fant Road to the south east. The development permitted under MA/08/2323 is situated to the rear of this line of dwellings and introduces further built development which breaks this consistent pattern of detached dwellings. However, the linear development fronting Tonbridge Road is still maintained through the erection of a dwelling at the entrance to All Angels Close. Therefore, whilst I recognise that the proposed dwellings in this location

would not follow the linear development fronting Tonbridge Road, in my view, this would not be significantly out of keeping with the pattern of development for this area due to the close proximity and layout of the neighbouring residential development of All Angels Close. This would therefore be in accordance with the guidance stated within PPS3 in terms of quality of housing, location within urban areas and design which reflects the appearance and character of the surrounding area.

- 5.4.4 The density of this development would be 37.6 dwellings per hectare, which is slightly above the density of the neighbouring development within All Angels Close which is 32.5 dwellings per hectare. However, I consider that this would be acceptable in this area due to the existing pattern of development along the south eastern boundary of All Angels Close which would be maintained within this proposal. In terms of the scale, the submitted plans show that the proposed dwellings would be of an identical scale to the neighbouring dwellings within All Angels Close with a matching ridge height. This would maintain the appearance of the street and would assist to assimilate the proposed dwellings within the character of All Angels Close.
- 5.4.5 In terms of the design and appearance of the dwellings proposed. The dwellings are of brick built construction, with a plain tile roof. This would be in keeping with the character and appearance of the neighbouring previously permitted residential development under MA/08/2323. The materials for this development have recently been approved which comprise Weinerburger Bloomsbury Stock bricks and Redland duoplan tiles. I therefore consider that it is appropriate to condition the materials used for this proposed development to match this to secure an in keeping appearance. This design includes the brick banding detailing beneath the windows which would also match the design of All Angels Close. The dwellings would also follow sustainable building methods with a level 3 rating on the Code for Sustainable Homes. This would also assist in creating a development which follows the provisions of national policy within PPS1 as well as more localised policy with the South East Plan 2009, and in particular CC1 and CC4.
- 5.4.6 In the interests of the character of the development and visual appearance, I also consider that it is appropriate that a condition be imposed requiring windows/doors (including garage doors) be recessed a minimum of 70mm in order to ensure that the buildings have a degree of layering – with shadowing creating interest. I would also suggest that it is important to receive precise details of the roof overhang for the same reasons. This would therefore ensure that there is a level of continuity between the previously approved scheme and this proposed development further reducing the visual impact of this proposal.
- 5.4.7 In terms of layout of the development, the siting of the proposed dwellings allows the suitable continuation of the access road from All Angels Close. The

layout of the dwellings within plots B and C also maintains the existing building line which follows the south eastern boundary of the site thus maintaining the character and appearance of All Angels Close. The siting of the dwellings either side of the access and a distance of approximately 21m between would result in a space in the built development along the south western boundary and does not give the development an ending in terms of the built development at the focal point in the Close. This would appear to allow for future development of the remaining gardens further to the South West of the site. However, I consider that this would not significantly compromise the visual appearance of the development to such a degree which would warrant a refusal of planning permission in this case. Overall, I consider that the appearance, layout and character of this proposed development would be in keeping with that of All Angels Close and would not appear significantly incongruous or result in any detrimental visual harm within the surrounding area.

## **5.5 Landscaping**

5.5.1 With regards to the landscaping provision within the site, the submitted landscaping plan shows the planting of Cherry and Field Maple trees within the rear garden of plot A as well as an additional Field Maple centrally sited along the south western boundary at the focal point within the highway. There is also some additional planting within the front garden area of plot A which would also assist in softening the appearance of this boundary. Planting is also proposed along the front north eastern boundary of plot A and the front north west boundary of plots B and C in the form of shrub planting. Negotiations have taken place with the applicant with regard to the proposed hardstanding within the site which appeared to be in excess of what is necessary for a development of this scale. This has resulted in the removal of the turning head to the front of plot A and replaced with additional landscaping including shrub planting and a number of trees. The driveway to plot A would also be narrowed to enable a wider planting belt along the north eastern boundary to the front of plot A. Additional planting would then be provided with a number of trees placed along this area together with shrub planting. This would also include the provision of a tree on the corner of the boundary adjacent to the highway which would soften the entrance to the development. I consider that these changes would greatly increase the visual appearance of this development and would seek to further reduce the visual impact of the space along the south western boundary as discussed within paragraph 3.4.7 above. The provision of a tree within the north eastern boundary would frame the entrance to the site and would further add to the softer appearance to the development continuing from All Angels Close.

5.5.2 The landscape officer has been consulted on landscaping proposed within this scheme. The comments received raise issues over the level of detail submitted within the proposal and suggest that the ornamental species listed will grow too large for their location. I acknowledge these comments, although I consider that



the landscaping proposed is sufficient in detail to illustrate the positioning and type of landscaping within this site. However, a landscaping scheme detailing planting size, designation and numbers for the areas shown for landscaping shown using native species will be required by condition. This would incorporate the landscape officer's comments and would require details to be submitted to the Council for approval prior to the commencement of the development.

5.5.3 The representations received have comments with regard to the rear south east boundaries of plots B and C and the loss of the existing planting along this boundary. There is currently an existing boundary wall of approximately 1m in height when measured from the application site; due to the topography of the land, the wall is higher within the rear gardens of Upper Fant Road. The applicant has confirmed that the boundary wall would be retained; however, I consider that it is reasonable to impose a condition requiring the planting of a hedge along this boundary to the north west of the wall within the rear garden of plots B and C to mitigate the loss of the planting which has been cleared.

5.5.4 In terms of the hardstanding within the development, block pavers will be used within the extended highway and parking areas. This I consider would further support the continuation of the character of All Angels Close and would assist in maintaining the character and appearance of the development. The removal of the turning head would significantly reduce the level of hardstanding within the site whilst maintaining an acceptable level of access.

## 5.5 Highways and Sustainability

5.5.1 In respect of highway matters, the vehicular access from Tonbridge Road permitted under MA/08/2323 would be utilised for this development with the continuation of All Angels Close to provide vehicular access to the proposed dwellings.

5.5.2 In terms of the visual impact, as discussed above within paragraph 3.5.1, I recognise that a significant level of hardstanding was proposed within this scheme, however with the removal of the turning head and the narrowing of the driveway to plot A, I consider that this has been sufficiently reduced. The amendment has significantly improved the visual appearance of the development whilst maintaining a sufficient level of hardstanding for access to the dwelling proposed as well as continuing the appearance of the development from All Angels Close. In terms of drainage, the KCC Highways officer was consulted and did not raise any objections with regards to the drainage of the highway. I have considered this issue and consider that the details submitted are acceptable.

5.5.3 With regard to parking provision, six parking spaces are proposed for the three new dwellings, of which 4 are independently accessible which I consider to be acceptable. KCC Highways have also been consulted in this respect and have

raised no objections to the proposal in line with the considerations expressed above.

5.5.4 With regard to the sustainability of the proposed dwellings, as previously stated the application site is within the designated urban boundary and within an established residential area on a main route to the town centre and to the surrounding areas. Tonbridge Road is also well served by public transport with a number of bus routes both to the town centre and to other areas including Maidstone Hospital, Tonbridge and Tunbridge Wells. The site is also within a reasonable walking distance of the town centre and Maidstone West rail station. As such, I consider that the site is located within a sustainable location where facilities exist to encourage the use of public transport rather than a continued dependence on the private vehicle.

## 5.6 Residential Amenity

5.6.1 With regard to the impact of the development upon neighbouring residential amenity. Whilst I acknowledge that both dwellings B and C would be orientated with their rear elevations facing the back gardens of existing properties within Upper Fant Road, there would be a distance of approximately 30m retained between the rear elevations of plots B and C and the neighbouring properties within Upper Fant Road. This is identical to the previously approved dwellings to the north east of the site and I consider that this would ensure that there would not be a significant impact upon the neighbouring amenity of the occupiers of the neighbouring dwellings within Upper Fant Road, in particular numbers 73, 75 and 77 which border the application site.

5.6.2 With regard to the impact of the proposed dwelling at plot A upon neighbouring amenity, three representations received raised comments with regard to the potential loss of privacy and overlooking as a result of the accommodation within the roof and 2 and a half storey design. Comparisons have also been given to a previous application under MA/08/0900 which was refused and dismissed at appeal raising this as an issue. This previously refused scheme comprised a much larger residential development with blocks of three storey town house style dwellings, all with rear windows which would afford views towards properties within Upper Fant Road and were sited closer to the common boundary. The proposed scheme however, only includes the provision of two dormer windows within the front elevation which would afford similar views. However, one of these windows would serve a bathroom and therefore would be obscure glazed which would resolve the issue of overlooking and privacy from this window. The remaining front dormer window would be sited approximately 67m from the rear of the dwellings within Upper Fant Road and would be screened partially by the proposed dwellings at plots B and C. I recognise that the land has a sloping topography with the application site set on a higher level than the dwellings within Upper Fant Road, however, by virtue of the distance



between them of 67m for plot A and 30m for plots B and C I consider that there would not be a significant impact upon the amenity of the occupiers within Upper Fant Road including loss of privacy, overlooking, loss of light or outlook.

5.6.3 In conclusion, I consider that the proposal would not have a detrimental impact upon the amenities of the neighbouring occupiers, both in terms of overlooking and overshadowing.

## 5.7 Ecology

5.7.1 In terms of ecology, although the site has now been cleared, there is a maintained lawn area with planted borders and some established planting within the garden area to the north west of the site. Prior to the clearance of the site, this continued to the south eastern boundary, although the boundary planting to the south western boundary still remains. An ecology survey has not been submitted as part of this application, however, in my view, I consider that due to the clearance of the site and the maintained nature of the retained garden area to the north west, the site would have a limited biodiversity value and therefore an ecology survey is not necessary in this case. This is also the view of the KCC Biodiversity Officer who was consulted on this application.

5.7.2 As previously discussed, there is some established planting along the south western boundary of the site and there may be the possibility for breeding birds within this area. However, the planting was small in height so have lower potential to be suitable for roosting bats. Therefore, I consider that it is appropriate to impose an informative alerting the applicant of the possibility of breeding birds within this area. If breeding birds are discovered, it is advised that no work must be carried out in that area until all the young have fledged.

5.7.3 Whilst, as discussed, the site has a limited potential for biodiversity, in accordance with the guidance within PPS9, I consider that it is appropriate to introduce measures to support biodiversity. This would be secured by the use of native species within the landscaping of the site as discussed within section 5.5, together with, the erection of bird and bat boxes and swift bricks within the site which would be secured by a condition.

5.7.4 In conclusion, with the additional measures described above, I do not consider that this proposal would result in any significant detrimental harm upon any protected species or the general biodiversity of the area.

## 5.8 Environmental Health

5.8.1 The Environmental Health Officer has been consulted on this application and has raised no objections to the proposal subject to the completion of an acoustic assessment. Such an assessment was carried out under the previously

approved application (MA/08/2323) which concluded that the plots to the rear of the site are sufficiently far back from the site that traffic noise is not an issue for them. Therefore I consider that a further acoustic assessment is not necessary for this application.

## **6. Other Matters**

6.1.1 Whilst I acknowledge that the development of this site in this layout would leave the potential for further development within the neighbouring gardens to the north west of the site. However, each planning application is considered on its own merits and the specific impact of that development and this reason alone would not warrant a refusal of planning permission. There has been the suggestion raised by a neighbour that a Character Assessment should be undertaken with regard to the land to the rear of the dwellings in Tonbridge Road to outline and give parameters for future development. In my view, an independent strategic approach by the Council to future development in this area would not be entirely justified due to scale of the site and the fact that permission has previously been granted for residential development. Therefore, in the event that future proposals are submitted to the council to develop sites further to the northwest, the character, appearance and quality of any development, taking in the account the landscaping, hardstanding and materials used, would be significantly influenced by previously permitted development within All Angels Close.

6.1.2 It is also apparent that due to the small scale of this proposed development, no contributions would be paid in respect of planning gain. I am aware that the development of smaller plots in stages within the vicinity would also not feature any such contributions and may not deliver such a comprehensive layout which could be achieved with a larger scheme, however, the Council is unable to control the supply of this land, due to its private ownership, and in my view, this matter would not be a reason for refusal of the application.

