

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 1 November 2012
Time: 6.00 pm
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Ash, Collins, Cox, English, Garland,
Harwood, Hogg, Lusty (Chairman),
Newton, Paine, Paterson,
Mrs Robertson and J.A. Wilson

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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 Items withdrawn from the Agenda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 - 8 November 2012

Continued Over/:

Issued on 24 October 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 11 October 2012 1 - 6
11. Presentation of Petitions (if any)
12. Report of the Head of Planning - Deferred Items 7
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16. MA 12 0013 LAND AT EAST LENHAM FARM LENHAM HEATH ROAD LENHAM MAIDSTONE KENT 47 - 85
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22. Chairman's Announcements

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 11 OCTOBER 2012

Present: Councillor Lusty (Chairman) and Councillors Ash, Chittenden, Collins, Cox, English, Garland, Harwood, Hogg, Newton, Paine, Paterson and J.A. Wilson

Also Present: Councillors Mrs Blackmore, B Mortimer and D Mortimer

143. APOLOGIES FOR ABSENCE

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

144. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Chittenden was substituting for Councillor Mrs Robertson.

145. NOTIFICATION OF VISITING MEMBERS

Councillor Mrs Blackmore indicated her wish to speak on the report of the Head of Planning relating to application MA/11/0361.

Councillor B Mortimer indicated his wish to speak on the report of the Head of Planning relating to application MA/11/1900.

Councillor D Mortimer indicated his wish to speak on the report of the Head of Planning relating to application MA/12/0766.

146. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

147. URGENT ITEMS

Update Report

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

148. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Harwood stated that he was a Member of Boxley Parish Council, but he had not participated in the Parish Council's discussions regarding application MA/12/0693 and intended to speak and vote when it was considered.

149. EXEMPT ITEMS

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

150. MINUTES OF THE MEETING HELD ON 20 SEPTEMBER 2012

RESOLVED: That the Minutes of the meeting held on 20 September 2012 be approved as a correct record and signed.

151. PRESENTATION OF PETITIONS

It was noted that a petition would be presented objecting to application MA/11/0361.

152. DEFERRED ITEMS

MA/12/0324 - RETROSPECTIVE APPLICATION FOR HARD LANDSCAPING WORKS TO REAR GARDEN (RE-SUBMISSION OF MA/11/1872) - RHENCULLEN, BRIDGE STREET, LOOSE, MAIDSTONE

The representative of the Head of Planning advised Members that a site meeting had taken place between the applicant and Officers and further information was awaited from the applicant's engineers. It was hoped that a solution had now been achieved. Once the amended plans had been submitted and the re-consultation exercise had taken place, the application would be reported back to the Committee.

153. MA/11/0361 - OUTLINE APPLICATION FOR THE PROVISION OF NEW SPORTS CLUB GROUND (TO INCLUDE CRICKET PITCHES, ARTIFICIAL MULTI-PURPOSE/HOCKEY PITCHES, HOCKEY PRACTICE AREA, TENNIS COURTS, CRICKET NETS, FLOODLIGHTS, CLUB HOUSE AND CAR PARKING) INCLUDING CHANGE OF USE FROM AGRICULTURE, WITH ACCESS TO BE DETERMINED AND ALL OTHER MATTERS RESERVED FOR SUBSEQUENT APPROVAL - LAND OFF MAIDSTONE ROAD, MARDEN

All Members stated that they had been lobbied.

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

Mr Germain presented a petition objecting to the application.

Councillor Adam of Marden Parish Council (against), Mr Blythin, for the applicant, and Councillor Mrs Blackmore addressed the meeting.

Contrary to the recommendation of the Head of Planning, the Committee agreed to refuse permission. In making this decision, Members felt that the development would by virtue of the scale and intensity of development result in unacceptable harm to the character and appearance of the surrounding countryside and the amenities of the occupiers of nearby residential properties.

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

The development would by virtue of the scale and intensity of development result in unacceptable harm to the character and appearance of the surrounding countryside and the amenities of the occupiers of nearby residential properties. To permit the development would be contrary to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, policies C4 and CC6 of the South East Plan 2009 and the advice in the National Planning Policy Framework 2012.

Voting: 12 – For 0 – Against 1 – Abstention

154. MA/12/0766 - DEMOLITION OF 466, 468 AND 470 LOOSE ROAD INCLUDING ALL ASSOCIATED BUILDINGS AND ERECTION OF 10 NO. DETACHED DWELLINGS WITH NEW SERVICE ROAD AND ASSOCIATED WORKS - 466 468 470 LOOSE ROAD, MAIDSTONE

All Members stated that they had been lobbied.

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

Mr Griffiths, an objector, Mr Moore of the North Loose Residents' Association (against), Mr Hatfield, the applicant, and Councillor D Mortimer addressed the meeting.

Contrary to the recommendation of the Head of Planning, the Committee agreed to refuse permission. In making this decision, Members felt that the development would by virtue of the number of residential units proposed have a detrimental impact upon the pattern and grain of development within this locality causing harm to the character and appearance of the area and to residential amenity.

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

The development would by virtue of the number of residential units proposed have a detrimental impact upon the pattern and grain of development within this locality causing harm to the character and appearance of the area and to residential amenity. To permit the development would be contrary to policy ENV6 of the Maidstone Borough-Wide Local Plan 2000, policy CC6 of the South East Plan 2009 and the advice in the National Planning Policy Framework 2012.

Voting: 8 – For 5 – Against 0 – Abstentions

Note: Councillor Garland left the meeting after consideration of this application (7.55 p.m.).

155. MA/11/1900 - VARIATION OF CONDITION 4 OF PERMISSION MA/10/1336 WHICH CURRENTLY READS:-

'NO MORE THAN 2 CARAVANS AS DEFINED IN THE CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1960 AND THE CARAVAN SITES ACT 1968 (OF WHICH NOT MORE THAN 1 SHALL BE A STATIC CARAVAN) SHALL BE STATIONED ON THE SITE AT ANY TIME.'

TO READ

'NO MORE THAN 3 CARAVANS AS DEFINED IN THE CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1960 AND THE CARAVAN SITES ACT 1968 (OF WHICH NOT MORE THAN 2 SHALL BE A STATIC CARAVAN) SHALL BE STATIONED ON THE SITE AT ANY TIME.'

THE CHANCES, LUGHORSE LANE, HUNTON

All Members stated that they had been lobbied.

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

Mr Pinks, an objector, Councillor Sawtell of Hunton Parish Council (against) and Councillor B Mortimer addressed the meeting.

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

Voting: 6 – For 5 – Against 1 – Abstention

156. MA/12/1540 - ERECTION OF A DETACHED TWO STOREY ANCILLARY OUTBUILDING - HOLDERS HALL, COPPER LANE, MARDEN, TONBRIDGE

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

Councillor Adam of Marden Parish Council (against) and Mr Robertshaw, 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.

Voting: 10 – For 2 – Against 0 – Abstentions

157. MA/12/1130 - APPLICATION FOR THE REMOVAL OF CONDITION 2 OF PERMISSION MA/09/2004 WHICH STATES: THE CARAVAN PARK HEREBY PERMITTED SHALL NOT BE OPEN FOR BUSINESS BETWEEN 14 JANUARY TO 1 MARCH IN ANY CALENDAR YEAR - CHERRY TREE PARK, CHURCH HILL, BOUGHTON MONCHELSEA, MAIDSTONE

The Chairman stated that he had been lobbied.

The Committee considered the report of the Head of Planning.

RESOLVED: That permission be granted subject to the conditions set out in the report (with the deletion of condition 8, a duplicate condition which was included in error).

Voting: 11 – For 0 – Against 1 – Abstention

158. MA/12/1524 - VARIATION OF CONDITION 6 OF PERMISSION MA/07/1094 (ERECTION OF 40 COMMERCIAL UNITS FOR A MIXTURE OF B1, B2 AND B8 USE AND RENOVATION OF EXISTING BUILDING) TO ALLOW THE CREATION OF A MEZZANINE FLOOR FOR STORAGE PURPOSES ONLY WITHIN UNIT 3 'INTEGRAME' - UNIT 3, INTEGRA, BIRCHOLT ROAD, MAIDSTONE

The Committee considered the report of the Head of Planning.

RESOLVED: That subject to the expiry of the consultation period and the receipt of no representations raising new material planning matters, the Head of Planning be given delegated powers to grant permission subject to the condition set out in the report.

Voting: 12 – For 0 – Against 0 – Abstentions

159. MA/12/0693 - APPLICATION TO VARY CONDITION 1 (NO VEHICLE MAY ARRIVE, DEPART, BE LOADED OR UNLOADED WITHIN THE GENERAL SITE, NOR SHALL VEHICLES EQUIPPED WITH REFRIGERATION UNITS BE ALLOWED TO REMAIN STATIONARY IN THE SERVICE YARD EXCEPT BETWEEN THE HOURS OF 0600 AND 2300 HOURS MONDAYS TO SATURDAYS AND 0800-1600 SUNDAYS AND BANK HOLIDAYS. A MAXIMUM OF FIVE VEHICLES CAN VISIT THE SITE BETWEEN 1900-2300 MONDAY TO SATURDAY AND A MAXIMUM OF THREE VEHICLES CAN VISIT THE SITE BETWEEN 1300 AND 1600 ON SUNDAYS AND BANK HOLIDAYS) OF PERMISSION MA/00/0292 TO READ AS FOLLOWS:-

NO VEHICLE MAY ARRIVE, DEPART, BE LOADED OR UNLOADED WITHIN THE GENERAL SITE, NOR SHALL VEHICLES EQUIPPED WITH REFRIGERATION UNITS BE ALLOWED TO REMAIN STATIONARY IN THE SERVICE YARD EXCEPT BETWEEN THE HOURS OF 0600 AND 0000 HOURS MONDAYS TO SATURDAYS AND 0800-2000 SUNDAYS AND BANK HOLIDAYS. A MAXIMUM OF SIX VEHICLES CAN VISIT THE SITE BETWEEN 1900-0000 MONDAY TO SATURDAY AND A MAXIMUM OF FOUR VEHICLES CAN VISIT THE SITE BETWEEN 1300 AND 2000 ON SUNDAYS AND BANK HOLIDAYS.

TESCO STORES LTD, MINOR CENTRE, GROVEWOOD DRIVE NORTH, WEAVERING, MAIDSTONE

The Committee considered the report of the Head of Planning.

Councillor Mrs Spain of Boxley Parish Council (against) addressed the meeting.

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

Voting: 11 – For 0 – Against 1 – Abstention

160. APPEAL DECISIONS

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

RESOLVED: That the report be noted.

161. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that he wished to draw Members' attention to the following event/Member Workshop:-

Developers' Forum – 6.00 p.m. on 25 October 2012 at the Hilton Hotel

Gypsy and Traveller Awareness Training – 6.00 p.m. on 5 November 2012 at the Town Hall

He said that he hoped that as many Members as possible would be able to attend.

162. UPDATE ON MATTERS REFERRED TO THE LEADER OF THE COUNCIL AND CABINET MEMBERS FOR ECONOMIC AND COMMERCIAL DEVELOPMENT AND PLANNING, TRANSPORT AND DEVELOPMENT

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

163. DURATION OF MEETING

6.00 p.m. to 9.25 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

1 NOVEMBER 2012

REPORT OF THE HEAD OF PLANNING

1. DEFERRED ITEMS

- 1.1. The following application stands deferred from a previous meeting of the Planning Committee. The Head of Planning 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/12/0324 – RETROSPECTIVE APPLICATION FOR HARD LANDSCAPING WORKS TO REAR GARDEN (RE-SUBMISSION OF MA/11/1872) – RHENCULLEN, BRIDGE STREET, LOOSE, MAIDSTONE</u>	30 AUGUST 2012

Deferred for further negotiations to see whether a better engineering solution can be achieved which will also minimise the impact upon the Loose Valley Conservation Area. Councillors Collins, English and Harwood are to be involved in the discussions.