## **7. CONCLUSION**

7.1 After considering all the issues involved as outlined above, I consider that this proposal would not result in any significant visual harm to the character and appearance of the area which would warrant a refusal of planning permission. The amendments the Annexe B of PPS3 is clearly important to the development of this site, although I consider that the granting of the previously approved residential development which borders to the site forms a material consideration and holds significant weight with regard to the principle of development in this location. The development is also not considered to result in any significant detrimental harm to neighbouring amenity and biodiversity within this area. It is therefore considered for the reasons outlined above that the proposal is acceptable with regard to the provisions of local and national planning policy and

that no other material considerations would indicate a refusal of planning permission.

## **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 materials to be used in the construction of the external surfaces of the dwellings hereby permitted shall be Weinerburger Bloomsbury Stock bricks and Redland duoplan tiles as previously permitted elsewhere within All Angles Close. Written consent shall be sought for the Local Planning Authority prior to the use of any other materials for the construction of the development hereby permitted.

Reason: To maintain the character and appearance of All Angels Close in accordance with the guidance stated within PPS3 and policies BE1 and CC4 of the South East Plan 2009.

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

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

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a detailed scheme of landscaping, using indigenous species and showing the planting size of all soft landscaping within the site. This shall also include the provision of a native hedgerow to the rear south eastern boundaries of Plots B and C abutting the retained boundary wall. The

scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines. The development shall be maintained as such unless the written consent of the Local Planning Authority is obtained;

Reason: No such details have been submitted and in the interests of the visual amenities of the locality in accordance with Policy ENV6 of the Maidstone Borough Wide Local Plan 2000 and PPS1 and policies CC1 and CC6 of the South East Plan 2009.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

6. No development shall take place until details in the form of large scale drawings (at a scale of 1:20 or 1:50) of the following matters have been submitted to and approved by the Local Planning Authority;
  - i) Details of the roof overhangs.
  - ii) Details of windows and doors and recesses/reveals (which shall be a minimum of 70mm).
  - iii) Details of the soldier arches.

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

Reason: To ensure a satisfactory external appearance to the development in the interests of the visual amenity and character of the surrounding area in accordance with PPS1.

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

Reason: to ensure a sustainable and energy efficient form of development in

accordance with policy CC4 of the South East Plan 2009, Kent Design 2000 and PPS1.

8. All hardstanding including the approved parking areas shall be constructed using a porous material and shall be carried out as shown in the submitted plan number P030-035 received 15th March 2011.

Reason: In the interests of visual amenity, and to reduce the level of surface water run off to surrounding land, in accordance with PPS1.

9. Removal of existing trees or hedgerows containing nesting birds shall take place outside of the bird-breeding season (generally March to August).

Reason: To ensure the protection of biodiversity on the site, in accordance with PPS9.

10. There shall be the provision of bat boxes, bird boxes and swift bricks included within the development.

Reason: To ensure the protection and enhancement of biodiversity on the site, in accordance with PPS9.

11. No development shall take place until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area in general pursuant to Policy ENV49 of the Maidstone-Wide Local Plan 2000.

12. Other than where stated in the conditions above, the development hereby permitted shall be carried out in accordance with the following approved plans:

Plan numbers PL-079-01, PL-079-02, PL-079-03, PL-079-04, PL-079-05, PL-079-06, PL-079-07, PL-079-08, PL-079-09, PL-079-10, PL-079-11, PL-079-12, PL-079-13, PL-079-14, PL-079-15, PL-079-16, design and access statement and application form received 27th April 2011 and plan number P030-035 received 15th March 2011.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with policies ENV6 and T13 of the Maidstone Borough Wide Local Plan 2000 and policies BE1, CC1, CC4, H5 and of the South East Plan 2009.

### **Informatives set out below**

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

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

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

No vehicles may arrive, depart, be loaded or unloaded within the general site outside 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.

Reasonable and practicable steps should be used during any demolition or removal of existing structure and fixtures, to dampen down, using suitable water or liquid spray system, the general site area, to prevent dust and dirt being blown about so as to cause a nuisance to occupiers of nearby premises.

Where practicable, cover all loose material on the site during the demolition process so as to prevent dust and dirt being blown about so as to cause a nuisance to occupiers of nearby premises.

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

The applicant is informed of the possibility of breeding birds within this area. If breeding birds are discovered, it is advised that no work must be carried out in that area until all the young have fledged.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.





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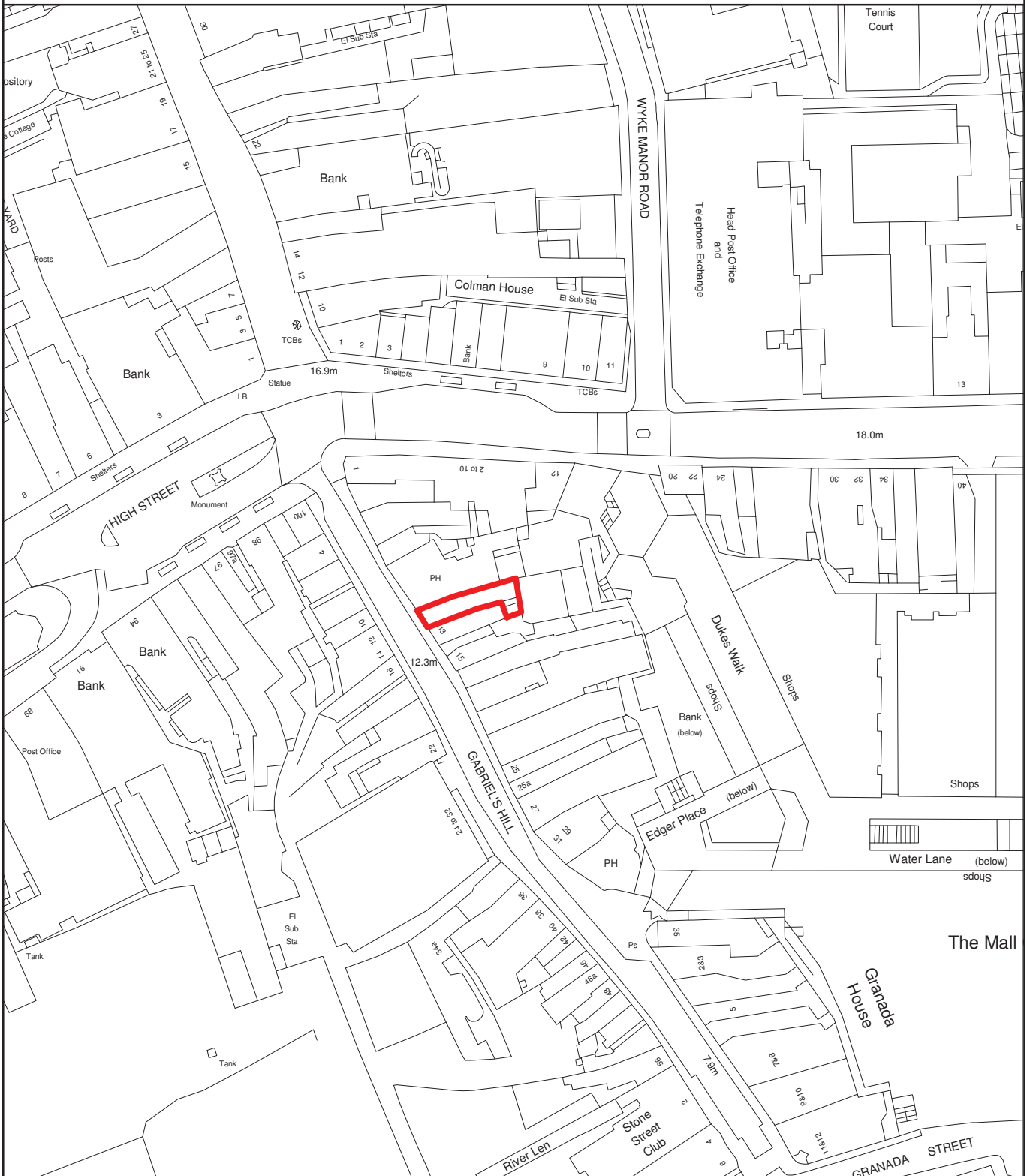


## THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/0701

GRID REF: TQ7655

11 GABRIELS HILL,  
MAIDSTONE.



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**Rob Jarman**  
**Head of Planning**

APPLICATION: MA/11/0701 Date: 21 April 2011 Received: 2 November 2011

APPLICANT: Mr S Nagar

LOCATION: 11, GABRIELS HILL, MAIDSTONE, KENT, ME15 6HL

PARISH: Maidstone

PROPOSAL: Change of use of first and second floors to form two self contained flats as shown on drawing numbers 2015/01, 2015/02 and 2015/03 and Noise Assessment by Peter Moore dated 9th February 2007 received 16th May 2011; drawing numbers 2015/15 and 2015/16 received 26th October 2011; and drawing numbers 2015/13A and 2015/15A and Design and Access Statement and Heritage Statement dated October 2011 received 2nd November 2011.

AGENDA DATE: 12th January 2012

CASE OFFICER: Catherine Slade

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

- The applicant is married to an employee of the Council.

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: T13, R7, R19
- South East Plan 2009: SP3, CC1, CC6, H1, H4, T4, BE1, BE6
- Village Design Statement: Not applicable.
- Government Policy: PPS1 Delivering Sustainable Development, PPS3 Housing, PPS5 Planning for the Historic Environment, PPG13 Transport, PPG24 Planning and Noise
- Other: Maidstone Centre Conservation Area Appraisal

## **2. HISTORY**

- MA/11/0702 An application for listed building consent for works to facilitate the change of use of first and second floors to form two self contained flats – CURRENTLY UNDER CONSIDERATION
- MA/08/1983 An application for listed building consent for alterations and extensions to provide 2 (no) one bed apartments inc. addition of a single storey rear extension to roof terrace, addition of part external staircase and new door entry at second floor level and restoration /alterations to existing outbuilding - REFUSED



- MA/08/1982 Alterations and extensions to provide two one bed apartments - REFUSED
- MA/07/0290 Conversion of upper floors from shop storage into a studio at first floor and a maisonette at second and third floor - REFUSED
- MA/07/0289 An application for listed building consent for conversion of upper floors from shop storage into studio at first floor and a maisonette at second and third floor - REFUSED
- MA/06/2248 An application for listed building consent for the removal of internal staircase, new external staircase to rear for access to upper floors and insertion of rear door to rear elevation for access into upper floors – APPROVED WITH CONDITIONS
- MA/06/2247 New External staircase to rear for access to upper floors and insertion of door to rear elevation for access into upper floors - APPROVED WITH CONDITIONS

- 2.1 The proposal site has an extensive development management history, in respect of applications for planning permission, listed building consent and advertisement consent, some of which are not directly applicable to the current proposal. The details of the relevant history are summarised above.
- 2.2 Planning permission and listed building consent have previously been refused for the conversion of the upper floors of the building to provide two independent residential units. The reasons for the refusal of the previous applications for planning permission and listed building consent are summarised in the table below.

<b>Application reference number</b>	<b>Application type</b>	<b>Reason(s) for refusal</b>
MA/08/1983	Listed building consent	The insertion of the staircase, in particular the external section between the first and second floors would provide a modern feature that would not compliment the character and historic integrity of the Grade II listed building.
MA/08/1982	Planning permission	Due to insufficient acoustic protection and the site's proximity to nearby noise sources, the proposal would result in an unsatisfactory living environment for future occupiers.  The installation of the external staircase between the first and second floors would provide a modern feature that would not compliment the character and historic integrity of this listed building or the surrounding conservation area.
MA/07/0290	Planning permission	Due to insufficient acoustic protection and the site's proximity to nearby noise sources, the proposal would result in an unsatisfactory living environment for

MA/07/0289	Listed building consent	<p>future occupiers.</p> <p>The removal of the original staircase between the first and second floors would result in the loss of a valuable feature of the Grade II listed building, which would be detrimental to its character, special interest and historic integrity.</p> <p>The installation of acoustic protection measures required to mitigate noise pollution for future occupiers would, in the opinion of the local planning authority, involve works which would substantially alter the glazing and structure of the building, causing unacceptable harm to its character, appearance and historical integrity.</p>
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2.3 The current proposal is the subject of a concurrent application for listed building consent, the details of which are set out above.