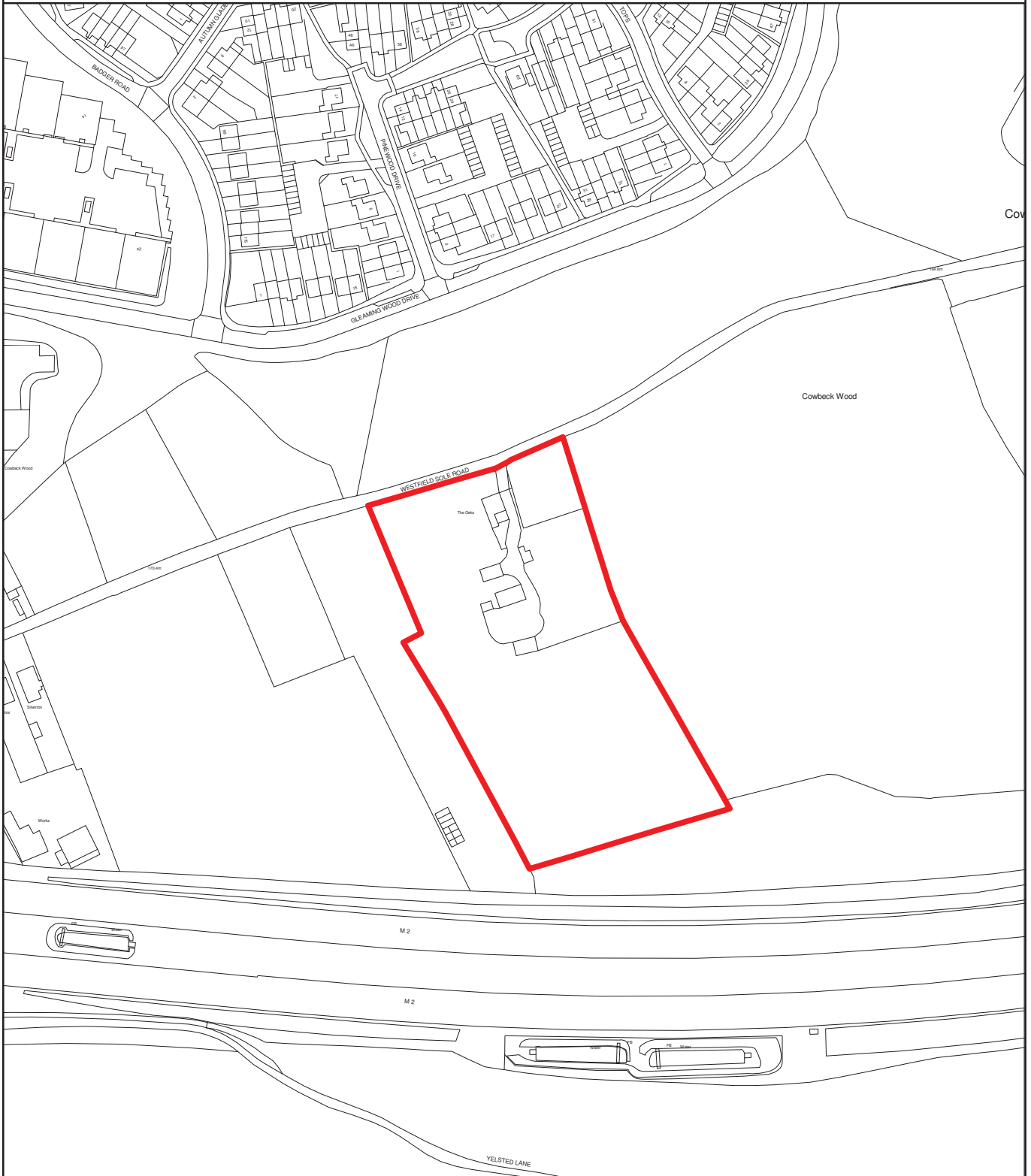
Agenda Item 13

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/0791

GRID REF: TQ7761

THE OAKS, WESTFIELD SOLE ROAD,
BOXLEY.



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Rob Jarman
Head of Planning

APPLICATION: MA/11/0791 Date: 13 May 2011 Received: 19 May 2011
APPLICANT: Mr Raminder Deol
LOCATION: THE OAKS, WESTFIELD SOLE ROAD, BOXLEY, MAIDSTONE, KENT,
ME14 3EH
PARISH: Boxley
PROPOSAL: Erection of 2.4m high green weld mesh fencing to site boundary
and around tennis court and erection of front entrance gates and
walls as shown on the site location plan received on 16/05/11 and
drawing number BLC/THEOAKS/20A received on 27/01/12.
AGENDA DATE: 1st November 2012
CASE OFFICER: Angela Welsford

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

- it is contrary to views expressed by Boxley Parish Council.

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV35, H18, H33
South East Plan 2009: CC1, CC2, CC4, CC6, C4
Village Design Statement: Not applicable
Government Policy: National Planning Policy Framework

2. RELEVANT PLANNING HISTORY

MA/10/0710	Erection of an orangery – APPROVED
MA/08/0323	Construction of replacement dwelling with integral garage (demolition of existing dwelling and outbuildings) plus garage annexe (Resubmission of MA/07/1517 – APPROVED
MA/07/1517	Construction of replacement dwelling with integral garage (demolition of existing dwelling and outbuildings) – WITHDRAWN
MA/04/1614	One dwelling to replace existing dwelling and outbuildings – APPROVED

3. CONSULTATIONS

- 3.1 **Boxley Parish Council** wishes to see the application refused and reported to Planning Committee for the following reasons:
- 3.1.1 16/06/11 – *“Entrance gate, walls and mesh fencing – Wish to see refused and reported to the planning committee. Westfield Sole Road has a rural setting and the impact of this structure (this being a retrospective planning application) due to its height and design is considered detrimental to the street scene. It is felt that this development is contrary to ENV28 and H18. If the Planning Committee are minded to grant permission then adequate landscaping is required to mitigate the impact. Tennis Court – Do not wish to object.”*
- 3.1.2 Case Officer comment – The Parish Council’s concerns regarding landscaping were raised with the applicant and an amended plan was submitted, including proposed landscaping, which comprised the planting of chestnut saplings in front of the mesh fencing in the areas at the sides of the walls and Virginia creeper in front of the walls themselves, to climb up and clad them. Boxley Parish Council commented on the amended plans as follows:
- 3.1.3 05/10/11 – *“Objection to the planned landscaping as it is inappropriate for the area and location. The purpose of the landscaping was to soften the impact of the fence and brick gateway in what is a rural setting and the proposed landscaping would not achieve this. Westfield Sole Road is effectively a country lane with no footway and passing places for the huge number of vehicle users. The Chestnut saplings are on an extremely narrow verge and are immediately adjacent to the road and on maturing these will overhang the road causing problems for the cyclists and other road users. On maturing the trunks will not cover the 2.4m wire mesh fence. The Virginia creeper that is suggested for the brick wall is not an indigenous species and in winter loses its leaves so for approximately 6 months of the year the landscaping would be ineffective. Members suggest that a native hedgerow is planted to disguise the mesh fencing and possibly an evergreen ivy for the brick.”*
- 3.1.4 Case Officer comment - Again the Parish Council’s concerns, together with its recommendations, were raised with the applicant via his agent, who confirmed that he was happy to try to work with them and was willing to provide the requested landscaping. Accordingly, a further amended plan was submitted showing an indigenous landscaping scheme comprising Hawthorn hedge planting in front of the mesh fencing in the areas at the sides of the walls (planted in accordance with the Maidstone Borough Council Landscape Character Assessment and Landscape Guidelines) and Evergreen Ivy planting in front of the walls themselves, to climb up and clad them. I contacted Boxley Parish

Council and explained why, in my view, the development would be acceptable subject to the proposed landscaping. The Parish Council commented on the amended plans as follows:

3.1.5 16/02/12 – *“Wish to see refused and reported to the Planning Committee. The Parish Council welcomed the change in the proposed landscaping to hedgerows and ivy however this does not remove the main objection which is that Westfield Sole Road has a rural setting and the impact of this structure (this being a retrospective planning application) due to the height and design is considered detrimental to the street scene.”*

3.1.6 Case Officer comment – I subsequently contacted Boxley Parish Council and pointed out that the applicant had agreed to provide the requested landscaping and again explained why, in my view, the development is acceptable (see considerations section below). However, the Parish Council has maintained its objection. The application is accordingly now reported to Planning Committee.

4. REPRESENTATIONS

4.1 No responses received from neighbours to date.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site is located on the south side of Westfield Sole Road in Boxley parish. It is just outside of the boundary of the Walderslade urban area as defined on the Maidstone Borough Wide Local Plan 2000 proposals map, and so, for planning purposes, is classed as being within in the countryside. It is also within the Area of Local Landscape Importance to the north of the M2 motorway.

5.1.2 The site is surrounded on three sides (east, west and south) by blocks of woodland, protected by TPO No.1 of 1972, plus there is tree planting along much of the northern boundary adjacent to Westfield Sole Road.

5.1.3 It contains a substantial replacement dwelling and garage block/annex that have recently been erected under planning permission MA/08/0323. Due to the narrow, somewhat winding, tree-lined nature of the road, the site is not prominent from public vantage points or visible in long-range views. However, from the front of the site the dwelling and particularly the garage/annex building do have a significant visual impact.

5.1.4 At the time of my first site visit, I saw that the fencing, walls and gates that are subject of this application had already been erected and so the application is

retrospective. During my most recent site visit, I saw that the proposed Hawthorn hedge planting had been carried out, as well as some planting in front of the walls.

5.2 Proposal

5.2.1 Planning permission is sought for the retention of 2.4m high green weld-mesh fencing to the site boundaries and around the existing tennis court, (behind the dwelling, inside the site), and the retention of front entrance gates and walls. As mentioned in paragraph 5.1.4, the development had already been carried out at the time of my site visit and so the application is retrospective.

5.2.2 The green weld-mesh fencing has been erected along the rear and both side boundaries. It has also been erected along the front of the property, facing Westfield Sole Road, but, there, has been set back approximately 2m from the boundary line such that it is positioned behind the trees lining the road. There is a pedestrian access gate in the section immediately adjoining the westernmost brick pier. The same fencing has also been erected around the tennis court.

5.2.3 The gates have a total width of approximately 6.4m and stand 2.35m high. They are dark brown in colour and generally solid, although the top 0.4m is open-work. They are set back approximately 9.5m from the carriageway edge of Westfield Sole Road.

5.2.4 The walls are constructed from buff bricks to match the existing garage/annex behind. They each comprise a generally 2m high curving wall (to provide visibility splays) with brick piers at either end. The piers closest to the road are approximately 2.5m high and those from which the gates are hung 2.9m high. There is a raised planting bed running along the front of each wall. At the time of my most recent site visit these had been planted-out, plus climbing plants had begun to be trained up the walls.

5.3 Principle of Development

5.3.1 Development Plan Policy and Central Government Guidance seek to restrict new development in the countryside. The visual quality of the Area of Local Landscape Importance must be maintained. As an exception to the general theme of restraint, additions and alterations to existing rural dwellings may be acceptable under the terms of Local Plan Policies H18 and H33, which require, *inter alia*, that the development is of an appropriate scale and design for its surroundings. The principle of the development is therefore in line with policy but clearly the detail is important.

5.4 Visual Impact

- 5.4.1 The green weld-mesh fencing is of low visual impact, primarily due to its permeable nature, which allows clear views into the property, but also due to its colour, which blends with the surrounding vegetation. I do not consider that the height has any significant bearing on its visual impact due to the effect of its permeable nature/colour. As such, in my view the fencing does not reduce the openness of the area or harm the character of the landscape in the Area of Local Landscape Importance.
- 5.4.2 The walls and gates do have a greater visual impact, and are more urban in appearance. Nevertheless, due to the surrounding blocks of woodland and the narrow, somewhat winding, tree-lined nature of the road, the site is not prominent from public vantage points or visible in long-range views. When viewed from the front of the site, the walls and gates are seen against the backdrop of the garage/annex building and the dwelling, which, in my view, already have a significant visual impact on their surroundings, and I do not consider that the walls and gates render that materially more harmful. Furthermore, the curving design/alignment of the walls helps to reduce their visual mass, as does the permeable section at the top of the gates. Consequently, due to their location in front of the substantial built structures on the site, (most notably the very large garage/annex building), and the limited public views that can be gained of them, on balance, I do not consider that they cause a sufficient level of harm to the character of Westfield Sole Road to justify a refusal of planning permission that could be successfully defended at appeal.
- 5.4.3 Moreover, I consider that the visual impact and more urban appearance of this part of the development can be further reduced and softened through the use of landscaping. The walls have been constructed with raised planting beds to the fore, and the addition of planting, including climbing plants, to these between my first and most recent site visits has significantly reduced the harshness of the brickwork. I consider that with additional planting, which can be secured by condition, this part of the development will also be acceptable. The matter of landscaping is discussed in more detail in section 5.7 below.
- 5.4.4 To summarise, therefore, I consider the visual impact of the development to be acceptable in the context of its surroundings, subject to the provision of additional indigenous landscaping, which can be secured by condition.

5.5 Residential Amenity

- 5.5.1 There are no immediate neighbours to this site so there has not been any significant loss of residential amenity in terms of loss of light, loss of outlook,

loss of privacy or increased noise and disturbance as a result of this development.

5.6 Highways

- 5.6.1 The gates and walls have been erected around the existing access. Although a derestricted carriageway, Westfield Sole Road is too narrow for two cars to easily pass one another, particularly at this point, and thus I have noted during my site visits that vehicle speeds are typically fairly low.
- 5.6.2 The gates are set back approximately 9.5m from the carriageway edge, which far exceeds the 5.5m set back usually requested to allow a vehicle to safely pull off of the road to wait for a gate to open.
- 5.6.3 The walls are curved and set back to allow adequate visibility splays. The mesh fencing is permeable and does not impact on visibility. The Kent Highway Services Engineer has viewed the details and does not raise objection on highway safety grounds.

5.7 Landscaping

- 5.7.1 No trees of any value appear to have been lost as a result of this development. The weld-mesh fencing has been set in from the property boundary on the frontage to allow it to sit behind the trees there, plus, due to its lightweight construction, has not resulted in any significant ground-works. The walls have been constructed around the existing access point.
- 5.7.2 The applicant has agreed to provide landscaping to soften the development. During my initial site visit, I raised this issue (which had also been raised by Boxley Parish Council) with the applicant and his agent, and was advised that the walls had been constructed with raised beds to the fore for this very purpose and that additional planting was also intended on the verge along the front boundary. Following that visit, an amended plan was submitted, but the proposed Chestnut saplings were not appropriate to the narrow verge and the Virginia creeper to clad the walls was not indigenous.
- 5.7.3 An amended landscaping scheme was therefore submitted, in line with the Maidstone Borough Council Landscape Character Assessment and Landscape Guidelines. This now shows indigenous planting in the form of a Hawthorn hedge on the verge and behind the existing vegetation along the frontage, to plug the gaps, and evergreen ivy planting in the raised beds to clad the walls. The plan shows the Hawthorn planted in triple staggered rows, 30cm apart, with plants at 45cm spacing. These details are considered appropriate.