### 3. **CONSULTATIONS**

3.1 **MBC Conservation Officer:** Raises no objection to the proposal.

3.2 **MBC Environmental Health Manager:** Initially raised objection to the proposal on the grounds that "as in 2007 – the application should be rejected on noise grounds – the building is not capable of being mitigated against noise because of its listed status".

This objection was subsequently withdrawn as a result of the submission of additional documentation by the applicant which detailed works to the external and party walls, ceilings and floors for thermal and acoustic upgrading of the building, as shown on drawing numbers 2015/13A and 2015/15A received 2<sup>nd</sup> November 2011, subject to the acoustic protection measures proposed being carried out in accordance with the recommendations of the Acoustic Report undertaken by Peter Moore in 2007. The following detailed comments were subsequently made by the officer:

*"My last comments in connection with this application were made on 27<sup>th</sup> June 2011. I reiterated at that time that there was nothing to change my opinion, first described for application MA/07/0290, that this building was not capable of being sufficiently modernised to give adequate protection to future inhabitants regarding entertainment noise, not helped by the fact that this property is listed. I am now informed that there have been recent discussions with the conservation officer and he is prepared to allow alterations which will include sound insulation. This information has been submitted in a series of drawings*

*which purport to be in line with the suggested noise mitigation measures described in Peter Moore's original 2007 acoustic assessment. If that is the case, then these details are about as good as this building can expect. There has also been a change in the noise environment in this vicinity, resulting in less noise being generated, particularly to the rear of this property. Taking all these factors into account these measures are acceptable, though with the usual proviso that the workmanship must be of the highest order. The condition imposed in 2007 for MA/07/0290 may perhaps be too onerous now for the noise climate that exists in and around Gabriel's Hill. Therefore, I am prepared to accept these measures as being the only way forward to protect future residents from excessive entertainment noise. If they are carried out as described in these amended plans, i.e. as per Peter Moore's 2007 description I will withdraw my objection to this development from a noise perspective."*

#### **4. REPRESENTATIONS**

- 4.1 No representations were received as a result of the publicity procedure.

#### **5. CONSIDERATIONS**

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

- 5.1.1 The application site is located to the north east of Gabriel's Hill, a highway subject to traffic control within the core shopping area of the town centre of Maidstone, as designated by policy R7 of the Local Plan.
- 5.1.2 The site comprises a three storey eighteenth century terraced property fronting directly onto the highway which is Grade II listed as group comprising number 11-15 Gabriel's Hill. The buildings were listed in 1974. The site is also located within the Maidstone Centre Conservation Area.
- 5.1.3 The application relates to above ground floor level accommodation of number 11 only, which is accessed from the rear of the premises via an alley way from Gabriel's Hill. The building has been extended to the rear through the introduction of various single storey outbuildings, and access to the interior of the building is gained via an external stairway and existing flat roof.
- 5.1.4 The building is in commercial use at ground floor level, and is vacant above. The ground floor has a modern shop front, but internal and external features of interest have been retained in other parts of the building, including dormers, sash joinery, fireplaces and cornices. It is understood that the use of the building would originally have been as a shop at ground floor level with associated living accommodation above.

5.1.5 The property adjoining the site to the north has a lawful use falling within Use Class A4, although it is currently vacant. Most other buildings along this stretch of Gabriel's Hill are in commercial uses falling within A1, A2, A3 and A5 with ancillary uses, offices or residential accommodation above.

## **5.2 Proposal**

5.2.1 The application seeks planning permission for the change of use of the first and second floors and the space within the roof of the building to use as two separate residential units; and associated development including the introduction of a first floor rear extension and works to an existing outbuilding including the rearrangement of openings to facilitate the change of use.

5.2.2 The works to the exterior of the building comprise the introduction of a first floor extension to the rear of the property to provide an enclosed access to the premises which would comprise a mono-pitched structure which would be partially timber boarded with a slate roof, and partially glazed with resin bonded roof and elevations. These works would include the rearrangement of the openings to an existing outbuilding to the rear of the property which would enable use of the roof space of the outbuilding to enable enclosed access to the proposed residential units and provide additional storage for the properties.

5.2.3 The application also includes the replacement of the joinery to the openings of the building.

5.2.4 A separate application for listed building consent under MA/11/0702 seeks consent for internal works to enable the use of the property as two separate residential units. These include the removal of recent stud walls and the introduction of partition walls in the rear of the building; the introduction of an additional staircase in the rear of the building. In addition, works are proposed to the external and party walls, ceilings and floors for thermal and acoustic upgrading of the building.

5.2.5 Planning permission has previously been refused for the conversion of the property for residential purposes, for the reasons set out in the table in paragraph 2.2. In both previous cases planning permission was refused on the grounds that the residential amenity of the occupiers could not be secured in respect of acoustic disturbance. The supporting documentation submitted in support of the current application includes an acoustic report by Peter Moore, and detailed drawings showing the proposed acoustic (and thermal) protection measures to the external and party walls, ceilings and floors for thermal and acoustic upgrading of the building, the details of which have not previously been submitted. The previous applications were also refused on the grounds of the impact of the proposal on the character and appearance of the listed building, however the applicant has sought to overcome these reasons for refusal though

the retention of the original staircase (MA/07/0289) and the omission of an external stairway to a new second floor opening (MA/08/1983).

### **5.3 Principle of Development**

- 5.3.1 The proposal site is located well within the defined centre of Maidstone in a sustainable location in close proximity to the town's bus station and three railway stations well served by local facilities and amenities. The principle of residential use in this location is therefore acceptable, in accordance with central government planning guidance in PPS1 Planning for Sustainable Development and PPS3 Housing.
- 5.3.2 The site is also located in the core shopping area of Maidstone, and as such is subject to Maidstone Borough-Wide Local Plan 2000 saved policy R7 which seeks to maintain existing retail uses falling within Use Class A1. However, the proposal would not result the loss of the existing retail unit at ground floor level.
- 5.3.3 For the reasons set out above, it is considered that the principle of the change of use is acceptable in the context of local, regional and national planning policy and guidance.

### **5.4 Visual Impact**

- 5.4.1 The works proposed to the rear of the building comprise a modest lean to extension formed of a mixture of materials including timber boarding, slate and resin glazing, and works to an existing building. It is considered that the extension, through its design and scale and the choice of materials, pay respect to the character and appearance of the original building.
- 5.4.2 In the circumstances of this case it is considered that the impact of the proposal on public views of the building is acceptable, and that it would make a positive contribution to the overall appearance of the listed building. In any case, the works would be subject to limited views from ground floor level, which would be restricted to views from the private access alley way to the rear of the building, which members of the public would not be expected to use on a regular basis. The frontage of the unit is to remain largely unchanged and therefore there would be limited impact upon the appearance of the streetscene.
- 5.4.3 The site fronts directly onto the highway, and is laid to hard surfacing to the rear. Under these circumstances it is not considered reasonable and necessary to attach landscaping conditions to the permission.

## **5.5 Residential Amenity**

- 5.5.1 The key issue of residential amenity arises from conflict between existing “town centre night economy” activities in the surrounding area, which includes bars, pubs and clubs, and the proposed residential use of the building.
- 5.5.2 The applicant has submitted a report undertaken by Peter Moore dated October 2007, which contains a measurement of the levels of noise experienced within the property (undertaken at 2200 on a Saturday night), together with recommendations for reducing this through the introduction of secondary glazing and wall lining (specified as a Gyproc Gyplyner System, as set out in the report). Details of how and where this would be implemented within the property are shown on drawing numbers 2015/13A and 2015/15A. The report was submitted previously in support of the refused applications, but not the details of how the mitigation measures would be achieved. The measures include in addition to the measures set out in the Peter Moore report, the introduction of flooring and ceiling linings, which would allow the retention of the existing cornices.
- 5.5.3 As set out above, comments have been received from both the Maidstone Borough Council Conservation and Environmental Health Officers in regard to the proposals. The Conservation Officer has confirmed that the mitigation measures, as shown on the submitted drawings, are acceptable and would not result in the loss of original features of interest or harm to the architectural or historic interest of the property. The Environmental Health Officer has stated that, in light of the Conservation Officer’s acceptance of the proposed works to allow sound insulation, and the drawings submitted which show how the mitigation can be implemented, that the objection to the proposal on noise grounds is withdrawn.
- 5.5.4 Although a first floor rear extension is proposed, the scale, design, and position of the building in relation to the neighbouring properties is such that it is not considered that the structure would result in any additional harm to the amenity of neighbouring occupiers with regard to loss of light, privacy or outlook.

## **5.6 Other Matters**

- 5.6.1 The property is a Grade II listed building, and the Conservation Officer has raised no objection to the principle of the change of use or detail of the proposed works to the building. These are considered in detail in the report relating to MA/11/0702.
- 5.6.2 The layout of the proposed units and the level of accommodation proposed is considered to be capable of providing an adequate standard of living.

5.6.3 Although no on site car parking is proposed, in light of the transport alternatives available and the constraints of the site, it is not considered that the failure to provide off street parking is unacceptable in the circumstances of this case.

## **6. CONCLUSION**

6.1.1 The principle of the change of use of the upper floors of the building to residential use is considered to be acceptable in this location. The Maidstone Borough Council Conservation Officer has confirmed that the proposal would not result in any significant harm to the character or appearance of either the listed building or the conservation area. The proposal would not result in the loss of a retail unit at ground floor level.

6.1.2 With regard to residential amenity, the Maidstone Borough Council Environmental Health Officer has confirmed that the measures proposed (subject to being undertaken to an acceptable standard) are adequate to secure the residential amenity of the future occupiers of the units, and the Conservation Officer has confirmed that the proposed mitigation is acceptable in terms of the impact on the fabric of the listed building.

6.1.3 Furthermore, for the reasons set out above, the amended scheme is considered to satisfactorily overcome the reasons for the refusal of the previously applications.

6.1.4 It is therefore concluded that planning permission be granted subject to conditions.

## **7. RECOMMENDATION**

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

Reason: To ensure a satisfactory appearance to the development and that the

historic appearance, character and significance of the heritage assets are maintained in accordance with policies CC1, CC6 and BE6 of the South East Plan 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development and PPS5 Planning for the Historic Environment.

3. Drawing numbers 2015/01, 2015/02 and 2015/03 and Noise Assessment by Peter Moore dated 9th February 2007 received 16th May 2011; drawing numbers 2015/15 and 2015/16 received 26th October 2011; and drawing numbers 2015/13A and 2015/15A and Design and Access Statement and Heritage Statement dated October 2011 received 2nd November 2011;

Reason: To ensure a satisfactory appearance to the development and that the historic appearance, character and significance of the heritage assets are maintained and to ensure that the residential amenity of the future occupiers of the residential units is maintained in respect of noise in accordance with policies CC1, CC6, BE1 and BE6 of the South East Plan 2009 and central government planning policy and guidance in PPS1 Delivering Sustainable Development, PPS5 Planning for the Historic Environment and PPG24 Planning and Noise.

### **Informatives set out below**

Please note that the internal works should be undertaken strictly in accordance with the details shown on drawing numbers 2013/13A and 2015/15A received 2nd November 2011, as set out in the Peter Moore report dated 9th February 2007 in order to ensure adequate acoustic protection of future residential occupiers and the retention of ceiling roses and any other features of interest.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.