- 5.7.4 During my most recent site visit I saw that the Hawthorn hedge planting had been carried out. I also saw that some fairly low-level, mixed-species planting had been carried out in the raised beds, together with some mixed-species climbing plants, but these did not include ivy. When I raised this with the applicant, he confessed that he had not noticed that note on the drawing provided by his architect, but confirmed that he will be more than happy to plant ivy to clad the walls, removing the existing planting if required.
- 5.7.5 In my view, the planting that has been carried out has significantly softened the visual impact of the walls. With the addition of ivy planting in between the existing, this softening effect would be increased. I have discussed the development with the Landscape Officer, who is of the view that the existing planting should be retained and that Common Ivy plants (*Hedera helix*) of a minimum of 3 litre pot size should be interspersed along the length of the walls. *Hedera helix* is a hardy, indigenous species and appropriate to this environment at the front of the walls, where there is a limited amount of earth for plants to establish.
- 5.7.6 In summary, therefore, I consider that, subject to an appropriately-worded landscaping condition to secure the additional indigenous planting, and to protect that and the Hawthorn hedge planting that has already been carried out, the visual impact of the development would be acceptable.

6. CONCLUSION

- 6.1 Taking all of the above into account, I conclude that, subject to appropriate landscaping, which can be secured by condition, the development complies with Development Plan Policy and Central Government Guidance, and that there are no overriding material considerations to indicate a refusal. I therefore recommend that Members grant planning permission for this development subject to the condition set out below.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. Within one month of the date of this permission, additional planting shall be carried out within the raised beds at the front of the walls hereby permitted. This shall consist of 8 *Hedera helix* (common ivy) plants, evenly-spaced in front of each wall, (16 plants in total). Each plant shall be a minimum of 3 litre pot size on planting. Any of these plants, or the *Crataegus monogyna* (Hawthorn) already planted and shown on drawing number BLC/THEOAKS/20A received on 27/01/12, which within a period of five years from the date of this permission

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 Policies ENV6, ENV28 & ENV35 of the Maidstone Borough Wide Local Plan 2000, Policy C4 of The South East Plan RSS 2009 and the Maidstone Borough Council Landscape Character Assessment and Landscape Guidelines.

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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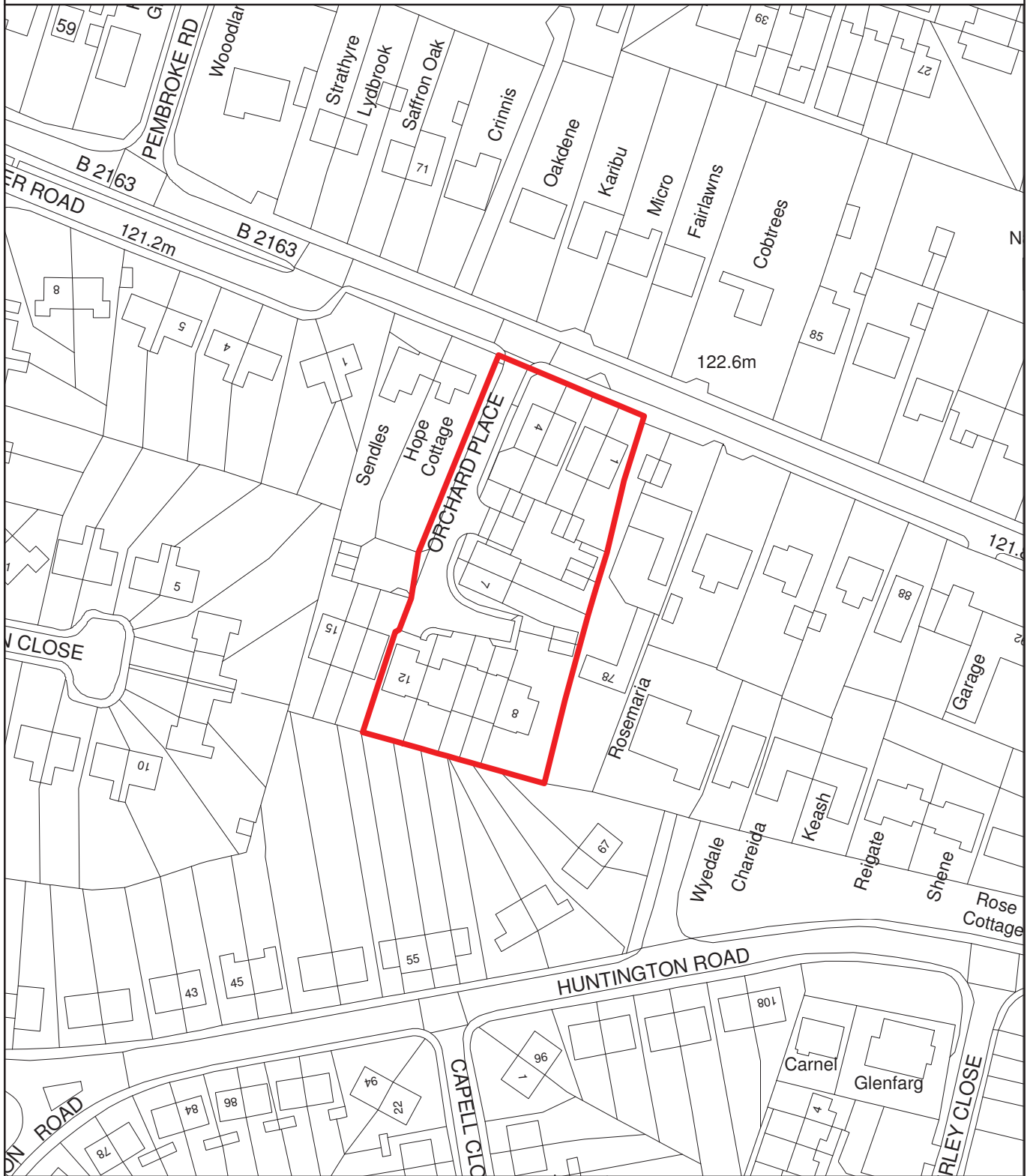


THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/0806

GRID REF: TQ7451

LAND AT ANDROMEDA,
HEATH ROAD, COXHEATH.



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Rob Jarman
Head of Planning

APPLICATION: MA/11/0806 Date: 16 May 2011 Received: 4 July 2012
APPLICANT: Mr David Allen, Fernham Homes Ltd
LOCATION: Land At Andromeda Heath Road COXHEATH
PARISH: Coxheath
PROPOSAL: Removal of condition 1 of MA/03/2258 CO4 and Variation of Conditions 8 & 9 of MA/03/2258 to allow varied landscaping scheme on site.
AGENDA DATE: 1st November 2012
CASE OFFICER: Amanda Marks

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

- It is contrary to the views of the Coxheath Parish Council for the reasons set out in the report

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6
- South East Plan 2009: CC1, CC6, H4, H5, T4
- Government Policy: The National Planning Policy Framework

2. HISTORY

MA/03/2258 - Land at Andromeda, Heath Road, Coxheath. Demolition of existing dwelling and erection of 12 no. new dwellings. APPROVED 15/2/2005

Background information

This application has been with the Council for consideration in excess of 12 months. The reason behind this relates to issues over serving the Article 6 Owner's Notice correctly. The application was made invalid due to the notice not being served, then the notice had to be served again making the correct references to the planning conditions to be varied. The application was revalidated on 4 July 2012. Additional information was then required in order to fully assess the application and therefore it was not until the last two months that the application was in a position for a decision to be made.

3. CONSULTATIONS

Parish Council: 'Coxheath Parish Council has considered these proposals and has some concerns at the approach which is being taken. It has always been our contention that this development was overcrowded and out of keeping with the immediate neighbourhood. It is very important to maintain the rural character of Heath Road and any diminution of landscaping will only serve to add to the urbanisation of the area.

The other consideration, however, is the fact that the developers have failed to meet the conditions of the original planning permission. The Parish Council feels that it is wrong to 'let developers off the hook' by merely changing the conditions when they fail to meet them. It is our understanding that developers could be fined for failing to meet conditions and we would wish to see these sanctions applied before other actions are taken. For these reasons, Coxheath Parish Council recommends that in the first instance this application should be refused.'

4. REPRESENTATIONS

Valley Conservation Society: raises objections on the following grounds (in summary):

The developer should not be allowed to be relieved of their obligations;
The hedge should still be replaced but within the site;
The hedge is within joint ownership;
The developer has had six years to sort out the problem and should be responsible for this planting.

Several letters on behalf of one neighbour who adjoins the application site raising the following issues:

- Fernham Homes are trying to avoid their obligations
- The hedge should be replanted on the application site
- Unfair and unjust if the hedge is not reinstated

5. CONSIDERATIONS

5.1 Site & Surrounding Area

5.1.1 The site is located within the village of Coxheath and fronts Heath Road which is the main road running through the village from east to west. The site is at the

western end of Heath Road and is situated in a predominantly residential area. In total there are now 15 dwellings in the development known as Orchard Place. Planning permission was granted in 2005 for the 12 dwellings which are affected by this current application. The dwellings have been completed and occupied for approximately 5-6 years.

5.1.2 To the east of the application site there is a hawthorn hedgerow which runs adjacent to the boundary. This hedgerow has gaps within its length. It is situated between two bungalows and the application site. One of the bungalows fronts Heath Road (no.80) and the other (no.78) is set behind no.80 and obscured from view from Heath Road. There is also 1.8m high close board fencing along this boundary in part.

5.2 Proposal

5.2.1 This is an application to vary two landscaping conditions imposed on an original planning permission for the residential development comprising 12 dwellings. In addition to the original conditions, a further condition was applied when approval of a landscaping scheme was given; removal of this later condition is also sought through this application. The relevant conditions are as follows:

5.2.2 Condition 8 of MA/03/2258 states:

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and 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. The scheme shall show retention of the hedge along the eastern boundary of the site;

Reason: No such details have been submitted and in accordance with Policy ENV2 of the Maidstone Borough-Wide Local Plan 2000.

5.2.3 Condition 9 of MA/03/2258 states

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 building(s) or the completion of the development, whichever is 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 ENV2 of the Maidstone Borough-Wide Local Plan 2000.

5.2.4 In response to Condition 8 a scheme of landscaping was duly submitted by the applicant to the Council for consideration in 2005. At the time of the submission, representation was made by the owner of the property on the eastern boundary 'Courtstones' (78 Heath Road); the issue of ownership of the existing hedge on this boundary was being challenged. The significance of the ownership of the hedge was that the applicant showed it to be retained as part of the landscaping scheme; the objector claimed that they had no control over whether the hedge stayed or went as it was not within the applicant's ownership. Issues of land ownership are not strictly a matter for planning – aside from the serving of notice where apparent. In this instance it was considered that on the basis of the plans that had been submitted, regardless of who owned the hedge on the eastern boundary, that there was still sufficient room running the length of the boundary to provide a replacement hedge if necessary on the applicant's land. In light of this and in order to progress the application a further condition was imposed on application MA/03/2258/C04 which read as follows:

Should the hedge on the eastern boundary, which is shown to be retained, be removed at anytime, a replacement hedge within the application site will need to be planted in accordance with a scheme to be agreed in writing with the Local Planning Authority. The approved scheme will be fully implemented in the first available planting season and retained thereafter.

Reason: In the interests of visual and residential amenity and in accordance with Policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

5.2.5 Subsequent to the discharge of the landscaping condition above, the owner of 'Courtstones' made a successful legal case and it was defined in law that the hedge was outside the application site.

5.2.6 Prior to the Council being aware of the results of the legal challenge, a complaint was received by the Council's planning enforcement team that sections of the hedge were missing and as a matter of procedure the Council wrote to the applicant to seek its replacement. It was then that the applicant divulged the outcome of the court case and it became apparent that there was a problem in that the terms of the condition could not be met. In fact the development of 12 houses also comprised built development which was adjacent to the lawfully proven boundary and due to the siting of garage structures it would not be

possible to plant a replacement hedge on the eastern boundary. In addition to this, the occupiers of the new houses had undertaken their own planting within their private gardens on this boundary which would further prohibit a new hedge.

Other landscaping issues

- 5.2.7 In addition to the above, it also became apparent to the Council's Enforcement Officer that other landscaping details had not been fully complied with and that there was a further breach taking place. The Council's enforcement officer wrote to Fernham Homes on 30 March 2011 advising them of the missing planting and the requirement to undertake it within 21 days. However, on writing to the residents to inform of the planting to be undertaken, two of the new owners decided against the approved landscape scheme or replacement of trees that should have been retained and refused the planting on their private property. The remainder of the missing planting appears to have been carried out.
- 5.2.8 This application also therefore seeks an amendment to the approved landscaping scheme which would allow the outstanding planting not to take place. The initial request by planning enforcement to undertake the missing planting was by letter dated 30 March 2011, this included the infilling of gaps in the hedge and together with missing on site planting that was considered on the face of it essential. The letter was written prior to any formal planning assessment as to whether the variation of condition would in fact be acceptable. The enforcement officer had discussed the matter with the council landscape officer. As a follow up to the initial letter dated 30 March 2011, the enforcement officer then met with the applicant on site to assess the extent of missing landscaping and in a further letter dated 6 May 2011 set out what had been discussed. In summary, it was agreed that the eastern hedgerow should be dealt with through an application to vary or remove the planning condition, and that the remainder of the on site planting should be undertaken in the next available planting season (October 2011) – although it was understood that more information may be forthcoming relating to property owners refusing planting on their land. Due to the submission of the planning application it was deemed not appropriate to pursue enforcement action until detailed consideration could be given to the breach. The planning officer then advised the applicant that both elements of the breach (the hedge and internal landscaping) could be considered under one application.
- 5.2.9 Annotated drawing no. BS-181-21 Rev D date stamped 11 May 2012 shows the extent of planting which the applicant has not been able to complete; namely, one maple tree (a replacement for that which was removed) and two birch trees. The two birch trees were to be located close to the eastern boundary of the site in the front amenity area belonging to no.8 (Orchard Place.) The maple tree

should be located in the front garden of no. Orchard Place at the front of the site. The Council has been given copies of letters from the private home owners refusing for the planting of these 3 trees to be undertaken. It is important to note that planning permission runs with the land and that if the Council considers the 3 trees essential to the completion of the scheme then the homeowners would be required to comply with the conditions or risk being served with a Breach of Conditions Notice.