05.01.2012



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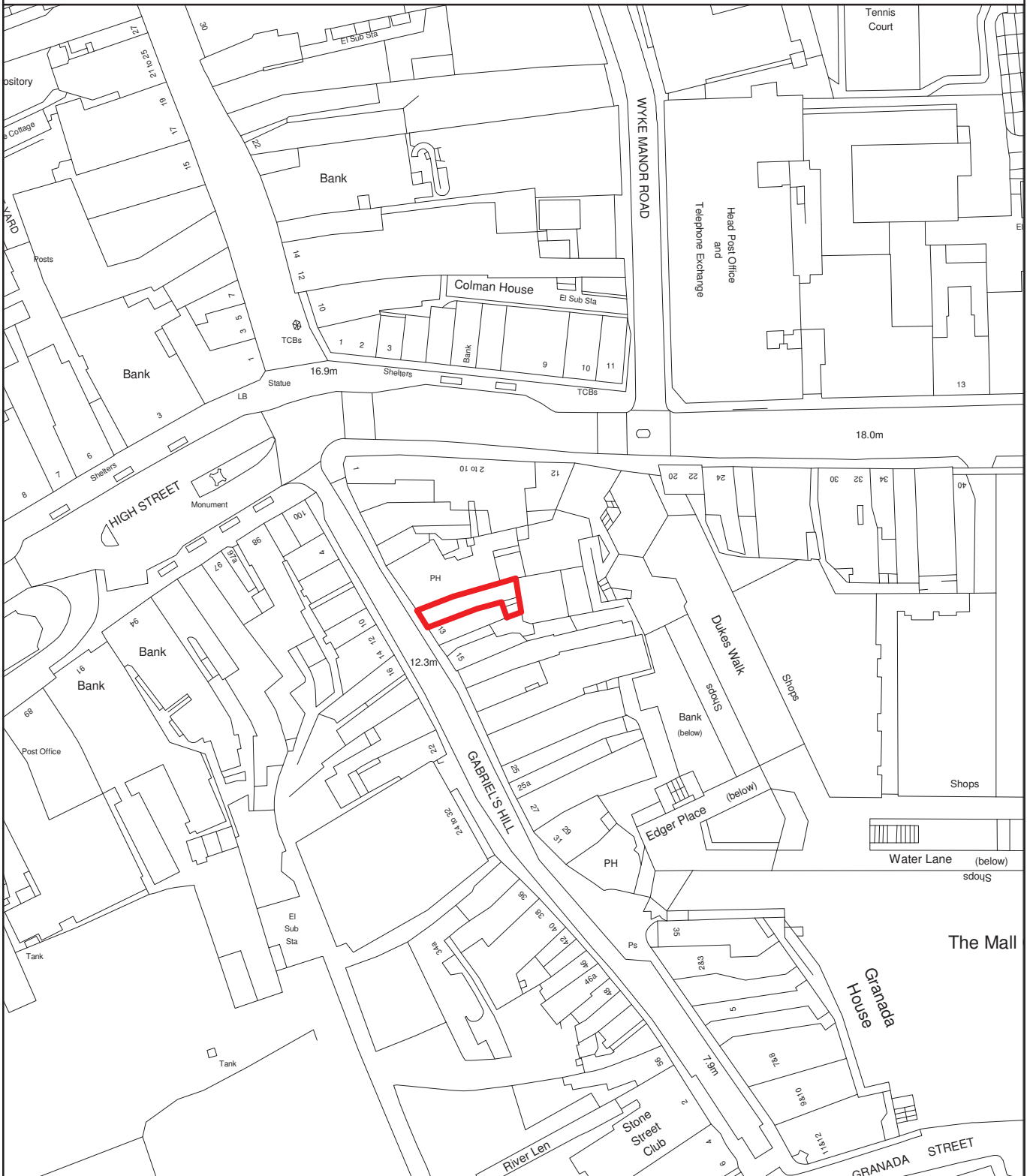
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## THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/0702

GRID REF: TQ7655

11 GABRIELS HILL,  
MAIDSTONE.



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**Rob Jarman**  
**Head of Planning**

APPLICATION: MA/11/0702 Date: 21 April 2011 Received: 2 November 2011

APPLICANT: Mr S Nagar

LOCATION: 11, GABRIELS HILL, MAIDSTONE, KENT, ME15 6HL

PARISH: Maidstone

PROPOSAL: An application for listed building consent for works to facilitate the change of use of first and second floors to form two self contained flats as shown on drawing numbers 2015/01, 2015/02 and 2015/03 and Noise Assessment by Peter Moore dated 9th February 2007 received 16th May 2011; drawing numbers 2015/15 and 2015/16 received 26th October 2011; and drawing numbers 2015/13A and 2015/15A and Design and Access Statement and Heritage Statement dated October 2011 received 2nd November 2011.

AGENDA DATE: 12th January 2012

CASE OFFICER: Catherine Slade

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

- The applicant is married to an employee of the Council

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: Not applicable.
- South East Plan 2009: BE6
- Village Design Statement: Not applicable.
- Government Policy: PPS5 Planning for the Historic Environment
- Other: Maidstone Centre Conservation Area Appraisal

## **2. HISTORY**

- MA/11/0701 Change of use of first and second floors to form two self contained flats- CURRENTLY UNDER CONSIDERATION
- MA/08/1983 An application for listed building consent for alterations and extensions to provide 2 (no) one bed apartments inc. addition of a single storey rear extension to roof terrace, addition of part external staircase and new door entry at second floor level and restoration /alterations to existing outbuilding - REFUSED
- MA/08/1982 Alterations and extensions to provide two one bed apartments - REFUSED



- MA/07/0290 Conversion of upper floors from shop storage into a studio at first floor and a maisonette at second and third floor - REFUSED
- MA/07/0289 An application for listed building consent for conversion of upper floors from shop storage into studio at first floor and a maisonette at second and third floor - REFUSED
- MA/06/2248 An application for listed building consent for the removal of internal staircase, new external staircase to rear for access to upper floors and insertion of rear door to rear elevation for access into upper floors – APPROVED WITH CONDITIONS
- MA/06/2247 New External staircase to rear for access to upper floors and insertion of door to rear elevation for access into upper floors - APPROVED WITH CONDITIONS

2.1 The proposal site has an extensive development management history, in respect of applications for planning permission, listed building consent and advertisement consent, some of which are not directly applicable to the current proposal. The details of the relevant history are summarised above.

2.2 Planning permission and listed building consent have previously been refused for the conversion of the upper floors of the building to provide two independent residential units. The reasons for the refusal of the previous applications for planning permission and listed building consent are summarised in the table below.

<b>Application reference number</b>	<b>Application type</b>	<b>Reason(s) for refusal</b>
MA/08/1983	Listed building consent	The insertion of the staircase, in particular the external section between the first and second floors would provide a modern feature that would not compliment the character and historic integrity of the Grade II listed building.
MA/08/1982	Planning permission	Due to insufficient acoustic protection and the site's proximity to nearby noise sources, the proposal would result in an unsatisfactory living environment for future occupiers.  The installation of the external staircase between the first and second floors would provide a modern feature that would not compliment the character and historic integrity of this listed building or the surrounding conservation area.
MA/07/0290	Planning permission	Due to insufficient acoustic protection and the site's proximity to nearby noise sources, the proposal would result in an unsatisfactory living environment for future occupiers.

MA/07/0289	Listed building consent	<p>The removal of the original staircase between the first and second floors would result in the loss of a valuable feature of the Grade II listed building, which would be detrimental to its character, special interest and historic integrity.</p> <p>The installation of acoustic protection measures required to mitigate noise pollution for future occupiers would, in the opinion of the local planning authority, involve works which would substantially alter the glazing and structure of the building, causing unacceptable harm to its character, appearance and historical integrity.</p>
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2.3 The current proposal is the subject of a concurrent application for planning permission, the details of which are set out above.

### **3. CONSULTATIONS**

3.1 Maidstone Borough Council Conservation Officer: raises no objection to the proposed works.

### **4. REPRESENTATIONS**

4.1 No representations were received as a result of the publicity procedure.

### **5. CONSIDERATIONS**

#### **5.1 Site Description**

5.1.1 The application site is located to the north east of Gabriel's Hill, a pedestrianised shopping road within the town centre of Maidstone. The building comprises a three storey eighteenth century terraced property which is Grade II listed as group comprising number 11-15 Gabriel's Hill. The buildings were listed in 1974.

5.1.2 The application relates to above ground floor level accommodation of number 11 only, which is accessed from the rear of the premises via an alley way from Gabriel's Hill. The building has been extended to the rear through the introduction of various single storey outbuildings, and access to the interior of the building is gained via an external stairway and existing flat roof.

5.1.3 The building is in commercial use at ground floor level, and is vacant above. The ground floor has a modern shop front, but internal and external features of interest have been retained in other parts of the building, including dormers,



sash joinery, fireplaces and ceiling roses. It is understood that the use of the building would originally have been as a shop at ground floor level with associated living accommodation above.

5.1.4 The site is located within the Maidstone Centre Conservation Area.

## **5.2 Proposal**

5.2.1 The application seeks listed building consent for works to facilitate the conversion of the building above ground floor level from a single vacant premises to two self contained residential properties arranged over the first and second floors, and utilising accommodation in the roof space.

5.2.2 The works to the exterior of the building include the introduction of a first floor extension to the rear of the property to provide an enclosed access to the premises which would comprise a mono-pitched structure which would be partially timber boarded with a slate roof, and partially glazed with resin bonded roof and elevations. These works would include the rearrangement of the openings to an existing outbuilding to the rear of the property which would enable use of the roof space of the outbuilding to enable enclosed access to the proposed residential units and provide additional storage for the properties.

5.2.3 The application also includes the replacement of the joinery to the openings of the building. All additional glazing would be secondary, and the overall appearance and arrangement of the openings (other than those described in paragraph 5.2.3 above) would remain the same.

5.2.4 The application also includes internal works to enable the use of the property as two separate residential units. These include the removal of recent stud walls and the introduction of partition walls in the rear of the building; the introduction of an additional staircase in the rear of the building. In addition, works are proposed to the external and party walls, ceilings and floors for thermal and acoustic upgrading of the building.

5.2.5 The works to the exterior of the building, comprising the introduction of a first floor rear extension and works to the exterior of the existing outbuilding, and the change of use of the building to provide two residential units are the subject of a separate application for planning permission (MA/11/0701).

5.2.6 The current scheme differs from the previous proposals, both of which were refused, in retaining the original staircase (MA/07/0289) and omitting an external stairway to a new second floor opening (MA/08/1983).

## **5.3 Assessment**

- 5.3.1 The application is for listed building consent, and as such the only matter for consideration under the scope of the current application is the impact of the proposal on the character and appearance of the Grade II listed building.
- 5.3.2 The Maidstone Borough Council Conservation Officer raises no objection to the proposal. It is considered that the current application for listed building consent addresses the reasons for refusal of the previous applications for listed building consent through the measures set out in paragraph 5.2.6.
- 5.3.3 The works proposed to the rear of the building, although designed in a modern vernacular, would compliment the existing building and, through the design and scale of the extension and choice of materials, pay respect to the character and appearance of the original building.
- 5.3.4 In the circumstances of this case it is considered that the impact of the proposal on public views of the building is acceptable, and that it would make a positive contribution to the overall appearance of the listed building. In any case, the works would be subject to limited views from ground floor level, which in any case would be restricted to views from the private access alley way to the rear of the building, which members of the public would not be expected to be used on a regular basis.
- 5.3.5 The proposed works to the interior of the building are considered to be appropriate and necessary for the conversion of the building to the use proposed (see MA/11/0701), and to retain the overall character of the original building whilst allowing the retention of original features of interest such as original walls and stairways, fireplaces and ceiling roses, and the arrangement of the fenestration. For these reasons the works to the interior of the building are considered to be acceptable.

## **6. CONCLUSION**

- 6.1 For the reasons set out above, it is considered that the design and scale of the proposed works would preserve the historical integrity and character of the Grade II Listed Building and would enhance its character and appearance, whilst having a limited impact upon that of the Conservation Area at ground level.
- 6.2 It is therefore concluded that Listed Building Consent be granted subject to conditions.

## **7. RECOMMENDATION**

LISTED BUILDING CONSENT BE GRANTED, subject to the following conditions:

1. The works to which this consent relates must be begun before the expiration of three years from the date of this consent;

Reason: In accordance with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Reason: To ensure a satisfactory appearance to the development and to secure the character and appearance of the heritage asset in accordance with policy BE6 of the South East Plan 2009 and central government planning policy and guidance in PPS5 Planning and the Historic Environment.