5.3 Determining Issues

- 5.3.1 The main issues for consideration are whether there is any reason why the Council would no longer require the implementation of the condition relating to the provision of a hedgerow on the eastern boundary or the completion of the approved landscaping scheme. It is important to consider why the conditions on landscaping were considered appropriate at the time. The original landscaping condition was cited as being in the interests of amenity and in accordance with Policy ENV2 of the Maidstone Borough-Wide Local Plan 2000. This policy has not been saved, but amenity is still an issue for consideration. The latter condition for a replacement hedge was in accordance with Policy ENV6 of the MBWLP 2000.
- 5.3.2 In terms of the impact of the development on the objector at no. 78 Heath Road (Courtstones), the hedge was considered to soften the development to a degree and therefore it was perceived as an important feature to try and retain through the landscaping condition. It also acted as an additional barrier to protect privacy between the objector and the development site. It's importance was of course, assessed on the basis that the applicant could have removed it through their development plans. The fact that it has now been proven that the objector owns the hedge then it is under their control and can still be retained if considered necessary. From a public amenity view point, the main impact of the hedge is the first 3-4 metres back from the public footpath at the front of the site, as this is where it has its greatest impact. I note there is low level shrub planting at the front of the site and small grassed front gardens.
- 5.3.3 When travelling along Heath Road in either direction this is a well developed area with dwellings and built form flanking this busy road. The character of the area is such that there are some dwellings with a large expanse of green front gardens and others which have been entirely hard surfaced over. The proposal to retain the hedge was partly in an attempt to 'soften' the overall impact of this development, however there is a limit to how much any hedge can achieve, particularly when the majority of it can only be viewed from private land. The desire to retain the hedge where viewed from private land was primarily to

protect the objector – however, the objector no longer needs the planning system to achieve this as they are in control of the hedge.

- 5.3.4 This application has therefore arisen as the developer formally needs the condition to be removed in light of the realisation over the implications of the hedge ownership and that the terms of the condition could never be met if the objector removed their existing hedge. That is, the condition can never be met unless the applicant were to come to an arrangement with the owner of Courtstones over purchasing the strip of land from them. The owner of Courtstones has made it clear that it would be unfair and unjust if Fernham Homes are not made to reinstate the hedge on their land. However, in order to do this the only alternative that I can see would be to set a hedge inside the boundary fence, this would mean new planting in private garden or car park areas. The only purpose this type of planting would serve would be to make a point that the condition should be adhered to. The hedge would not be able to run the entire length of the eastern boundary. Planting in this manner would not contribute to the amenity of the newer dwellings and not be visible from the property of Courtstones.
- 5.3.5 The owner of Courtstones has stated that the Council should stand by its decision and considerations at the time when it applied the condition on MA/03/2258/C04. However, whilst the Council was clearly aware that there was a claim on the ownership of the hedge, there was no indication that the boundary would change such that a replacement hedge could not be implemented. I do not agree with the objectors comments that the Council has no choice but to refuse this application. It is my view that the underlying need and purpose for a hedge has to be considered in light of the material circumstances at this time. I am also of the view that had the ownership of the hedge been established in 2005 then it would not have formed part of the application site. As a result the condition to retain the hedge would not have been imposed as it was not in the control of the applicant, and the treatment of the boundary would have focused on providing an appropriate boundary from within the application site with an acceptable visual and amenity impact from outside the site. Arguably this has now taken place by virtue of the close board fencing which can be seen from within the application site along the majority of the boundary and is obscured in part by the hedge on the outside.
- 5.3.6 I have visited the site on more than one occasion, and walked adjacent to the site considering the views from the neighbours in addition to within the site and from the environment of the newer dwellings in Orchard Place. It is my view that the development has assimilated into the built environment. With specific regard to the hedgerow I consider it has limited amenity value whether it stays or goes. It does act as a visual buffer between the sites, but I consider the matter has become one more of principle than planning merit. I do not consider

that the loss of the hedgerow has any detrimental impact in terms of loss of privacy to the objector and as mentioned it is within their control to retain or replace.

5.3.7 Turning to the other matters of incomplete landscaping within the application site, I advise as follows. The Council's enforcement officer advised the applicant that the approved landscaping was incomplete. It seems that some 20 species were missed when planting took place in 2006. The applicant has provided copies of the letters sent to all residents on the site (April and November 2011) advising them that planting would be taking place to avoid any action being taken by MBC. In response to this, it appears that two of the residents refused for the landscape contractor to implement planting on their property and as a result two birch trees and a Maple tree have not been planted. The maple tree should have been close to the site entrance and the birch trees in the rear of the site, in the front side garden of no. 8 Orchard Place. I am concerned that the two areas where the trees should be planted are area of public amenity –albeit that they are on private land. The two birch trees would help to soften the setting within the development and the maple tree is to replace one that should never have been removed and was in a prominent location at the front of the site. Whilst I acknowledge that had the trees been planted in the first planting season following the development, they could now be lawfully removed, I do not consider this is justification for them not to be planted as agreed. Their siting would enhance the character of the site and it is therefore my view the three trees in question should still be planted.

5.4 Other matters

5.4.1 I have considered the comments received by the Parish Council, however, on balance and for the reasons outlined in this report, I do not consider there is sufficient grounds to refuse this application in relation to the provision of the hedgerow on the eastern boundary.

5.4.2 Having considered the concerns expressed by the objector, I do not consider there will be a loss of amenity afforded to their property by virtue of not securing a replacement hedge on the development site.

5.4.3 It is also worth noting that a later planning application (MA/06/0388 refers) granted permission for an additional 3 dwellings to be served from this development in the north west corner of the site. I understand that there are issues relating to landscaping within this part of the development that are also subject to planning enforcement. The current application, site area and all references to planning permissions only relate to the 12 dwellings. The 3 dwellings will need to be considered as a separate matter.

6. CONCLUSION

- 6.1 In light of the above considerations, I consider on balance that it is now appropriate to vary condition 8 of MA/03/2258 and condition 1 of MA/03/2258/C04 in so far as they relate to the retention or replacement of the hedgerow on the eastern boundary. With regard to the other landscaping details within the site I consider that a condition should be imposed requiring the undertaking of the two birch trees on the eastern boundary within land owned by plot 8 and the replacement Maple Tree on land owned by plot 1 as shown on drawing no. BS-181-21 Rev D and date stamped 11 May 2012. With regard to condition 9 this relates to the timing of undertaking the planting and its retention for a period of 5 years. This condition is also now varied by virtue of imposing an updated condition to reflect the manner and time frame in which the planting has been undertaken on site.

7. RECOMMENDATION

APPROVE subject to the following conditions:

1. Notwithstanding the wording of Condition 8 of planning permission MA/03/2258, the submitted landscaping scheme reference MA/03/2258/C04 remains in force aside from the requirement to retain the hedgerow on the eastern boundary which is not within the applicant's ownership. All planting undertaken in the planting season October 2011 - March 2012 as shown on drawing no. BS-181-21 Rev D date stamped 11 May 2012 shall be retained for a period of five years from the date of this decision, in the event that any trees or plants die, are removed or become seriously damaged or diseased they must be replaced in the next available planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure satisfactory integration of the development into the locality and in accordance with Policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

2. Within the current planting season the applicant is required to undertake the planting of 2 birch trees within the ownership of Plot 8 shown on drawing no. BS-181-21 Rev D and the replacement maple tree on land within the ownership of Plot 1 also shown on this drawing and in accordance with the planting scheme approved under reference MA/03/2258/C04. In the event that these trees die, are removed or become seriously damaged or diseased they must be replaced in the next available 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.

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/11/2169

GRID REF: TQ7551

**GEORGE MARSHAM HOUSE,
HOLMESDALE CLOSE, LOOSE.**



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**Rob Jarman
Head of Planning**

APPLICATION: MA/11/2169 Date: 21 December 2011 Received: 9 January 2012

APPLICANT: Mr G McGillivray, Baily Garner LLP

LOCATION: GEORGE MARSHAM HOUSE, HOLMESDALE CLOSE, LOOSE,
MAIDSTONE, KENT, ME15 0BE

PARISH: Loose

PROPOSAL: Erection of fourteen dwellings with landscaping and car parking and refurbishment of existing two storey block 'Amies House' including new cladding and entrance porch as shown on drawing numbers PL01, PL02, PL03, PL04, PL05, PL06, PL10, PL11, PL12, PL20, PL21 and PL40 received on 21/12/11.

AGENDA DATE: 1st November 2012

CASE OFFICER: Peter Hockney

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

- it is contrary to views expressed by Loose Parish Council.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV32, H27, T13
- South East Plan 2009: CC1, CC4, CC6, H3, H4, H5, T4, NRM9, NRM10, BE1, BE6, M1, AOSR7
- Government Policy: National Planning Policy Framework 2012

2. HISTORY

MA/03/1888 - Creation of new access ramp and handrails – APPROVED WITH CONDITIONS

MA/83/0143 - Formation of entrance drive – APPROVED WITH CONDITIONS

3. CONSULTATIONS

- 3.1 **Loose Parish Council** raise objections to the proposed development and wish the application be reported to Planning Committee for the following reasons:-

- 3.1.1 "The Parish Council wish to see the application refused and request the application is reported to the Planning Committee for the following planning reasons.
- 3.1.2 The density of the proposed housing does not accord with that of the surrounding properties (semi-detached in good sized plots) and is not within the general aspect of the present layout of the Close. The development will have an adverse affect on the street scene.
- 3.1.3 Concerns are raised regarding the increase in vehicular movements that would be generated and their impact on traffic on the A229. This road is known to be regularly congested through Loose. With the developments at Leonard Gould and the ambulance station sites c.150 more properties will be contributing to its catchment just locally.
- 3.1.4 The increase of traffic within Holmesdale is a worry with respect to the safety of the young and old. Some form of traffic calming should be a consideration for a consent condition. The increase in traffic could be a nuisance and stressful.
- 3.1.5 There are concerns regarding the lack of provision for amenity open space. In view of the proposed housing being aimed at families and the elderly it is disappointing that nothing has been allowed for. It is pointed out that the nearest recreational facilities are a mile away at the King George V Playing Field.
- 3.1.6 The nearby Congregational Church is very supportive to the community. Services are conducted on several days of the week. They are well attended, many worshipers being elderly people, some with disabilities. Community spirit in this area is strong and the role of the Church is important. At present Holmesdale Close is the main parking area for Church goers and allows a safe, manageable, access to the Church. There are fears that parking pressures from any new development will compromise this parking arrangement. Whilst accepting that this is not a relevant planning policy issue we would ask that some safeguarding of the facility is considered.
- 3.1.7 Again, not a planning policy consideration but we point out that there is a known local road drainage problem in Holmesdale and that the drainage system is inadequate.
- 3.1.8 The Parish Council is anxious that the Oak, Beech and Field Maple (identified on plans) are well protected for the future. These trees were awarded to us by the Kent Men of the Trees as a prize for the "Best Trees in Your Village Competition" and were planted by us some years ago.
- 3.1.9 Finally, may we refer you to PPS3 point 46 which we feel has relevance.

3.1.10 *"Local Planning Authorities should develop housing density policies having regard to:*

The current and future level and capacity of infrastructure, services and facilities such as public and private amenity space, in particular green and open space"

The Characteristics of the area, including the current and proposed mix of uses"

3.1.11 Also, PPS3 point 51.

"Local Planning Authorities should, with stakeholders and communities, develop residential parking policies for their areas, taking account of expected levels of car ownership, the importance of promoting good design and the need to use land efficiently"

3.1.12 The Loose Parish Council, whilst appreciating that some sort of housing provision will be built would wish our concerns, and the concerns of the local community to be taken into account when formulating your decision."

3.2 **Mouchel on behalf of KCC** request financial contributions towards the following services as a result of the additional demand placed on the services from the proposed development:-

- Libraries £3,407.07
- Youth facilities £217.69
- Community Learning £598.77
- Adult Social Services £1,047.88

3.3 **West Kent PCT** request a financial contribution of £13,284 towards the provision or upgrade of healthcare facilities at Grove Park surgery and/or Shepway practice at Northumberland Court and/or Marsham St practice and/or St Lukes Medical centre at Holland Road and/or Stockett Lane surgery. This contribution will be directly related to this development as it will help towards upgrade and/or redevelopment and/or relocation.