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

drawing numbers 2015/01, 2015/02 and 2015/03 and Noise Assessment by Peter Moore dated 9th February 2007 received 16th May 2011; drawing numbers 2015/15 and 2015/16 received 26th October 2011; and drawing numbers 2015/13A and 2015/15A and Design and Access Statement and Heritage Statement dated October 2011 received 2nd November 2011;

Reason: To ensure a satisfactory appearance to the development and to secure the character and appearance of the heritage asset in accordance with policy BE6 of the South East Plan 2009 and central government planning policy and guidance in PPS5 Planning and the Historic Environment.

### **Informatives set out below**

Please note that the internal works should be undertaken strictly in accordance with the details shown on drawing number 2015/15A received 2nd November 2011 in order to allow the retention of ceiling roses and any other features of interest.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

05.01.2012



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KEY PLANING  
BURGERS

JEWELLER  
CORNELL  
SILVERSMITH

67

Page UK

LAU  
HAIR DRESSING

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69

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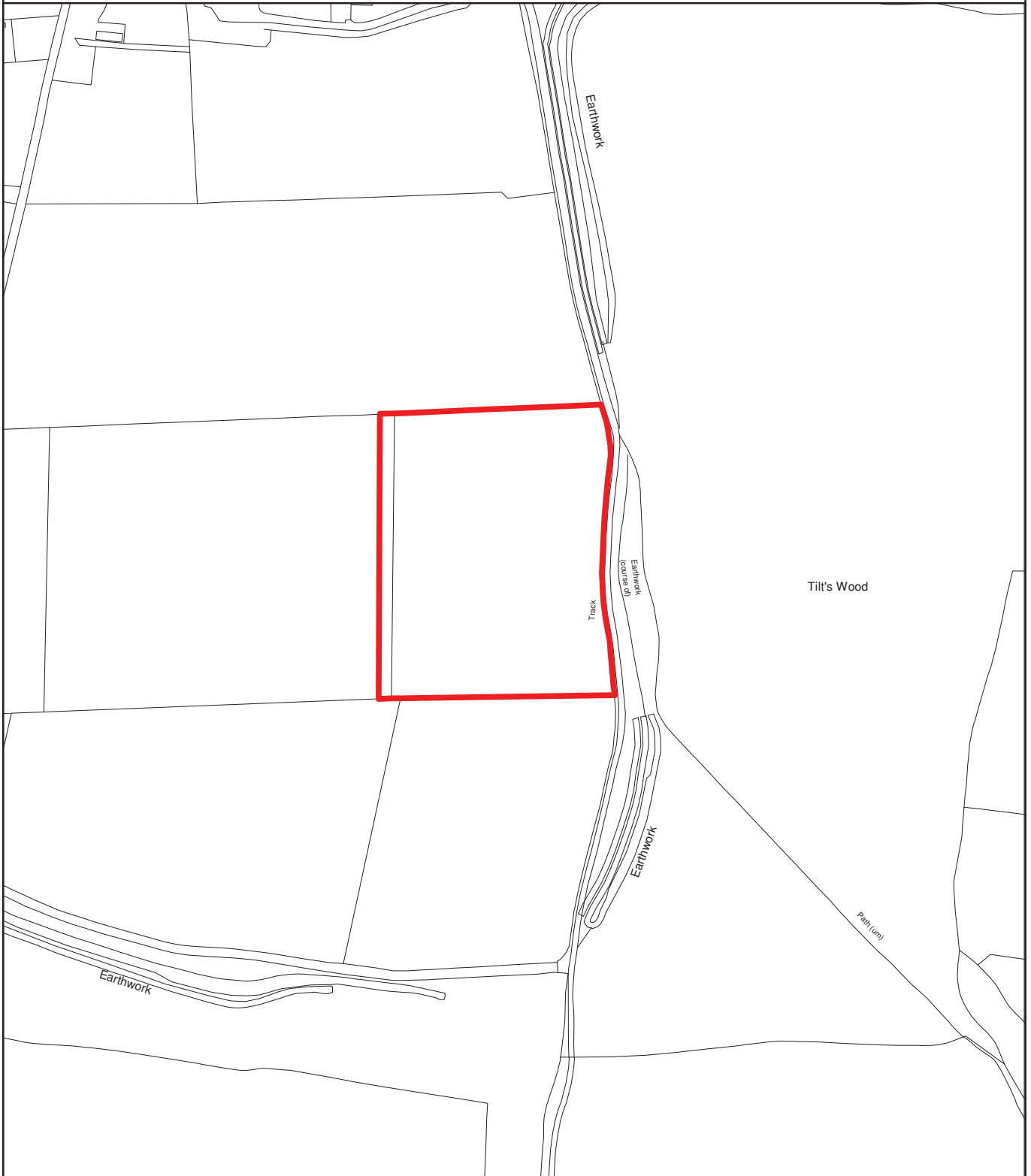
# Agenda Item 16

## THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/0744

GRID REF: TQ7750

THE ORCHARDS SNOWEY TRACK OFF,  
PARK LANE, BOUGHTON MONCHELSEA.



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**Rob Jarman**  
**Head of Planning**



APPLICATION: MA/11/0744 Date: 9 May 2011 Received: 17 August 2011

APPLICANT: Mr & Ms Love, Peckham & Butler

LOCATION: THE ORCHARDS SNOWEY TRACK OFF, PARK LANE, BOUGHTON  
MONCHELSEA, MAIDSTONE, KENT, ME17 4JJ

PARISH: Boughton Monchelsea

PROPOSAL: The change of use of the site to a residential caravan site for 4 gypsy families involving the siting of 4 mobile homes, 4 touring caravans, the erection of 4 brick-built amenity blocks with associated parking areas as shown on site location plan received on 10/5/11; and drawing no. MAI/11473/P received on 23/5/11.

AGENDA DATE: 12th January 2012

CASE OFFICER: Geoff Brown

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

- it is contrary to views expressed by the Parish Council and Committee consideration has been requested

### **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV26, ENV28, T23
- The South East Plan 2009: CC1, CC6, C4, H4, NRM5, NRM7, BE6
- Village Design Statement: N/A
- Government Policy: PPS1, PPS3, PPS5, PPS7, PPS9, PPG13, Circular 01/06

### **2. HISTORY**

There is no planning history directly relevant to this case.

### **3. CONSULTATIONS**

BOUGHTON MONCHELSEA PARISH COUNCIL “would like to see the above application **REFUSED** because the proposed development, especially when considered cumulatively with other developments south of Heath Road, would cause significant and irreversible harm to the character and appearance of the open countryside and the area generally. The proposals are therefore contrary to policy ENV28 which is the sole applicable policy of the development plan.

We also consider the proposed development is clearly not in accordance with the development plan. Policy ENV28 states that planning permission will not be granted for development which harms the character and appearance of the area, and that development on countryside will be confined to specific types of development. The proposed development does not satisfy any of these exception criteria set out in the policy.

The development thereby constitutes a departure from the development plan. The consultation on the application should therefore be recommenced and advertised as a departure from the development plan, and the application should be referred to the Secretary of State.

Specifically, the Boughton Monchelsea Parish Council objects because:

1. Development for gypsy and traveller sites on countryside land is not appropriate under the Development Plan except under exceptional circumstances and those circumstances do not apply to the current application as the proposals are contrary to policy ENV28 of the Maidstone Borough – Wide Local Plan 2000. Development which is unrelated to gypsies in the local area has been resisted; application MA/09/1884 for the erection of a bungalow on land at Church Hill was refused on the ground (inter alia) that the proposal would further consolidate existing sporadic development and cause unacceptable harm to the character and appearance of the countryside contrary to policy ENV28 of the Maidstone Borough – Wide Local Plan 2000. The development, if permitted, would cause even more harm.
2. The development, if permitted, would result in visually intrusive and unjustified residential development within open countryside (through which runs the nationally and internationally acclaimed Greensand Way), contrary to Policy ENV28 of the Maidstone Borough Wide Local Plan 2000 and Policies CC1, CC6 and C4 of the South East Plan 2009.
3. The developments are visible from the woodland lying to the east of them, in which there are public footpaths. They are seen by those wishing to enjoy the Weald. Tree screening has been removed to make way for gateways and hardcore crossways. There is no screening other than the ancient woodland.
4. The site gates and entrances and roughly made tarmacadam crossovers are all alien features in this otherwise rural landscape.
5. The development, if permitted, would be constitute an over concentration of sites in this locality, which would cause material harm to the character and appearance of the countryside. Regard should be had to the officer's report in connection with Application MA/09/1685 (the application for planning permission made by travellers on nearby land at Church Hill), which acknowledges the potential for over concentration to be an issue and, quite rightly, confirms that precedent is not in itself an overriding consideration for future applications. The development, if permitted to remain would cause incalculable harm.
6. The Council is aware of Circular 01/2006 which refers to gypsy and traveller caravan sites. The Circular is a material consideration but does not form part of the development plan, is not planning policy and does not over-ride, supersede or circumvent planning policy. The Circular provides non-statutory advice and guidance on the application of planning policy.

The Circular is also under review by the Secretary of State who is concerned that it is unfair, and inappropriate application of the Circular has resulted in local planning authorities being “forced” to grant planning permission for development of greenfield land. The Secretary of State also acknowledges that gypsies and travellers have abused the planning system and greater enforcement powers are required to enable action to be taken where the system is abused. We therefore consider limited weight should be applied to the policy and that approval of permission on the grounds of the Circular would be entirely unreasonable.

7. Paragraph 54 of Circular 01/2006 provides that there should not be a high concentration of pitches in any one area, especially where they place undue pressure on the local infrastructure. The application does not address the numbers of persons residing at the site but, whatever the number (and initial estimates put this at four families with other persons coming and going), this, added to the numbers of travellers already residing at the Church Hill sites amount to an *extremely high* concentration of travellers in the parish compared with members of the settled community. Paragraph 70 of Circular 01/2006 makes reference to human rights. Whilst gypsies have the right to a place to stay, a balance between this right and the rights of the long standing residents and the children of the village to enjoy the homes and school which they have done for decades must be struck. The rights of the settled community are being further and quite wrongly undermined.
8. There are few services from which the applicants might benefit. The village has a very poor bus service and an oversubscribed primary school. There is no doctor’s surgery and it is submitted that the site is not sustainable within the terms of the guidance in paragraph 64 of Circular 01/2006. The site has poor access to the urban area, being accessible only by car. It does therefore not meet the criteria embodied in Structure Plan policy HP9 or Circular 01/2006. The village infrastructure will not accommodate what is, in effect, *another* new hamlet. Paragraph 64 refers to the promotion of peaceful and integrated co-existence between the site and the local community. The local community is mindful of the harm which the development would, if approved, cause to the open countryside and of the future effect on the primary school, which is currently oversubscribed. One of the aims of the circular is the integration and co-existence with the local community. It is difficult to imagine how this might emerge from this site, given the strength of feeling concerning this application, which has already resulted in a petition to the Borough Council being prepared.
9. The applicants moved in without discussing with the local planning authority the likelihood of planning consent being obtained. This is contrary to advice that applicants are required to seek to establish good communications with members of the local community and obtain planning permission first. The Secretary of State has made public his view that this type of underhand tactic is unacceptable and should not be rewarded by special treatment; that the planning system is being taken advantage of by people who deliberately develop without permission and seek retrospective permission on the assumption that applications are viewed differently once the use is established.
10. The development, if permitted, will clear the way for other forms of development on the south side of the B2163. The Parish Council wishes to see the planning authority strongly

resist any form of new build or inappropriate development on the south side of Heath Road. Heath Road should remain a natural boundary of built development with the open countryside.

11. The proposed development accesses Park Lane, which is a quiet rural lane. Any further development with permitted access onto Park Lane would significantly harm the character and appearance of the lane and would be contrary to Policy ENV36 of the Maidstone Borough Wide Local Plan 2000. The proposed development would introduce unjustified additional traffic onto a rural lane which will affect its character contrary to Policy NRM10 of the South East Plan 2009.
12. The effect of the development on the ecology of the area has not been considered at all, but there will certainly be some negative impacts. Trees have been cut down and large areas of impermeable surfacing have been laid, where previously there were none, which may affect the local eco-system. No investigation has been carried out to establish the effect of this. Permission cannot be granted until more evidence is submitted on the potential impacts and what mitigation can be offered to ensure no significant harm is caused.
13. The effect on the adjacent prehistoric earthwork has not been properly investigated but there is significant potential for adverse impacts.
14. The Parish Council expects the planning authority to vet rigorously the status of the applicants to determine if they fully qualify for the gypsy status they may eventually seek to claim.
15. The availability of alternative accommodation for travellers is being addressed by the local authority and the provision of this should be awaited before any decision which would cause irreparable harm to the open countryside is taken.
16. The Parish Council acknowledges the need for accommodation to be found for travellers but urges the Borough Council to be circumspect, especially given the recent publicity regarding Circular 01/2006 and the weight that should be applied to it. The granting of planning permission for this application would cause irreversible loss of rural land.”