3.4 **MBC Parks and Open Space** request a financial contribution of £22,050 to go towards enhancing, maintaining, repairing and renewing play areas and green spaces within a one mile radius of the proposed development. We would recommend that the monies be put towards Boughton Monchelsea Play Area which is the nearest Red graded strategic play area in the Play Area scoring matrix.

3.5 **Kent Highway Services** do not raise any objections on highway safety grounds but do raise some concern about the reversing space for car parking spaces numbered 11 to 15 and that cars parked in spaces numbered 1 and 2 and 16 and 17 would need to reverse approximately 34m into Holmesdale Close to turn. The Kent Design Guide recommends that cars and small service vehicles should not be expected to reverse more than 25m.

3.6 **MBC Conservation Officer** raises no objections to the application on heritage grounds stating:-

"The application site lies to the rear of the listed Coxheath Congregational Church, separated by the width of a road. The proposed two storeyed development will have no significant impact on the setting of this listed building which, in any case, has a substantial and unsympathetic modern rear extension backing on to Holmesdale Close."

3.7 **Southern Water** raise no objections to the development and recommend a condition be imposed in relation to the means of foul and surface water sewerage disposal and an informative requiring a formal application to the public sewerage system.

3.8 **UK Power Networks** have no objections to the application.

4 REPRESENTATIONS

4.1 5 letters of objection have been received on the following grounds:-

- Increased traffic onto Linton Road.
- Noise pollution to existing residents.
- Blocking existing accesses to the rear of properties that face Linton Road.
- Concern that the development would prevent access to the public highway and existing garages.
- The development of multi storey family housing is out of character with the existing development and elderly residents.
- The heights of the roofs are out of keeping with the surroundings.
- Insufficient level of car parking provision for the development.
- The parking arrangements for the Church would be disrupted by the parking for new residents and from the construction of the development.
- There is no screening proposed for the northern boundary.
- Concern regarding the removal of a Sycamore tree that is not located within the application site.
- Loss of privacy.

4.2 A petition including 6 residents of Holmesdale Close with accompanying standard letter have been submitted objecting to the development on the following grounds:-

- The increase in traffic and potential obstruction of the pavement would reduce the quality of life of the existing occupants.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site is with a cul-de-sac location off the A229, Linton Road, at the western end of Holmesdale Close. The site is within the village envelope of Loose. There are a number of other residential properties in the vicinity within Holmesdale Close. To the east are rear entrances to properties that face onto Linton Road, which are located on the opposite side of Holmesdale Close. To the north of the site are a parking area and the rear gardens of properties within Salts Avenue. To the west of the site are the grounds and playing fields of the Cornwallis School, which is located outside the village envelope and within the Southern Anti-Coalescence Belt (ENV32).

5.1.2 The site forms two distinct parts; the first is currently vacant and formerly housed George Marsham House, which was a two storey building with the appearance of a row of terraced properties and a detached two storey flat roofed building located close to the boundary with Holmesdale Close. George Marsham House was formally a sheltered Housing scheme comprising of 24 bed sits with shared facilities. The accommodation provided within George Marsham House was no longer fit for purpose and as a result the buildings on site have been demolished. The second part of the site relates to the existing 'Amies House' building, which sits adjacent to the former George Marsham House and comprises a two storey block of 6 one bed flats and remains in use.

5.1.3 There are some trees of interest on and surrounding the site, including an Oak close to the boundary with Holmesdale Close and a Field Maple and Red Oak towards the western side of the site. None of the trees are protected by a Tree Preservation Order. The Linton Road Congregational Church is located to the east of the site, between Holmesdale Close and Linton Road and is a Grade II listed building.

5.2 Proposal

5.2.1 The proposal is again in two parts. Firstly, the main part of the proposal involves the construction of fourteen dwellings on the site of the former George Marsham House. There would be eight 3 bedroom houses, three 4 bedroom

houses and three 2 bedroom bungalows. The fourteen dwellings would be provided by Golding Homes and would be all affordable housing.

- 5.2.2 The layout of the development would include two rows of four three bedroom houses (back to back) facing generally north and south. Attached to the western end of the northern terrace would be two 4 bedroom dwellings with a single 4 bedroom dwelling attached to the southern terrace. To the eastern part of the site, the development would consist of bungalows fronting Holmesdale Close. There would be a single detached bungalow and a pair of semi detached bungalows. The layout of the development follows the principles of Secure by Design with active frontages overlooking the roads and footways.
- 5.2.3 The three bedroom houses would be two storey and the four bedroom properties would be two and a half storeys (accommodation contained within the roof). The materials used would incorporate a fibre cement cladding material designed to replicate traditional timber weatherboarding, a mix of red and yellow brickwork with artificial slate for the roof, which would be a 45° angle. Each of the dwellings would have a private garden area in excess of 50m². There would be 17 car parking spaces to serve the fourteen dwellings, with a mixture of shared parking areas and driveways. The dwellings would meet at least level 3 of the Code for Sustainable Homes.
- 5.2.4 The development would include a scheme of proposed landscaping, which would create individual front garden areas for the properties. There would be limited fencing along the frontages and therefore the open plan style landscaping would be the main feature of the dwellings.
- 5.2.5 The second part of the proposal would be the refurbishment of 'Amies House', located in the southern part of the site. This would involve the replacement of cladding of the first floor of the building and the cladding of the ends. There would be changes to the roof of the existing porch to go from a flat roof to a mono pitch with some minor fenestration changes.
- 5.2.6 The applicant undertook pre-application discussions with officers in relation to the development of the site and has also agreed to include swift bricks and bat boxes within the development and to ensure all hard surfaces provided are permeable through the course of the application and these would be secured through a condition.

5.3 Principle of Development

- 5.3.1 The application site is located within the village envelope of Loose and is close to nearby schools, some amenities and bus routes into Maidstone. The site is previously developed land and previously contained 24 bedsits with shared

facilities. Within the village envelope policy H27 of the Maidstone Borough-Wide Local Plan (2000) allows for new minor residential development. I consider that the principle of the development of this site for residential purposes is acceptable and in accordance with the Development Plan.

- 5.3.2 The overarching aim of the National Planning Policy Framework is to deliver sustainable development and to this end I find no conflict between this aim and the policies within the Development Plan.

5.4 Visual Impact

- 5.4.1 The main part of the existing site is a vacant site with the former George Marsham House having been demolished. It is surrounded with hoardings and appears as an unattractive site awaiting development. The previous development that was on the site was of a relatively unattractive appearance with a long terrace with a two storey flat roof building located in front. The southern part of the site includes 'Amies House'. This building is beginning to look dated and is in need of refurbishment. Therefore I do not consider that the site provides a particularly positive impact on the surrounding area.
- 5.4.2 The proposed dwellings would be mixed in terms of styles with the bungalows fronting Holmesdale Close and themselves screening the flank wall of the end of the terrace of properties. The two terraces would then face the new shared private access roads and create further active frontages.
- 5.4.3 The surrounding properties are mixed in terms of styles with two storey semi detached dwellings on the south side of Holmesdale Close near the entrance from Linton Road. There are bungalows in the southern part of Holmesdale Close alongside the two storey 'Amies House'. In addition there are two storey properties in the vicinity fronting Linton Road and to the south in Hanson Drive. The existing mix of house types in the area would ensure that the proposed development with a mixture of bungalows, two storey dwellings and two dwellings with additional rooms in the roof would not be out of character with the area.
- 5.4.4 The proposed development would be relatively well designed. The scale of the development is proportionate with other development in the area. The articulation of the dwellings combined with the frontages of the dwellings overlooking Holmesdale Close and the shared access drives would enhance the character of the site and would be a significant improvement on the previous unattractive terrace and detached two storey flat roofed buildings that occupied the site. Furthermore, the development would also be an improvement on the existing site and its hardstanding area and hoardings.

- 5.4.5 The proposed development would include shared surfaces to the front of both rows of terraces. These shared surfaces and their future use would add more character to the area, which is to some extent characterised by the back fences to rear gardens that offer limited surveillance or visual interest. Their introduction would also result in a visual improvement on the previous development and the existing site.
- 5.4.6 The Congregational Church that fronts Linton Road is a Grade II listed building. The development would be on the opposite side of Holmesdale Close to the listed building and the separation would be sufficient to ensure that the development would not harm the setting of the listed building. The Conservation Officer has considered the application and agrees with this assessment.
- 5.4.7 The retention of the existing tree adjacent to Holmesdale Close and the proposed landscape frontages to create front gardens would assist in soften the development and it would fit in well with the cul-de-sac location. The front gardens would assist in integrating the development into the overall character of Holmesdale Close and conditions to ensure this open plan feel is maintained would be appropriate.
- 5.4.8 The refurbishment works to 'Amies House' would have a positive impact on character and appearance of the area.

5.5 Residential Amenity

- 5.5.1 The nearest residential properties to the new development would be those in Holmesdale Close and those that front Linton Road. The other properties close to the new development would be the dwellings in Salts Avenue whose rear gardens back onto part of the application site.
- 5.5.2 The dwellings in Holmesdale Close would be mostly separated from the proposed development by the road and although the new southern terrace would overlook part of the grounds of 'Amies House' I do not consider this to result in an unacceptable loss of privacy. The properties in Linton Road would be a minimum of approximately 30m from the closest boundary of the application site (which is again across the highway of Holmesdale Close) and this distance would ensure that the privacy levels of the occupants would be maintained. The dwellings in Salts Avenue would be a significant distance from the proposed development and a minimum of approximately 70m from the closest boundary of the application site. One of the letters of representation raises concern about the northern boundary of the application site and a satisfactory boundary treatment could be secured by way of a condition.

- 5.5.3 The distances between the proposed development and the nearby houses would ensure that there would be no adverse impact in terms of loss of light or an overwhelming impact from the development and the level of amenity enjoyed by the occupiers would be maintained.
- 5.5.4 Concern has been raised by some objectors that the family housing would harm the amenity of the elderly residents in Holmesdale Close. I do not consider that one type of housing would necessarily impact on the amenity levels of other occupants purely on the type of accommodation proposed. In fact the introduction of family housing would provide a more mixed community and should be encouraged.
- 5.5.5 There is also concern raised by an objector regarding increased noise pollution. However, I do not consider that residential accommodation is necessarily a noise generator. It is not in the realms of an industrial or public house use, which could well cause disturbance that, would impact on amenity.
- 5.5.6 The refurbishment works to 'Amies House' would have no significant impact on residential amenity.

5.6 Highways

- 5.6.1 The proposed development would be served from the existing Holmesdale Close. There would be two shared access drives that would serve the two terraces of properties. Access to the bungalows would be direct from Holmesdale Close. Holmesdale Close is a cul-de-sac which serves a number of properties, the rear of some properties in Linton Road and a garage block/parking area. There is no issue with the capacity of the road or the visibility at the junction with Linton Road.
- 5.6.2 I note the comments from Kent Highways in relation to parking spaces and requiring 6m to reverse. Whilst I accept that to reverse out of some of the spaces would require more than one movement, I do not consider that undertaking this manoeuvre in a private shared access that would serve a few dwellings would be a significant hazard to highway safety.
- 5.6.3 A number of the objectors have raised concern about the increased parking and inconvenience from parking within Holmesdale Close. However, there are 17 car parking spaces proposed for the fourteen dwellings and this is considered an appropriate level of parking for the development. I do not consider that any additional on street car parking caused as a result of the development would result in a hazard to highway safety. The impact of the previous use of the site for 24 bedsits would have had the potential for a greater level of on street car parking.

- 5.6.4 I note the objections from the nearby church in relation to the impact on those attending the church. However, I note that the church relies on parking available on the public highway and unfortunately it is not within the remit of planning to secure on street car parking for a particular use and although the development may result in some inconvenience to attendees of functions at the church it would not result in a significant reduction of on street parking and would not justify refusal of the application.
- 5.6.5 The proposal for 14 dwellings would result in an increase in vehicular movements through the 'Wheatsheaf Junction' from the existing vacant site. However, the previous use as 24 bedsits would have also generated a number of vehicular movements through this junction. Given the scale of the development, its location and other directions of travel available and the previous use of the site for 24 bedsits I do not consider it appropriate to request contributions towards the proposed highway improvements to assist this junction.
- 5.6.6 The refurbishment works to 'Amies House' would have no significant impact on highway considerations.

5.7 Landscaping

- 5.7.1 The application is accompanied by a tree survey and identifies the primary arboricultural constraint within the site boundary will be development in relation to the oak and the red oak and in relation to groups of trees, which separate the site from the Cornwallis school grounds to the west and also considers these to be significant trees within the local landscape.
- 5.7.2 The development has been designed in order to retain these trees of importance. The arboricultural implications assessment concludes that we recommend that a low impact construction methodology is utilised within the Root Protection Area (RPA) of these trees, and that any works within the RPA should be approved by the Local Planning Authority prior to any works commencing. Should works be required within the RPA, they should be hand dug, under arboricultural supervision. Any roots should be cleanly cut to avoid infection. All retained trees should be afforded suitable protection throughout the construction phase with standard Heras fencing. A condition should be imposed in order to secure the development is carried out in accordance with the recommendations in the assessment.
- 5.7.3 The key trees would be retained including the prominent oak adjacent to Holmesdale Close and the tree screen along the western boundary screening

views from Cornwallis school. This would ensure the positive contribution that these trees have on the surrounding area would be maintained.

- 5.7.4 The proposed development includes additional landscaping and a number of front garden areas. It is important that these front gardens contribute positively to the character of the road and to this end I would propose a condition requiring a full landscaping scheme be submitted including hedgerows within the front gardens and in particular the bungalows that would front directly onto Holmesdale Close.

5.8 Heads of Terms

- 5.8.1 Any request for contributions needs to be scrutinised, in accordance with Regulation 122 of the Act. This has strict criteria that sets out that any obligation must meet the following requirements: -
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
- 5.8.2 The following requests have been made by consultees as a result of the proposed development:-
- A contribution of £3,407.07 for bookstock, staff and extended hours at the Kent Library and History Centre required by the demand created by the proposed development;
 - A contribution of £217.69 towards a youth outreach services required as a result of this development;
 - A contribution of £598.77 towards adult learning in Maidstone outreach centres;
 - A contribution of £1,047.88 towards projects to provide social care;
 - A contribution of £13,284 for the upgrade and/or redevelopment and/or relocation of nearby surgeries;
 - A contribution of £1,575 per dwelling for the improvement of the open space within surrounding area.
- 5.8.3 This proposal includes the provision of contributions for the Primary Care Trust (PCT), Kent County Council (KCC), and for Maidstone Borough Council Parks and Open Space Department (POS).
- 5.8.4 There is some justification submitted by consultees for the requested contributions for all parties. However, the applicant has provided information in relation to the viability of the scheme and demonstrated that no contributions can be paid. The basis of this viability argument is that the entire development

would be affordable housing and there are abnormal construction costs due to the lack of gas main facilities in the area and these would be upgraded for the proposed development and the existing dwellings under the applicant's control. The value of a scheme of 100% affordable housing is considerably lower than the equivalent scheme sold on the open market. This data has been checked by the Council's property section who concurs with the findings.

- 5.8.5 As a result I have not scrutinised the requested contributions from the consultees in terms of the location of proposed expenditure and whether it meets the required tests, in particular whether it relates to the development. I propose that a Section 106 agreement be entered into that would secure a development of 100% affordable housing and no additional contributions.

5.9 Other Matters

- 5.9.1 In terms of ecology, an ecological scoping report has been undertaken by the applicant. The report concludes that there is no suitable habitat on site for amphibians, reptiles, dormice, restricted habitat for badgers (and no signs found on site), very restricted habitat for foraging for bats with no potential for roosting. It does state that the trees offer good nesting habitats for birds. I consider that with the retention of the trees, particularly the screen to the west of the site, adjacent to the school grounds would secure the retention of the identified habitat on the site. Furthermore, following discussions with the applicant they have agreed to incorporate swift bricks and bat boxes, which would enhance the opportunities for such wildlife and these can be conditioned. Therefore I consider the development to be acceptable in terms of ecological considerations.
- 5.9.2 There would be no significant impact on environmental health considerations. The site was formerly residential, adjacent to school grounds and as such there would be no issue with contaminated land. The dwellings would be set far enough (and behind existing dwellings) from the A229 to be shielded from the traffic noise and any air quality issues.
- 5.9.3 The proposed dwellings would all meet a minimum of level 3 on the Code for Sustainable Homes and this would ensure that in terms of sustainable construction they would exceed current building regulation standards. A condition will be imposed to secure this. Code for Sustainable Homes level 4 was sought at pre-application stage, however, the applicant considers that the cost of providing this level would be prohibitive, particularly with the extensive gas main works required for this site and other properties in the area. Although Code for Sustainable Homes level 4 would be desirable I do not consider that the proposal to achieve level 3 instead would, in this case, warrant a refusal of consent.

- 5.9.4 There is no development proposed on the public highway and no plans to alter the ownership details or access arrangements for the carriageway of Holmesdale Close.
- 5.9.5 Southern water have requested conditions in relation to foul and surface water drainage and these would be appropriate to attach to any permission. The applicant has agreed through negotiation to provide all hardsurfaced areas in permeable material to assist with surface water runoff.

6. CONCLUSION

- 6.1 The site is previously developed land and within the village envelope of Loose. It was formerly residential with two storey buildings providing 24 bedsits. The principle of the redevelopment for additional housing is acceptable.
- 6.2 The design and layout of the scheme is acceptable and would result in a positive impact on the character and appearance of Holmesdale Close. The development would not have a detrimental impact on the character and appearance of the nearby listed building.
- 6.3 There would be no adverse impact in terms of residential amenity caused by the development. The distances between the proposed development and the existing residences would be sufficient to ensure the level of amenity enjoyed by the occupiers would be maintained.
- 6.4 There would be no adverse impact on highway safety from the proposal. The 17 spaces for the fourteen dwellings is an adequate level of provision. There may be some additional manoeuvring to get out of some of the spaces but this would not impact on highway safety and would be on private land.
- 6.5 The scheme would provide 100% affordable housing and at this level it has been demonstrated that no financial contributions could be made. On this basis and considering the Council's priority for the provision of affordable housing I consider a Section 106 requiring 100% affordable housing and no other contributions to be acceptable.
- 6.6 The alterations to 'Amies House' are minor alterations and would not have a significant impact on the area. However, the refurbishment works would result in a positive visual impact and are acceptable.
- 6.7 Overall, the development is acceptable and in accordance with the Development Plan and national guidance in the National Planning Policy

Framework and subject to the completion of a Section 106 legal agreement I recommend permission be granted.

7. RECOMMENDATION

SUBJECT TO:

- a) The prior completion of a legal agreement, in such terms as the Borough Solicitor may advise, to secure the provision of 100% affordable housing;

I BE DELEGATED POWER TO GRANT PLANNING PERMISSION subject to the following conditions:

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

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

2. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the building(s) 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 in accordance with policies BE1 of the South East Plan (2009).

3. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping including front boundary hedgerows around the properties, 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. 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 in accordance with policies ENV6 of the Maidstone Borough Wide Local Plan (2000) and BE1 of the South East Plan (2009).

4. 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 building(s) 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 policies ENV6 of the Maidstone Borough Wide Local Plan (2000) and BE1 of the South East Plan (2009).

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Classes A, B and E shall be carried out without the permission of the Local Planning Authority;

Reason: To ensure a satisfactory appearance to the development is maintained and to ensure levels of amenity are maintained in accordance with policy BE1 of the South East Plan (2009).

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

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with policy BE1 of the South East Plan (2009).

7. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gate or walls shall be erected in front of the front wall of the dwellings hereby permitted, without the prior approval of the local planning authority.

Reason: To safeguard the character and appearance of the site and the surrounding area in general in accordance with policy BE1 of the South East Plan (2009).

8. The development shall not commence until, details of the proposed permeable materials to be used in the surfacing of all access road, parking, turning areas, and pathways within the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the subsequently approved details;

Reason: To ensure that the development positively responds to the character and appearance of the locality and to ensure highway safety. This is in accordance with polices CC6 and BE1 of the South East Plan 2009 and the National Planning Policy Framework 2012.

9. The dwellings shall achieve a minimum of 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 (at least) 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 and the National Planning Policy Framework 2012.

10. The area shown on the submitted layout as vehicle parking space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: To ensure adequate parking provision for the development in accordance with policies T13 of the Maidstone Borough-Wide Local Plan (2000) and T4 of the South East Plan (2009).

11. The development shall not commence until details of measures to provide for the installation of bat boxes and swift bricks within the site, have been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: In the interests of biodiversity and ecology pursuant to policy NRM5 of the South East Plan 2009 and in accordance with the National Planning Policy Framework 2012.

12. The development shall not commence until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP), which shall include details of all trees to be retained and the proposed measures of protection, undertaken in accordance

with BS 5837 (2012) 'Trees in Relation to Design, Demolition and Construction-Recommendations' has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include full details of areas of hard surfacing within the root protection areas of retained trees which should be of permeable, no-dig construction and full details of foundation design for the extension, where the AMS identifies that specialist foundations are required. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The sitting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6 and BE1 of the South East Plan 2009, Kent Design Guide 2009 and central government planning policy as set out in the National Planning Policy Framework 2012.

13. The development shall not commence until details of foul and surface water drainage have been submitted to and approved by the local planning authority. The submitted details shall incorporate inter-alia wildlife friendly drainage gullies and design features. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interest of pollution and flood prevention in accordance with policy NRM4 of the South East Plan (2009).

14. The development hereby permitted shall be carried out in accordance with the following approved plans:
PL01, PL02, PL03, PL04, PL05, PL06, PL10, PL11, PL12, PL20, PL21 and PL40 received on 21/12/11;

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with policy BE1 of the South East Plan (2009).

Informatives set out below

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 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.

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 except between the hours of 0800 and 1900 Mondays to Fridays and 0800 and 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

You are advised to ensure that the appointed contractor(s) is/are registered with the 'Considerate Constructors Scheme' and that the site is thereafter managed in accordance with the Scheme. Further information can be found at www.considerateconstructorsscheme.org.uk

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside of the normal working hours is advisable.

There shall be no burning of waste materials on site.

A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Atkins Ltd, Anglo St, James House, 39A Southgate Street, Winchester, SO23 9EH (tel: 01962 858688), or www.southernwater.co.uk.

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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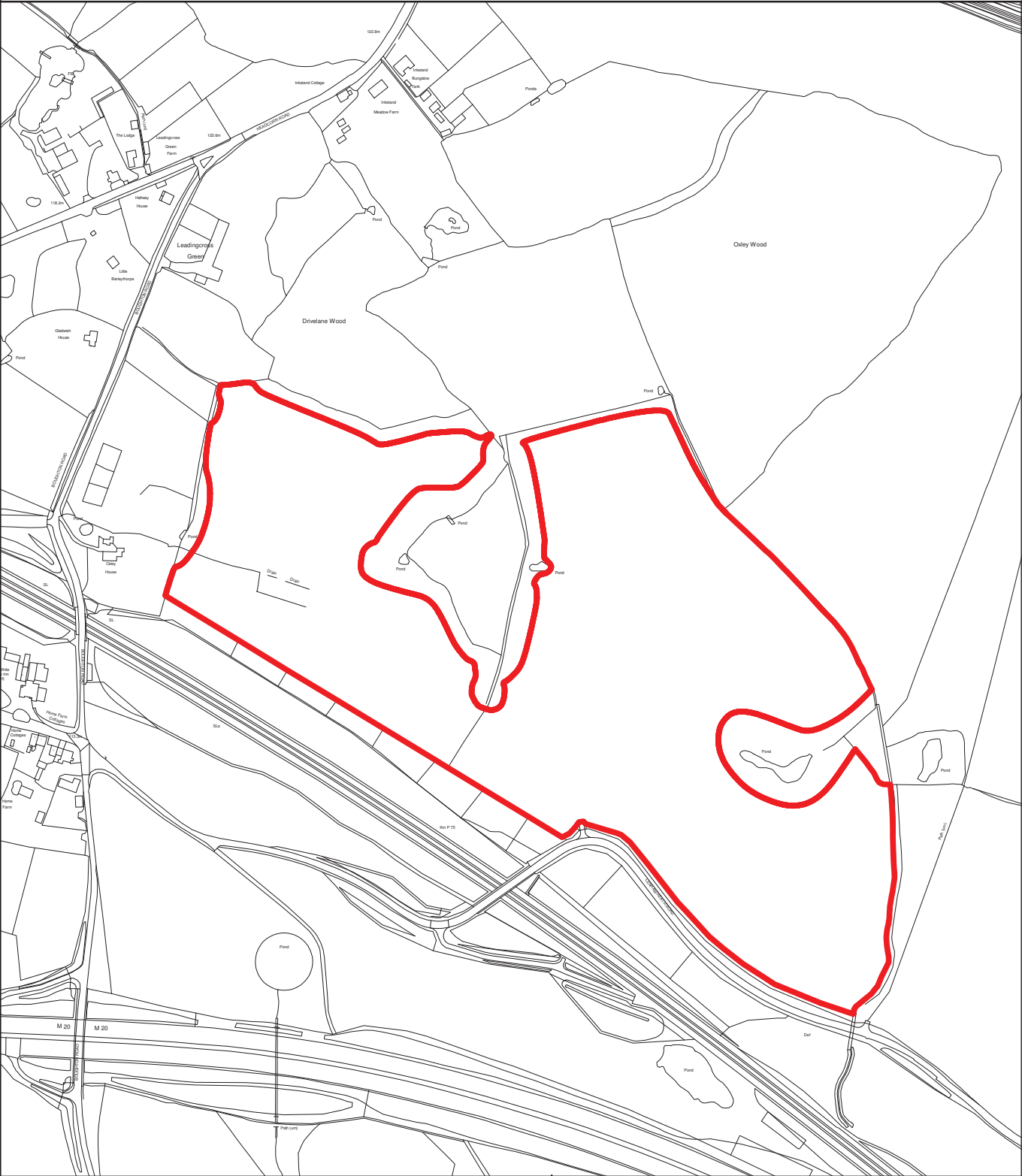


14.08.2012

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/0013 GRID REF: TQ8950/8951

**LAND AT EAST LENHAM FARM,
LENHAM HEATH ROAD, LENHAM.**



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**Rob Jarman
Head of Planning**

APPLICATION: MA/12/0013 Date: 5 January 2012 Received: 4 July 2012

APPLICANT: KS SPV7 Ltd.

LOCATION: LAND AT EAST LENHAM FARM, LENHAM HEATH ROAD, LENHAM,
MAIDSTONE, KENT

PARISH: Lenham

PROPOSAL: Construction of 5MW photovoltaic park including attendant
infrastructure and associated works.

AGENDA DATE: 1st November 2012

CASE OFFICER: Richard Timms

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

- Councillor Tom Sams and Lenham Parish Council have requested it be reported for the reasons set out in the report.