THE KENT COUNTY COUNCIL BIODIVERSITY PROJECTS OFFICER states that the site looks to be of low interest for biodiversity and so an ecological scoping survey is not necessary. There is ancient woodland adjacent to the site and therefore it is advised that lighting is controlled; landscaping incorporates native, local provenance species; landscaping is properly managed; and the applicants are made aware of the importance of the ancient woodland.

THE KENT WILDLIFE TRUST points out the presence of ancient woodland to the east and south west of the site and the importance of such woodland. The introduction of a residential use may give rise to harmful disturbance within the woodland: the Council should ensure that adequate open space exists for domestic animals and boundaries should be secured to prevent unsupervised dispersal of such animals.

KENT HIGHWAY SERVICES has no objection.

THE KENT COUNTY COUNCIL PUBLIC RIGHTS OF WAY OFFICER makes the comment that no gate or obstruction should be erected on the access road where it is shared with the public footpath.

THE KENT COUNTY COUNCIL ARCHAEOLOGY OFFICER has no objection subject to the imposition of a condition requiring an archaeological watching brief over any excavation.

THE MBC ENVIRONMENTAL HEALTH MANAGER has no objection subject to the imposition of a condition requiring more precise details of foul water disposal. The officer points out that caravan sites licence conditions would need to be met.

THE MBC LANDSCAPE OFFICER has no objection subject to conditions requiring details of foundations of the amenity blocks, services, tree protection and proposed landscaping.

#### **4. REPRESENTATIONS**

A PETITION of approximately 1200 signatures in relation to the open countryside around Wierton, Chart Sutton, Boughton Monchelsea and the Greensand Way has been received which makes references to a number of gypsy sites, including the application site and also to a proposed residential conversion. To summarise it states that the Council has the highest number of authorised and unauthorised sites in Kent, considers that the Council has a lack of rigour concerning process and enforcement and that checks and procedures have not been followed and that it has not planned sufficiently to meet the needs of travellers with the result that many have had to resort to unlawful developments which is harming community cohesion and is not fair on the residents, nor on the travellers.

LETTERS OF OBJECTION HAVE BEEN RECEIVED FROM 37 LOCAL HOUSEHOLDS, FROM PLANNING CONSULTANTS REPRESENTING LOCAL RESIDENTS AND FROM PROTECT KENT. The (summarised) points of objection are:

- a) The application is contrary to Development Plan Policy and there are no material considerations here to justify a departure from its provisions. The application is contrary to Central Government Guidance.
- b) The Council refer to this being a development for gypsies in its description but that was not the description on the application form. Subsequent submissions do not prove that the applicants are gypsies and there is no evidence that the applicants need to live on this site. If the applicants are not gypsies Circular 01/06 offers no support. A refusal of permission here would not be contrary to human rights legislation and there is evidence that the applicants are not actually living on site.

- c) The proposals cause significant harm to the character of the unspoilt countryside. The site is clearly visible from the local footpath network. The site harms the settings of valuable listed buildings.
- d) There is an undesirable over-concentration of traveller site in the area and this makes matters worse.
- e) This is not an appropriate location for a residential site being poorly related to basic services and public transport. This is a form of unsustainable development.
- f) The development leads to a loss of wildlife resources and is harmful to the ecology of the area.
- g) Trees and vegetation have been removed to facilitate the development.
- h) Ancient earthworks would be damaged as a result of this scheme.
- i) The access track is not suitable to accommodate the development. It is not suitable for emergency vehicles and there would be conflicts between pedestrians using the footpath and vehicles. The access track emerges onto Park Lane at a sharp bend and exit visibility is poor. The local highway network is inadequate for the level of traffic that would be generated. The application proposals are harmful to highway safety.
- j) The development would cause noise and disturbance harmful to local residents. The application has generated strong opposition from the local community.
- k) This is high quality agricultural land that should not be developed.
- l) The Council should have taken enforcement action against this development when it was first commenced. The development applied for is not the same as that to be found 'on the ground'.
- m) To allow this development would be to set a precedent for future similar schemes.

## **5. CONSIDERATIONS**

### **5.1 Site Description**

5.1.1 The application site is located in open countryside off the south side of Park Lane. The land hereabouts is not the subject of any landscape designation in the Local Plan. The site involves a rectangular area of approx. 1.3 ha that is bordered by woodland and shelter belts. The site is served by a rough access track that runs south from a right-angled bend in the highway. The track passes Tilt's Wood on its eastern side and more open parcels of land on its western side, including a woodyard immediately to the north of the site. Tilt's Wood is protected by TPO 7/1982. The line of public right of way KM119 runs along the

length of the access track before leading off south eastwards through the woods, roughly at the point where the track meets emerges onto the application site.

- 5.1.2 The site comprises a former cherry orchard with grassland under small trees. The site is relatively flat and is bordered to the east by the access track and Tilt's Wood, to the south and west by lines of trees with agricultural land beyond, and to the north by a line of trees with a woodyard beyond that.

## **5.2 Proposal**

- 5.2.1 The application proposes the change of use of the land to a caravan site for 4 gypsy families. Four plots are proposed each served with an access drive running westwards into the site with space for a mobile home, a touring caravan, an amenity block and associated parking/turning area: all at the western end of each plot. The plans show the retention of the remaining orchard trees and the aforementioned natural boundary treatments. The amenity blocks would be small pitched roof structures, 5m by 4m.
- 5.2.2 At the time of the case officer's latest site visit in December the proposed development had been partially implemented in that there was a collection of mobile homes and touring caravans at the western end of the site and at least some of these seem to be lived in. No buildings had been erected. Access drives had been laid down but of tarmac, not of gravel as notated on the submitted drawing.

## **5.3 Principle of Development**

- 5.3.1 There are no saved Local Plan policies that relate directly to this type of development. Policy ENV28 of the Local Plan relates to development in the countryside stating that:

"Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers"

- 5.3.2 ENV28 then outlines the types of development that can be permitted. This does not include gypsy development: this was previously formally covered under housing Policy H36 but this is not a 'saved' policy.
- 5.3.3 There is no specific gypsy accommodation policy in The South East Plan 2009 although Policy H4 makes reference to providing accommodation for gypsies and therefore there is no need to advertise this application as a departure from the Development Plan. Policy CC1 concerns sustainable development and ensuring the physical and natural environment of the South East is conserved and enhanced. Policy CC6 outlines that actions and decisions associated with the development and use of land should respect, and where appropriate enhance,

the character and distinctiveness of settlements and landscapes. Policy C4 concerns landscape and countryside management, essentially outlining that outside nationally designated landscapes, positive and high quality management of the region's open countryside will be encouraged, protected and enhanced, securing appropriate mitigation where damage to local landscape character cannot be avoided.

5.3.4 PPS7: Sustainable Development in Rural Areas outlines at paragraph 15 that:

"Planning authorities should continue to ensure that the quality and character of the wider countryside is protected and, where possible, enhanced."

5.3.5 PPS4 is also considered relevant, as whilst it relates to economic development, it provides the Government's most recent stance on the protection of the countryside at Policy EC6 –

"Local Planning Authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all."

5.3.6 Also key in the determination of this appeal is Central Government Guidance contained within Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites will need to be found in rural areas. The Government has carried out consultation on a Planning Policy Statement for traveller sites but this guidance has not yet been finalised or formally adopted.

5.3.7 Work on the Local Development Framework is progressing; however there is, as yet, no adopted Core Strategy. Now that the Government intends to abolish the South East Plan, local authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas. The Core Strategy will set the target pitch figure for the Borough for the period 2006 to 2016. The Core Strategy will contain a gypsy and traveller policy to assess any windfall sites. The initial Core Strategy public consultation has recently ended, which includes the agreed Cabinet target of 71 pitches for the period 2006 to 2016.

5.3.8 The Local Development Scheme Priority Documents were considered by Cabinet on 8<sup>th</sup> June 2011. In relation to the Gypsy and Traveller Pitch Allocations DPD, Cabinet agreed to no longer pursue this as a specific DPD but instead to merge it with, and allocate pitches within the overall Land Allocations DPD (under a new title of Development Delivery DPD). (The Land Allocations DPD will allocate the specific sites for residential and non-residential development, as well as dealing with landscape designations and village boundaries). A revised Local



Development Scheme was reported to the Task and Finish Panel on the 20 September 2011 with a revised timescale for the adoption of documents. This indicates that the Development Delivery DPD is scheduled for adoption in March 2015. This Council, in partnership with Sevenoaks District Council, has procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment and work on that continues.

5.3.9 Issues of need are dealt with below but, in terms of broad principles, Development Plan Policy and Central Government Guidance clearly allow for gypsy sites to be located in the countryside as an exception to the general theme of restraint.

5.3.10 The consultation draft of the National Policy Framework has recently been published and whilst regard has been paid to it this decision does not turn on matters raised by this consultation document.

## **5.4 Gypsy Status**

5.4.1 Circular 01/06 defines gypsies and travellers as: "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such."

5.4.2 The surnames Love, Peckham and Butler are well known traveller names and, when this development commenced, it became obvious to enforcement officers that this was to be a gypsy caravan site: hence the description given to this application. During the consideration of the application, officers formally requested information to support the gypsy status of the applicants and their families.

5.4.3 In response a document has been submitted which, on balance, I consider is sufficient to prove the gypsy status of the persons involved. The document explains that the four plots would be occupied by Mitchell and Nadine Love; Shane and Laura Love; James Peckham; and Mark and Joanne Butler. It would seem that the families have travelled extensively, including travel to the various horse fairs throughout the country. Gypsy status is supported by statements from applicants, from persons at locations where they have periodically stopped, from a Kent County Council officer, photos of the applicants and their families on various sites, and extracts from books to evidence gypsy heritage.

5.4.4 No particular personal circumstances have been put forward here as to why the applicants need to live on this particular site. For example, there is no detailed

information on health or education issues as they may affect the applicants. The application should therefore be determined purely on its planning merits.

## **5.5 Need for Gypsy Sites**

5.5.1 Planning Policy Statement 3: Housing makes specific reference to the need to accommodate Gypsies and Travellers. Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites gives guidance on how this should be achieved, including the need to start the process with a clear assessment of needs through Gypsy and Traveller Accommodation Assessments.

5.5.2 A Gypsy and Traveller Accommodation Assessment (GTAA) was conducted previously to assess the level of need for gypsy accommodation over the five year period from April 2006 to April 2011 and resulted in the overall pitch requirement being identified of 44 pitches for the whole 5 year period.

5.5.3 Since April 2006 the following permissions for pitches have been granted (net):

- 46 permanent non-personal permissions
- 15 permanent personal permissions
- 8 temporary non-personal permissions
- 27 temporary personal permissions

5.5.4 Therefore a net total of 61 permanent planning permissions have been granted since April 2006.

5.5.5 The Council has agreed its public consultation draft pitch requirement for the period 2006 to 2016 for inclusion in the draft Core Strategy as 71 pitches so there is currently a shortfall of 10 pitches. This target is currently being updated as a revised Gypsy and Traveller Accommodation Assessment is being carried out.

5.5.6 In terms of unauthorised pitches, based on the January 2011 count and according to the Council's database at the time of writing this report, there are 51 unauthorised mobile homes and 72 touring caravans.

5.5.7 Numerous Inspectors at appeal consider that the level of unauthorised mobiles is an indication of general need; however, I do not consider this to be currently overriding.

5.5.8 It is considered that the Council has met the identified need for the period 2006 to April 2011 through the Development Management process. However, the need for pitches continues beyond April 2011.