1. POLICIES/RELEVANT DOCUMENTS

- **Maidstone Borough-Wide Local Plan (2000):**
ENV6, ENV28, ENV33, ENV41
- **South East Plan (2009):**
CC1, CC2, CC6, NRM5, NRM7, NRM13, NRM14, NRM15, NRM16, C3, C4, BE6
- **Government Policy:**
National Planning Policy Framework (2012)
Planning for Renewable Energy: A Companion Guide to PPS22 (2004)
 - Draft Maidstone Core Strategy (2011)
 - Maidstone Landscape Character Assessment (2012)
 - Maidstone Landscape Character Assessment & Landscape Guidelines (2000)
 - Kent Downs Management Plan 2009-2014
 - Kent County Council's 'Renewable Energy for Kent' Report (2012)

2. HISTORY

MA/10/1858 A request for a screening opinion for an environmental impact assessment for a proposed photovoltaic park – ENVIRONMENTAL IMPACT ASSESSMENT NOT REQUIRED

3. EXTERNAL CONSULTATIONS

- 3.1 **Lenham Parish Council:** Wish to see the application APPROVED if MBC are satisfied with the proposal and request that the application is reported to Planning Committee.

"Recommendation: Indicate to MBC that the Parish Council would object to this proposal unless MBC is satisfied that the impact in terms of solar glare, residential amenity and archaeology is acceptable or can be made so by mitigation measures that can be the subject of enforceable planning conditions. If MBC is satisfied in these terms, then on balance the Parish Council wishes to see the application permitted. Because of its significance it should however be reported to Planning Committee."

(Have provided detailed comments on landscape impact, renewable energy, solar glare, residential amenity, archaeology, and ecology)

- 3.2 **Kent Highway Services:** No objections subject to a condition to provide screen planting to prevent glare and a construction traffic management scheme.

Construction traffic: *"I note that this application is likely to generate an average of 6 - 8 two way HGV movements per day with a maximum of 16 per day and the construction period is expected to take 3 months."*

The vehicles are to be routed to and from the site access on Lenham Heath Road via a track through East Lenham Farm to the A20. Visibility from the access onto the A20 is considered to be adequate for this use as is the visibility from the access track onto Lenham Heath Road.

Lenham Heath Road itself is restricted in width for part of the route although there are regular passing bays along the narrow section. These passing bays, of which there are approximately 6, provide a road width of between 4.8m and 5.6m and whilst this would allow an HGV to pass a car problems could occur if 2 HGVs met.

I would therefore recommend that a HGV strategy be implemented by the applicant to ensure that no HGV's are leaving the site whilst another is entering. Space could be provided along the access track for a vehicle to wait whilst another vehicle leaves Lenham Heath Road and completes its journey to the site."

- 3.3 **Kent Downs AONB Unit:** No objections in terms of the setting or impact upon the AONB. Raise concerns regarding industrialisation of land and setting a

precedent for future development. Therefore consider condition or S106 for temporary permission, management of land for agriculture and to return to agriculture after use, boundary treatments, and landscape plan.

- 3.4 **KCC Biodiversity Officer:** No objections subject to minor changes to the Great Crested Newt and reptile mitigation strategy, precautionary approach to any removal of trees, and enhancements.
- 3.5 **Natural England:** No objections subject to mitigation strategy being secured and implemented.
- 3.6 **KCC Heritage Section:** No objections subject to a condition requiring archaeological field evaluation works and any necessary safeguarding.

"The proposed development lies in an area which has potential for evidence of activity from the Prehistoric Period onwards. There are no major archaeological sites recorded within the application site itself but there are prehistoric and medieval sites recorded in the vicinity and there is map evidence to suggest post medieval archaeology may survive within the site. The application is supported by a detailed Heritage Assessment by Wessex Archaeology and this sets out sound assessment of baseline data on known archaeology (Land at Barr Farm Lenham). Wessex have identified some of the key archaeological sites in the area, especially towards Royton Chapel, although more detail on the possible two post medieval holdings identifiable on the early OS maps within the site itself would have been useful. Structural remains and occupation debris associated with these two holdings may survive on site and be directly affected by the scheme. Present information suggests there is general potential for buried archaeology here but there is nothing definite. The Lenham Archaeological Society have undertaken extensive work in this area and they may have further information on the application site area.

The Wessex Archaeology Heritage Statement also addresses the issue of historic buildings in the area and identifies one of the most sensitive sites being Oxley House. Comments by the District Conservation Officer would take precedent for this building and any others affected by the scheme.

Assessment of the implications for the historic landscape is addressed in the Heritage Assessment by Wessex Archaeology and in the Landscape and Visual Impact Assessment. There is consideration of Chilston Park EH registered parkland and the historic landscape features surviving on the site itself. The currently designated area of Chilston Park does not seem to be significantly affected as the development site lies north of the park with the motorway, HS1 and a rise in the land in between. However, there may be impact on surviving historic landscape features within the site and it would be preferable for these to be preserved in situ and protected during the construction and use of the photovoltaic park. Currently identified historic landscape features (field boundaries, hedgerows, ponds etc) are highlighted as WA SI 1 – 13 (excluding SI -11) in Wessex Archaeology report Figure 2.

In conclusion, based on current information there is some potential for archaeology from the Prehistoric Period onwards to survive on site. However, at present there is no evidence to indicate significant or sensitive archaeology on the site. In view of the limited nature of proposed groundworks, I suggest only targeted field archaeological works would be needed to address buried archaeological concerns.

Some historic landscape features have been identified and there needs to be mitigation measures agreed to ensure conservation, protection and positive management of these assets during construction and use of the photovoltaic park."

- 3.7 **Environment Agency:** No objections subject to a condition requiring implementation of the flood risk assessment.
- 3.8 **Rural Planning Ltd:** *"I would agree with the submissions that the indications are that land would fall outside the definition of "best and most versatile" for land use planning purposes. Therefore I would advise that the loss of agricultural land (which as previously indicated would not necessarily be total, or irreversible, in this case) does not appear to be a determinative issue in this case."*
- 3.9 **English Heritage:** No objections.

"English Heritage has been consulted on this application because in your Council's view this application for a photovoltaic farm would affect the settings of the grade II listed Royton Manor and/or the grade I listed Chilston Park and stables. It also has the potential to affect the settings of heritage assets that are listed at grade II, including the registered park at Chilston Park, or which are undesignated. It is therefore necessary for this application to be determined in accordance with policy HE10 of PPS5. Guidance on the application of this policy can be found in English Heritage's 2011 document, The Setting of Heritage Assets, which in particular sets out a methodology for assessing the contribution of setting to the significance of heritage assets and for assessing the effects of proposed change on that significance.*

Setting is defined by PPS5 as the surroundings in which a heritage is experienced. The effects of this proposal on the settings of Chilston Park and Royton Manor are, however, likely to be limited in this case by the routes of the M20 motorway and Channel Tunnel Rail Link that both pass between Chilston Park and the application site, the application site topography which generally falls northwards away from Chilston Park, and the woodland screen between Royton Manor and the application site. However, there may be some impact on the setting of the grade II registered park and garden at Chilston Park, which at its north-eastern corner is broadly on a level with the application site and is likely to result in some inter-visibility. Any potential harm associated with this impact might be mitigated with additional natural boundary screening, in the form of hedges or trees, along the southern boundary of the application site.

The effects of the proposed photovoltaic panels, which are likely to be highly visible in the wider landscape, should also be considered in relation to the historic landscape

character of the area affected. Historic Landscape Characterisation is not a description of buried archaeology or the history of a landscape per se, but rather of the visible elements of the present-day landscape that have survived from the past, often known as 'time depth', which are often an important ingredient in overall landscape character. The Heritage Conservation Group at Kent County Council are likely to be able to advise further on these matters.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request."

3.10 UK Power Networks: No objections

4. INTERNAL CONSULTATIONS

4.1 MBC Landscape Officer: No objections subject to conditions.

"The development covers approximately 14.5 hectares of agricultural land and has a maximum height of 2.5m. To the south of the site is the Lenham Heath and Chilston Park Local Wildlife Site (LWS). It is bounded to the north east by Oxley Wood, which is identified in the Provisional Inventory of Kent's Ancient Woodlands as ancient semi-natural woodland and is also designated as a LWS, Kiln Wood and Pasture. There are two other areas of woodland, Drivelane Wood, in the north western corner and another, un-named area of mixed woodland in the centre of the site. The park lies within two landscape character areas; to the north is area 5, North Maidstone Gault Clay Vale, and to the south is area 6, Leeds Transport Corridor, which is a landscape considered as compromised by the proximity of the adjacent high speed rail link and motorway.

The proposed park will have little adverse impact on the adjacent woodland. It will, however, be partially visible from the adjacent Lenham Heath Road and from nearby public footpaths. There are also likely to be glimpses of the site from the AONB to the north. Substantial boundary planting in the south east corner of the site should provide adequate mitigation from the most widely visible views, looking west along the Lenham Heath Road.

Whilst the development will have an initial visual impact on the landscape from certain viewpoints it should be remembered that it is potentially reversible and imposes little impact on the overall integrity of the landscape.

If minded to grant consent for this proposal, I would ask that the species list for the mitigation planting is more broadly in accordance with the typical planting mixes for the relevant landscape character areas and that we ensure that the applicant submits a detailed planting specification together with a long term management plan and maintenance schedule for both the existing retained, and new, trees and hedgerows...

....in some instances it may be necessary to locate cable routes within the root protection areas of trees, a condition requiring precise detailing of the cabling prior to development commencing would be considered necessary should you be minded to permit this development proposal.

In conclusion, I RAISE NO OBJECTION to this application on landscape or arboricultural grounds but recommend conditions as detailed above, including specific details of additional substantial screen planting to the south/south east corner of the site."

4.2 MBC Conservation Officer: No objections.

"The proposed site lies immediately adjacent to the grounds of Oxley House, a grade II listed building. However, the boundary between the sites is largely formed by a sizeable modern single storey building in the grounds of Oxley House; the rest of the boundary has substantial tree planting. Consequently, there is little intervisibility between the two sites and the impact on the setting of the listed building (which lies some distance from the boundary in any case) is likely to be very slight.

The impact on the setting of the Grade I Chilston Park and its registered historic parkland also needs to be considered. As far as I can see, the topography will result in the scheme having little impact on medium and long range views across the park and from the vicinity of the house itself, the site being hidden behind ridges and trees. The northern section of the Park does however abut Lenham Heath Road, immediately opposite the south east corner of the application site. This part of the Park is severed from the main part by the M20 and the high speed rail link and consequently is already seriously compromised. The site itself is most widely visible in views looking westwards along Lenham Heath Road, and potentially the development will have some impact on the setting of the detached part of the historic park. However, substantial boundary planting in the south east corner of the site should provide adequate mitigation."

4.3 MBC Spatial Policy Department Comments:

"Kronos Solar is proposing to develop 14.6 hectares of land at East Lenham Farm as a photovoltaic park.

Notwithstanding landscape concerns, to be commented on by the landscape officer, the prospect of such a development should in principle be considered positive.

The Maidstone Core Strategy does not attempt to identify areas within the borough as appropriate for different types of renewable/low carbon energy development. This exercise has been undertaken, albeit still quite generally, by Kent County Council in partnership with the districts. The report 'Renewable Energy for Kent' was prepared by AECOM and published in November 2011.

Solar farms are considered differently in the report from other methods of renewable energy generation, however, the report does make an assumption that there will be at least one solar farm per Kent authority by 2020. The county's location in the south east makes it particularly suitable for this type of development.

The Core Strategy recognises in the supporting text to policy CS6 that the Climate Change Act 2008 sets two binding targets:

- *34% reduction in greenhouse gas emissions by 2020*
- *80% reduction in greenhouse gas emissions by 2050*

Both against a 1990 baseline.

Policy NRM13 of the South East Plan 2009 intends that 16% of the electricity generated in the south east will, by 2026, come from renewable sources. While the South East Plan is due to be abolished, the sentiment remains.

The council may choose in the longer term, after further detailed research, to designate areas appropriate for specific types of large scale renewable energy generation, however, the work required to support such an exercise on the local level is not currently necessary.

Currently developers can make their case to develop such larger scale renewable schemes as they see appropriate within the existing policy framework.

Accounting for site consideration factors, Spatial Policy has no objection towards the proposed solar farm at Lenham and considers it a positive proposal."

4.4 MBC Environmental Health Manager: No objections in relation to light glare nuisance.

"I have the evidence I required to demonstrate that the information previously submitted (technical light pollution report) has been substantiated by a recent site visit. The visit appears to have fully vindicated the original submission. On this basis, I am satisfied that the assessment shows that this scheme will have only a very minor level of intrusion to nearby residential dwellings, and, most importantly, to traffic on the nearby M20. Apparently only two upper floor windows at Mount Castle Farm and also Chapel Farm could be affected/are in the line of sight. As these reflectors are only in use during daylight hours, they do not fall within the scope of the ILE (Institute of Lighting Engineers) guidance.

That does not mean that they cannot cause a nuisance, but this should be minimal. I have no objections from the evidence submitted which has now been verified by the site visit."

4.5 MBC Economic Development Department: Support the application.

"The proposal to develop a 5MW photovoltaic solar park on land at East Lenham Farm is one which we support from an Economic Development perspective. The proposal will help to promote sustainable growth and energy security in both the local area and the Borough as a whole. It is envisaged that a site of such a size will provide an excellent

example of our intent to move towards a low carbon economy and will have the subsequent effect of stimulating growth in this growing industry sector. The development of the site itself is likely to have economic benefits for the area through the need for the site to employ local trades for the construction phase of the work, as well ongoing maintenance for the solar arrays, which given they will be in place for 25 years will mean that the added benefits for businesses in the area will have significant longevity. Furthermore it will provide an opportunity for education on renewable energy projects and opportunities to link in with the work going on to develop green jobs and apprenticeships across the County.