## **5.6 Visual Impact**

- 5.6.1 Whilst there is no criteria-based policy for the determination of gypsy caravan applications (Circular 01/06 is the key document), the impact of such developments on the character and appearance of the countryside is a prime consideration.
- 5.6.2 In this case, this land involves countryside that is not the subject of any landscape designation. The application site is situated approx. 200m south of the bend in Park Lane so it is well away from the local road network. In my consideration the site is very well screened in long and medium term views by Tilt's Wood to the east and by blocks of woodland to the south and west. From the bend in Park Lane, the site is not visible: all that is apparent is the established access track down towards the site.
- 5.6.3 Closer to the site, and as one approaches the site along the public footpath, the site becomes more apparent but is still quite well screened by trees on either side of the access track and by the established shelter belt trees that immediately border the site. As an additional factor, the proposed siting for the caravans, amenity blocks, etc. is at the western end of the site, ie away from the track/public footpath and where there are some additional screening benefits from the retained orchard trees.
- 5.6.4 I conclude that this is a very well screened site, particularly from long and medium distance views, on land that is not designated for its landscape value.
- 5.6.5 Representations raise the issue of this development, if approved, leading to an over-concentration of traveller sites in the area. Maidstone Borough has a large traveller population and it is inevitable that caravan sites will occasionally be sited close to each other. Whilst there are traveller caravans on site at New Barn Farm to the north (off the bend in Park Lane) the application site is relatively isolated and I do not consider that the two sites could be viewed together. The cumulative scale of sites in the area is not significant enough for there to be an undue concentration in terms of visual impact and impact on the social infrastructure. I conclude that there would be no over-concentration should permission be granted here.
- 5.6.6 In my view the site would have no impact on the setting of listed buildings.

## **5.7 Landscaping**

- 5.7.1 As discussed above, I consider the site to be well screened by blocks of woodland, shelter belts and orchard trees. The submitted drawings show the boundary trees/hedging around the site and the orchard trees to be retained. These existing features could be supplemented with additional planting. The

Landscape Officer has no objection subject to conditions requiring details of foundations of the amenity blocks, services, tree protection and proposed landscaping.

## **5.8 Residential Amenity**

5.8.1 The application site is well divorced from residential neighbours: the nearest being approx. 200m away to the north and north west. Any noise and disturbance generated on site and by the passage of vehicles is unlikely to be so significant as to affect local housing. I conclude that the development would not have a significant adverse impact on residential amenity.

## **5.9 Highways**

5.9.1 Kent Highway Services has raised no objection on highways matters. I agree that there are no justifiable grounds to refuse planning permission on such grounds. The access track is long established and, whilst it is single track width, I see no reason as to why it could not satisfactorily accommodate the development. At the junction of the access road with Park Lane, visibility to the east is adequate but visibility to the west/north is restricted by hedging and the right angled bend in the highway. I acknowledge this problem but do not believe this restricted visibility to be so significant as to withhold permission for the development. The local highway network is adequate and there is plenty of space on site for parking and turning. I see no reason as to why an emergency vehicle could not negotiate the access track.

5.9.2 It is inevitable that gypsy sites will be located beyond the bounds of settlements and within the rural area. In my view this site is not so remote from basic services and public transport opportunities as to warrant objection on the basis that this is not a sustainable location. There is a regular bus service along Heath Road to the north, whilst the site is less than 1km away from the village boundary of Boughton Monchelsea to the north west of the site. There is a post office in Boughton Monchelsea and there are junior and senior schools along Heath Road to the west.

## **5.10 Archaeology**

5.10.1 The Kent County Council Archaeology Officer has examined the proposals and carried out a site visit. She comments that the site lies adjacent to earthworks associated with the iron age oppidum at Boughton Monchelsea. The earthworks are unlikely to be directly affected by the development and a watching brief condition is all that is necessary here.

## **5.11 Ecology**

5.11.1 As reported above, the Kent County Council Biodiversity Projects Officer states that the site is likely to be of low interest for biodiversity and so an ecological scoping survey is not necessary. Subject to conditions to control lighting and landscaping there is no reason to object to this application on ecological grounds.

## **5.12 Drainage**

5.12.1 Foul drainage is said to be dealt with via a septic tank but no further details are provided and this matter should be the subject of a condition as indicated by the Environmental Health Manager.

## **5.13 Other Matters**

5.13.1 The site and surrounding area comprise agricultural land of Grade 2 quality on the Agricultural Land Classification. As stated in PPS7 the 'loss' of high quality agricultural land to alternative uses needs to be taken into account in arriving at a decision. However, this is essentially 'reversible development' in that caravans could be moved off site, whilst the need to provide more gypsy sites, particularly on sites that are otherwise acceptable, must be given significant weight.

5.13.2 The application has raised significant objection from the settled community but this needs to be balanced against the advantages that this site presents in providing additional traveller accommodation, at no cost to the public purse, on a site that I do not consider causes significant harm.

## **6. CONCLUSION**

The application site is located in an area of the countryside that is not designated for its landscape value. I consider the site very well screened and acceptable in terms of its impact on the character of the rural area. There is no justifiable reason here for a temporary or personal permission and I phrase my recommendation accordingly. Representations state that enforcement action should have been taken when the use commenced but that issue was fully considered and deemed to be inappropriate. I see no significant difference between the development applied for and that 'on the ground'. A granting of permission here would not set a precedent for further development.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. Before works commence on the amenity blocks, details of the proposed foundation works and services to those buildings, along with tree protection measures during the course of construction of those buildings, shall be submitted to and approved by the Local Planning Authority;

Reason: In order to protect the boundary trees and hedging around the site. This in accord with Policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

2. Before works start on the construction of the amenity blocks, full written details of the proposed external materials to be used in those buildings shall be submitted to and approved by the Local Planning Authority;

Reason: In the interests of visual amenity. This in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policies CC1 and CC6 of The South East Plan 2009.

3. No more than 8 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 4 shall be a static caravan or mobile home) shall be stationed on the site at any one time. The caravans shall only be sited on the areas marked on drawing MAI/11473/P as 'GRAVEL STANDING' and caravans shall not be sited on any other part of the site;

Reason: To safeguard the character and appearance of the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policies CC1 and CC4 of The South East Plan 2009.

4. This site is not to be used as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements pursuant to Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. This in accordance with Maidstone Borough-Wide Local Plan 2000 Policy ENV28 and The South East Plan 2009 Policies CC1 and CC6.

5. No commercial or business activities shall take place on the land, including the storage of vehicles or materials and livery use;

Reason: To prevent inappropriate development and safeguard the amenity,

character and appearance of the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

6. Within 2 months of the date of this decision details of existing and any proposed external lighting within the site shall be submitted for approval in writing by the Local Planning Authority. No further external lighting shall be installed at the site beyond that approved under this condition;

Reason: To safeguard the character and appearance of the countryside and the ecology of the area. This in accordance with Policy ENV28 of The Maidstone Borough-Wide Local Plan 2000 and Policy NRM5 of The South East Plan 2009.

7. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing nos. MAI/10/PL/01, 02, 03 and 04 received on 30/9/10;

Reason: To safeguard the character and appearance of the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and Policies CC1 and CC6 of The South East Plan 2009.

8. Within 2 months of the date of this decision full details of the proposed means of foul water disposal shall be submitted to and approved by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details;

Reason: In the interests of proper drainage and prevention of pollution. This in accordance with Policy CC1 of The South East Plan 2009.

9. Within 3 months of the date of this decision details of a scheme of 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 measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management plan shall be submitted to for approval in writing by the Local Planning Authority. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines.

Reason: No such details have been submitted and to ensure an appropriate setting to the site in the interests of visual amenity in accordance with Policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan 2000, Policies CC1 and C4 of the South East Plan 2009 and PPS7.

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the next planting and seeding season (October 2011 - March 2012); and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously

damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure an appropriate setting to the site in the interests of visual amenity in accordance with Policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan 2000, Policies CC1 and C4 of the South East Plan 2009 and PPS7.

11. With regard to the amenity blocks, 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. This in accordance with Policy BE6 of The South East Plan 2009.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and The South East Plan 2009 and there are no overriding material consideration to indicate a refusal of planning consent.



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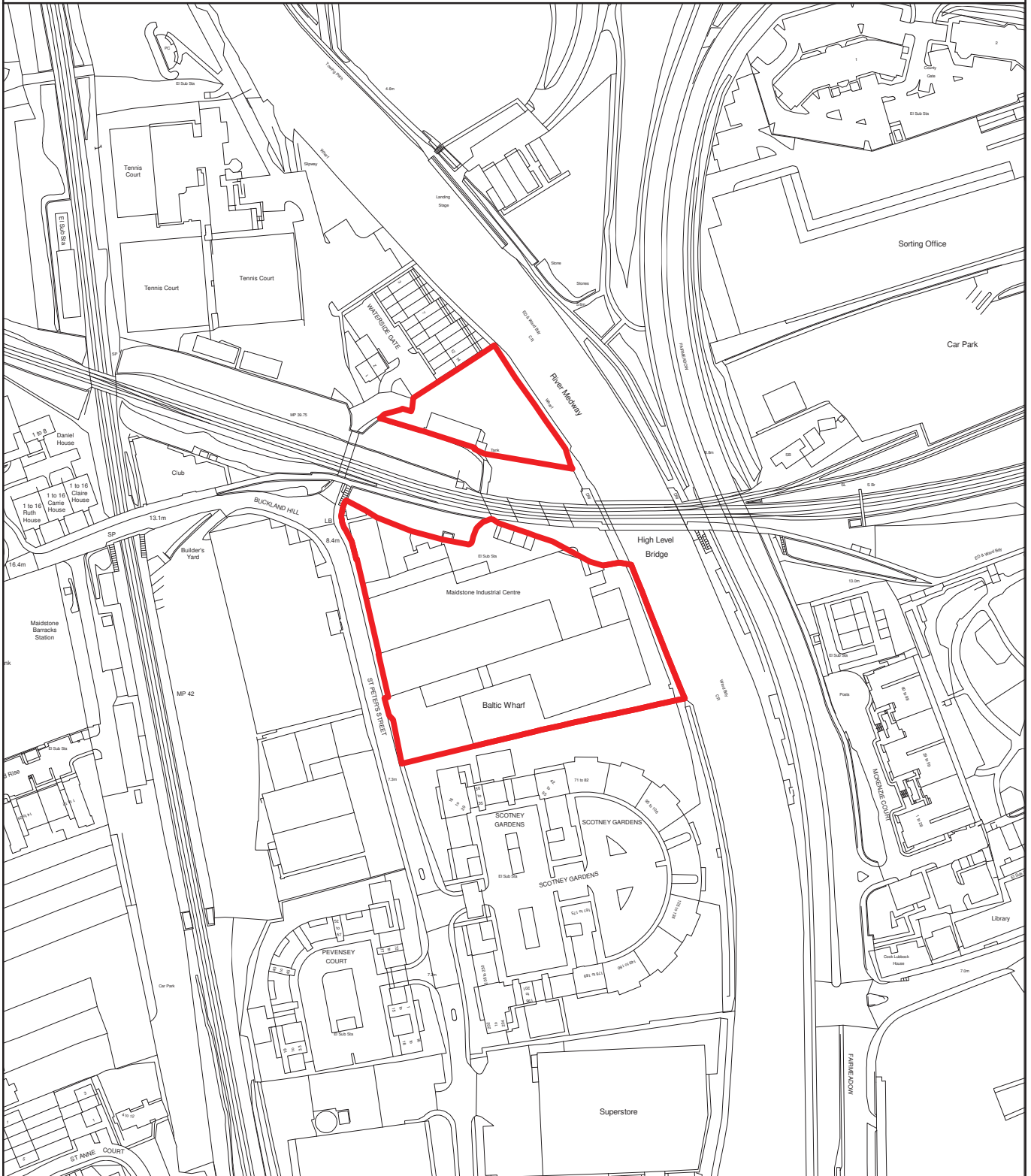
# Agenda Item 17

## THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/1983

GRID REF: TQ7556

**RAGLAN HOUSE AND POWERHUB,  
ST. PETER'S STREET, MAIDSTONE.**



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**Rob Jarman  
Head of Planning**

APPLICATION: MA/11/1983 Date: 16 November 2011 Received: 18 November 2011

APPLICANT: Mr C. Thurlow, Baltic Wharf (Maidstone) Ltd

LOCATION: RAGLAN HOUSE AND POWERHUB, ST PETERS STREET, MAIDSTONE, KENT

PARISH: Maidstone

PROPOSAL: Change of use of first floor of Raglan House to a dance academy studio (Use Class D2) and change of use of existing dance academy studio in unit B11 of the Powerhub Building to employment use (Use Classes B1 or B2 or B8) as shown on A3 site location plan received on 17th November 2011 and drawing nos. TBH/1, TBH/2 and TBH/3 received on 18th November 2011.

AGENDA DATE: 12th January 2012

CASE OFFICER: Richard Timms

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

- It is a departure from the Development Plan

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ED2, T13
- South East Plan 2009: CC1, CC6, RE1, RE3, NRM10
- Government Policy: PPS1, PPS4, PPG24

## **2. HISTORY**

Various applications relating to alterations and extensions to the 'Powerhub' building and Raglan House and the following changes of use applications:

MA/06/1396 - Change of use from class B1 use (internet service providers office) to a sui generis use as a credit bookmakers office/exchange trading office – APPROVED WITH CONDITIONS

MA/98/1442 - Change of use to retail sales of pine furniture and associated goods with storage and ancillary office space – APPROVED WITH CONDITIONS

MA/96/1013 - Change of use of existing industrial unit to retail use (for the sale of soft furnishings) – APPROVED WITH CONDITIONS

MA/95/0804 - Use of premises as a taxi and private hire telephone and booking office – APPROVED WITH CONDITIONS

MA/95/0295 - Use of premises as a dancing school – APPROVED WITH CONDITIONS

MA/94/0607 - Change of use to indoor golf simulation centre – APPROVED WITH CONDITIONS

MA/92/1447 - Part change of use to resource unit for people with learning disabilities – APPROVED WITH CONDITIONS

MA/88/0393 - Change of use from industrial to storage – APPROVED WITH CONDITIONS

MA/88/0112 - Change of use of units to gymnasium weight-training sauna solarium – APPROVED WITH CONDITIONS

MA/84/1474 - Change of use to retail warehouse – REFUSED (ALLOWED AT APPEAL)

MA/79/0835 - Change of use to sandwich bar – APPROVED

MA/78/1894 - Change of use to coach works and paint spray shop – APPROVED WITH CONDITIONS

### **3. REPRESENTATIONS**

3.1 No representations received.

### **4. CONSIDERATIONS**

#### **4.1 Site Description**

4.1.1 The application relates to 'Raglan House' and the 'Powerhub' building which are linked to one another and located on the east side of St Peters Street. These buildings form part of the former 'Maidstone Industrial Centre' complex which consists of these buildings and 'Baltic Wharf'. The complex has over 30 individual units. The site is northwest of the town centre of Maidstone and to the west of the River Medway. The site falls within an area designated for B1 (offices and light industry) and B2 (general industry) uses under policy ED2 of the Maidstone Borough-Wide Local Plan 2000.



- 4.1.2 Raglan House is a two storey building of traditional appearance with a brickwork front over a pitched roof, fronting St Peters Street at the north end of the site. The Powerhub building, immediately south, is a large four storey building which fronts the road and extends around 100m eastwards. Raglan House is a vacant office building (B1 use) and Powerhub has a mix of offices, general industry and storage (B1, B2 and B8 uses) with some retail most of which are vacant.
- 4.1.3 The application specifically relates, firstly, to Unit B11 which is on the second floor of the Powerhub building where there is an existing dance studio, and secondly, the first floor of Raglan House.

## **4.2 Proposal**

- 4.2.1 Permission is sought for two separate changes of use. One is for the change the use of Unit B11 of Powerhub (some 240m<sup>2</sup>) from a dance studio (D2 use) to B1, B2 or B8 use and the second is to change the use of the first floor of Raglan House (some 190m<sup>2</sup>) from B1 use to a dance studio (D2 use). Essentially permission is sought to relocate the dance studio to the first floor of Raglan House. No external changes are proposed with only internal works required.

## **4.3 Principle of Development**

- 4.3.1 Policy ED2 of the Local Plan designates the site for B1 and B2 uses and seeks to retain employment sites. The objective of policy ED2 as outlined in the explanatory text is,

*"in order to maintain a variety of accommodation available in the Local Plan area, and to reduce the pressures for additional allocations on fresh land that would arise if they were redeveloped for other uses."*

- 4.3.2 Clearly, the proposed D2 use in Raglan House would not comply with this policy and as such I consider the proposal to be a departure from the Development Plan. However, the application would involve the relocation of a permitted D2 use within this designated area and on this basis I consider there would be no significant loss of employment floorspace. I am also mindful that government guidance in PPS4 and policies within the South East Plan promote a flexible approach to economic development, which this D2 use would be classed as.
- 4.3.3 The change of use of Unit B11 of the Powerhub building from D2 use to B1, B2 or B8 would largely comply with the sites Local Plan designation. I do not consider any B8 use of the unit, which would not strictly comply with policy ED2, would be objectionable as it would still provide some employment.

4.3.4 I consider a condition is necessary to require the existing D2 use to cease if the proposed use within Raglan House is implemented due to the conflict with the Local Plan designation.

#### **4.4 Other Matters**

4.4.1 The nearest residential properties are at 'Waterside Gate' some 60m to the north with the railway line and embankment between and some 110m to the west at 'Claire House' on Buckland Road. I do not consider there are any serious implications for the residential amenity of the Waterside Gate properties from any noise and disturbance due to the distance and shield created by the embankment. I consider the distance to Claire House is sufficient such that residential amenity would not be harmfully affected. There is a large parking area on the north side of the railway which is currently used so there are no highway safety issues. No external changes are proposed so there are no implications for visual amenity.

#### **5. CONCLUSION**

5.1.1 Whilst the proposed change of the first floor of Raglan House to a D2 use does not comply with the Local Plan, because it simply involves a relocation of an existing use within this designated area, I consider this is sufficient grounds to allow the development. No harm or overall loss of employment floorspace would result from an approval of the development and I therefore recommend permission subject to the following conditions.

#### **6. 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. Within 3 months of the implementation of this permission, the use of Unit B11 of the 'Powerhub' building (as shown on drawing nos. TBH/2 and TBH/3) for D2 use, shall permanently cease;

Reason: The justification for this permission is due to the relocation of an existing D2 use within this designated employment area and as such the continued D2 use of Unit B11 would be contrary to policy ED2 of the Maidstone Borough-Wide Local Plan 2000.

3. No activity in connection with the D2 use hereby permitted shall be carried out outside the hours of 9am to 10pm Mondays to Saturdays and 10am to 6pm on Sundays;

Reason: To safeguard the enjoyment of their properties by nearby residential occupiers in accordance with policy NRM10 of the South East Plan 2009 and PPS1.

The proposed development is not in accordance with policy ED2 of the Maidstone Borough-Wide Local Plan 2000. However, the development represents the relocation of an existing D2 use within a designated employment area so there would be no unacceptable loss of employment floorspace. Subject to the conditions stated, this is considered to represent circumstances that can outweigh the existing policies in the Development Plan and there are no overriding material considerations to indicate a refusal of planning consent.

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WINDYBEE MASTERS

09.01.2012

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09.01.2012

## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

**12 JANUARY 2012**

#### **REFERENCE FROM COUNCIL**

**1. PETITION CALLING UPON THE COUNCIL TO HELP PROTECT THE OPEN COUNTRYSIDE AROUND WIERTON, CHART SUTTON, BOUGHTON MONCHELSEA AND THE GREENSAND WAY**

1.1 At the meeting of the Council held on 21 September 2011, Mr Jonathan Gershon presented a petition in the following terms:-

We the undersigned call upon Maidstone Borough Council to maintain and secure the beauty, tranquillity and rural character of the unique areas of Wierton, Chart Sutton, Boughton Monchelsea and the Greensand Ridge. In order to halt the destruction of the rural landscape, we demand that:-

1. The Greensand Ridge and the Greensand Way are protected from development. That the access to and rural nature of the walk, and views across and from the Weald are maintained.
2. Any planning development is in keeping with the open countryside.
3. Any development at Wierton Place is in keeping with the scale, appearance and character of the Grade 2 designation, involves the restoration of the Manor House and Greenhouse and is restricted to those buildings currently used as residential.
4. Maidstone Borough Council co-ordinate with Kent County Council and other agencies to act swiftly to enforce established planning policies in dealing with all unlawful developments.

1.2 The Council agreed that the petition be referred to the Cabinet (to be considered as a representation on the Core Strategy), the Planning Committee (in so far as it relates to "live" planning applications and enforcement generally) and the Regeneration and Economic Development Overview and Scrutiny Committee (to consider the policy implications and make recommendations to the Cabinet as appropriate).

**1.3 RECOMMENDED: That the Planning Committee consider the petition in so far as it relates to enforcement generally in the following report.**

## **2 Planning Enforcement**

- 2.1 The petition related generally to the protection of the countryside and the character of the areas around Wierton, Chart Sutton, Boughton Monchelsea and the Greensand Way. Specifically, in the fourth point of the petition it stated:-

*Maidstone Borough Council co-ordinate with Kent County Council and other agencies to act swiftly to enforce established planning policies in dealing with all unlawful developments.*

- 2.2 The consideration of suspected breaches of planning control is mandatory but enforcement action is discretionary. It is taken against unauthorised development when it is expedient to do so. The Council undertakes its planning enforcement function in accordance with its 'Planning Enforcement Policy Statement' (February 2010).

- 2.3 When considering whether it is expedient to take formal enforcement action the following matters are considered:-

- The degree of harm being caused.
- Whether or not a negotiated solution is likely to be achieved.
- Whether it is a suitable course of action in comparison with other legislation.

- 2.4 As part of all enforcement investigations officers work closely with other sections within the Council (e.g. Environmental Enforcement), Kent County Council (e.g. Highways or Planning) and other bodies such as the Environment Agency where the need arises. This is either to gain a specialist view on a breach of planning control or to establish the suitable course of action by comparing the strength of differing legislation.

- 2.5 From 1 April 2011 to 31 December 2011 there have been eleven enforcement notices served; ten in the rural area and one in the urban area. These notices include six against three gypsy sites within Boughton Monchelsea Parish, the area made reference to in the petition. An appeal was made against the issuing of these notices and was heard by an inspector at a two day public inquiry held in November.

- 2.6 The petition makes specific reference to unauthorised gypsy development and the perceived lack of action by the Council. However, nine of the eleven enforcement notices served within the above period were against gypsy development and each of these are being defended through the appeal process.



- 2.7 In addition, there have been a further 10 formal notices served with regard to other sites in the Borough in the same period being a Breach of Condition Notice, Planning Contravention Notices and Section 330 Notices.
- 2.8 The backlog of enforcement cases (those cases without an initial recommendation) has been reduced significantly over recent years from over a few hundred to now less than 50. It is anticipated that this backlog will reduce further.
- 2.9 The reduction of the backlog of cases has been achieved without detriment to the investigation of the new cases. There have been a total of 410 new investigations opened in the period 1 April 2011 to 31 December 2011 (an average of 46 cases per month). Over the same period there have been a total of 454 cases closed (an average of 50 cases per month). At the current time (31 December 2011) there are 366 open enforcement investigations within the team.
- 2.10 The Council undertakes its planning enforcement function in accordance with its established policy and has sought to address unauthorised development in the area identified by the petition through the issuing of six enforcement notices. It is an important part of all investigations that officers cooperate with other agencies when the need arises and this will continue to be the case.

# Agenda Item 19

## **THE MAIDSTONE BOROUGH COUNCIL** **PLANNING COMMITTEE – 12 JANUARY 2012**

### **APPEAL DECISIONS:**

1. - MA/11/ 0935 - **Relocation of garden fence as shown on numbered block plan received 5/7/11.**

**APPEAL:** Dismissed

100 MELROSE CLOSE MAIDSTONE

**DELEGATED POWERS**

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2. MA/11/1087 - **Erection of two dormer windows to facilitate loft conversion.**

**APPEAL:** Dismissed

153 TREVOR DRIVE ALLINGTON MAIDSTONE

**DELEGATED POWERS**

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