Kent County Council has developed / commissioned a number studies (of which Maidstone Borough Council are delivery partners) which explore ways in which we can create a vibrant and resilient low carbon economy, as well as determining the renewable energy potential of the County with the aim of contributing towards the UK's legally binding target of an 80% reduction in carbon emissions by 2050 from a 1990 baseline. Kent has committed to reducing greenhouse gas emissions by 60% by 2030 and as such the delivery of renewable energy is not only central to this vision, but is essential to the solution. All the boroughs and districts have their part to play in fostering the development of renewable energy deployment to contribute towards these targets given the vast and rich array of renewable resources available to the different areas of Kent. Opportunities must be harnessed to ensure the broader economic benefits associated with a green economy and the transition to a low carbon economy are realised.

In the case of the proposed photovoltaic solar park at East Lenham Farm, considering the new Government policies which have been drawn up since our Local Plan was adopted, we are in full support of this application given the wider economic benefits that it offers, and the long term sustainable energy source that will be created from its development."

5. REPRESENTATIONS

5.1 **Councillor Tom Sams:** *"I wish the application referred to the Planning Committee due to the significant impact and interest from the local community. This would give the applicant, and those wishing to analyse this proposal the opportunity to put forward their views in open forum. I would like the planning committee making the final decision based on all arguments presented."*

5.2 **Local Residents:** 33 representations received raising the following (summarised) issues:

Against the development:

- Significant visual harm to the landscape and clearly visible from public vantage points.
- Alternative sites should be explored such as brownfield land.
- Visual impact would be small.

- Would set a dangerous precedent.
- Ecological harm.
- Solar panels can be traps for certain wildlife that breeds in water, mistaking panels for water.
- Harm to setting of listed buildings and nearby applications refused due to this.
- Loss of agricultural land.
- Glare will harm living conditions.
- Mechanical noise from inverters.
- Potential health risks from radio frequency electromagnetic radiation.
- Highway safety issues from glare.
- Increase in traffic on local roads.
- Impact of maintenance traffic.
- No facilities or parking once complete.
- Cumulative impact with potential mineral quarry.
- Potential glare to aircraft.
- Little benefits to local community, employment or economy.
- Financial benefit only to investor and applicant.
- No indication of connection routes from the inverter stations to the grid.
- Will reduce tourism.
- Potential pollution from toxins leaking from panels.
- Loss of property value.
- Risk assessment in relation fire.
- Applicant is member of Parish Council so they cannot act objectively.
- Solar arrays offered to Parish Council would not compensate for harm.
- Public consultation by the applicant has been poor.

In support of the development:

- If we are serious about renewables then we have to support this application and NIMBY attitude is bad.

5.3 **KCC Planning & Environment Section:** The County Council supports the proposal subject to no objections from their ecology and heritage teams.

6. CONSIDERATIONS

6.1 Introduction

6.1.1 This is an application for the construction of a 5 megawatt (MW) photovoltaic park including attendant infrastructure and associated works at land at East Lenham Farm, Lenham Heath Road, Lenham.

6.2 Site Description

6.2.1 The application relates to an irregular shaped agricultural field currently in arable use, although there is a woodland area within the centre and a small area of grassland at the east edge of the site. The field has a total area of approximately 19ha but the area proposed for development is some 14.5ha. It is located immediately north of Lenham Heath Road and 100m east of Boughton Road, Lenham. The Channel Tunnel Rail Link (CTRL), set within a large cutting, runs from east to west within 25m of part of the south boundary of the site. Beyond this and a further 225m south is the M20 motorway. The land is largely open and is undulating with an overall range in height of 25.5m, gently falling from 122.5m AOD on the highest part of the site, in the southwest corner, to 97m AOD in the southeast corner. There is a large area of woodland within the centre of the site where there are three small ponds and there is another, larger pond at the east edge of the site surrounded by trees and an area of grassland.

6.2.2 To the north the site partly bounds the deciduous 'Oxley Wood', a designated Site of Nature Conservation Interest, which is identified as Ancient Woodland. There is another area of deciduous woodland to the north western corner of the site known as 'Drivelane Wood'. Between these woodlands, the north boundary has broken vegetation. To the west is an open grass field and the dwelling, 'Oxley House' a Grade II listed building which is within 45m of the site boundary. The garden of this property adjoins a short section of the west boundary, which has a single storey building for much of this length. The southern boundary of the site is partly bounded by the CTRL cutting and by Lenham Heath Road. Here there are existing native landscaped strips ranging between 5-10m in depth alongside Lenham Heath Road and between 15-35m alongside the CTRL. To the east and northeast is arable farmland and the boundary here is relatively open with sparse trees or hedging apart from a group of trees around the pond. Part of the Grade II Registered Historic Park at Chilston Park lies to the south of Lenham Heath Road, close to the south east corner of the site, which is also a Site of Nature Conservation Interest.

6.2.3 There are a number of public footpaths to the east, the closest being KH397, which runs from north to south and passes within 20m of the southeast corner.

Other local paths are further east and the 'Stour Valley Walk' County trail passes within 600m of the site to the northwest.

- 6.2.4 There is an existing gated access to the site in the centre of the south boundary onto Lenham Heath Road.
- 6.2.5 The site has no local or national landscape designation and is not identified as land with any high risk of flooding. The site is 0.5km south of the edge of Lenham village and 1.26km south of the Kent Downs Area of Outstanding natural Beauty (AONB). The site falls entirely within Lenham Parish but Boughton Malherbe Parish is on the south side of Lenham Heath Road close to the southeast boundary.

6.3 Proposal

- 6.3.1 Full permission is sought for the construction of a 5MW solar photovoltaic park with infrastructure and associated works and is proposed to be in place for 25 years (25 years is the period of time proposed by the applicant based on the effective lifespan of the solar panels). The development would consist of numerous rows of mounting structures on which sit the solar panels. The rows are made up of individual sections either 11m or 22m long (3.3m wide) which join to make up large rows running from west to east across the site with some breaks for access and to avoid shadowing ranging from 4.6m to 7.7m.
- 6.3.2 The solar panels themselves would measure 1m x 1.7m and are set at a fixed tilt angle of 25 degrees facing due south and there would be a total of 24,024. The lower front edge of the structures would be 0.8m above ground level to prevent vegetation shading the panel, and the upper rear edge of the structure varies, according to the angle of slope that they are installed on, so that on a level site the top back edge would be approximately 2.2m high and on a steeper north-facing slope some 2.5m high. No land levelling or changes to the topography of the site are required for the development.
- 6.3.3 No concrete footings are required as steel impact beams support the structures which are rammed to a depth appropriate to the soil conditions. The panel frames and mounting structure would be grey matt aluminium and the support beams galvanised steel, unpainted. The applicant has confirmed that the solar panels proposed would be blue polycrystalline cells with a glass, anti-reflective surface.
- 6.3.4 Five inverter stations are proposed which each consist of two inverter cabinets and a transformer station painted green. The inverter cabinets are 2.3m high x 2.6m x 0.9m and the transformer station is a purpose designed steel enclosure, 1.6m high x 2.3m x 2.4m. The stations would be placed on a concrete slab

(8.2m x 4m). One is located adjacent to the western side of the central woodland, two against the eastern side of this copse, and two further stations adjacent to the area of scrub surrounding the east pond. A central station building, which is used for distributing the medium voltage systems from the transfer stations, would be located in the north-east corner of the site. This would be a prefabricated building finished in green and approximately 6.m x 2.5m, with height of 2.8m. Connection to the national grid would be to the overhead line which crosses the site in the northeast corner by the central station.

- 6.3.5 All associated cabling between the solar panel rows and the inverter stations would be underground, as would the cabling from the inverters to the centre station and from the centre station to the substation.
- 6.3.6 Security perimeter fencing is proposed and would be 2.5m high, comprising open steel mesh panel fencing painted green with support posts at 2.5m centres. Perimeter surveillance is in the form of sensor cables which are integrated into the fencing to detect movement from climbing and being cut. There are no alarms or lighting associated with the security and no additional lighting on site.
- 6.3.7 Landscaping proposed would be a 8-10m wide area of trees with under-storey shrubs grown to a height of 6-8m along the entire east boundary and a 150m section of the north boundary. Along the south boundary would be a 5m wide area of 3m and 4m high shrub hedgerow with some trees on the inside of the existing landscape strip alongside Lenham heath Road for a distance of around 500m. There would also be a 95m section of hedgerow planting, 4m high, between, and to link, the central woodland area with the southern boundary planting. Along the entire west boundary would be a new hedgerow 3m high and 5m wide. The arable fields would be re-sown to be maintained as grazed grassland with the areas between the development and new boundary landscaping converted to rough grass/hedgerow/scrub and protected with stock fencing ranging from 3m to 20m in width.
- 6.3.8 Access into the site would be via the existing gated access in the centre of the south boundary onto Lenham Heath Road where new 4m wide gravel maintenance tracks would extend into the site. Two tracks would extend either side of the central woodland and two would extend into the east part of the site.
- 6.3.9 Vehicular traffic would mainly be limited to the construction phase, with the total HGV movements expected to be 500-600 (this is arrivals and departures), with a maximum of 16 lorry movements per day (8 arrival and 8 departures) based on working 6 days a week. Construction staff, expected to be up to 70 on site would also access the site with the main installation workers arriving by minibus and encouraged to car share. Vehicle washing facilities would be installed at the site.

The majority of construction traffic would be routed from the A20 through the applicant's farm (East Lenham Farm) along a private hard surfaced track, crossing over a short section of the applicant's land, then onto the hard surfaced access to the sewage works, and out onto Lenham Heath Road to the east of the site. The applicant either owns this land or has a right of way and for the short section over the field a temporary surface would be laid on top of the grass and be removed once the construction was completed. There would be no excavation or other alterations required to the surface of the field and the temporary surface would be simply laid onto the existing surface giving temporary protection to the area of access.

- 6.3.10 Following construction of the solar park, the installation would be monitored remotely and would not require any permanent staff to be located on-site. Only periodic visits for occasional maintenance work would be required once operational and the site would not be accessible to members of the public.
- 6.3.11 The development would have the capacity to generate 5MW of energy, which is equivalent to powering approximately 1,340 dwellings per year based upon the UK average household consumption of 4,100 KWh/year (OFGEM). Following cessation of the proposed use, all development would be removed and the site returned to agricultural land.
- 6.3.12 I am aware that the applicant's are offering Lenham Parish Council solar panels to be installed on three public buildings subject to planning permission being granted for this application. This however is being agreed between these two parties outside of the planning application and does not form part of the proposals. Therefore to confirm, this is not being considered as part of the assessment of this application.

6.4 Policy Context

Maidstone Borough-Wide Local Plan 2000

- 6.4.1 There are no policies within the Local Plan which relate to renewable energy development either saved or unsaved. Presumably because at the time of adoption in 2000, large-scale renewable energy projects were uncommon, or deemed to be appropriately covered by county-wide or national policies.
- 6.4.2 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"

ENV28 then outlines the types of development that can be permitted. This does not include renewable energy development I would suggest for the reasons outlined above.

The South East Plan 2009

6.4.3 Although the Government has given a clear signal that regional plans will be revoked through the SoS letter of November 2010, the South East Plan has not yet formally been revoked by Order. Therefore for the purposes of this planning application, it continues to form part of the Development Plan and carries weight, although this is more limited due to the clear intention to abolish the Plan.

6.4.4 Policy CC1 states that the principal objective of the plan is to achieve and maintain sustainable development by, amongst other ways, ensuring the natural environment of the South East is conserved and enhanced and by reducing greenhouse gas emissions associated with the region. Policy CC2 relates to climate change and encourages development and use of renewable energy. Policy CC6 seeks to respect the character and distinctiveness of landscape.

6.4.5 Policies NRM13 and NRM14 outline regional and sub-regional renewable energy targets as follows:

Regional Renewable Energy Targets:

Year/timescale	Installed Capacity (MW)	% Electricity Generation Capacity
2010	620	5.5
2016	895	8.0
2020	1130	10.0
2026	1750	16.0

Sub-regional Targets:

Sub-region	2010 Renewable Target (MW)	2016 Renewable Target (MW)
Thames Valley & Surrey	140	209
East Sussex & West Sussex	57	68
Hampshire & Isle of Wight	115	122

Kent	111	154
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6.4.6 The Government's intention is to abolish such regional targets, however, the South East Plan is still in place and at present such targets must be given some weight in any decision. Statistics obtained from OFGEM via KCC indicate that current schemes in Kent have an installed capacity of 110MW. Therefore to meet South East Plan targets, 44MW needs to be provided in the next 4 years by 2016 and clearly the proposal would go towards helping to meet that target. Whilst, the South East Plan targets will eventually be abolished, the current situation certainly does not indicate an over-provision of renewable energy resources in Kent.

6.4.7 Policy NRM15 refers to the location of renewable energy development stating that,

"Outside of urban areas, priority should be given to development in less sensitive parts of the countryside and coast, including on previously developed land and in major transport areas."

It states that location and design should be informed by landscape character assessments and proposals close to the boundaries of designated areas should demonstrate that they will not undermine the objectives that underpin the purpose of the designation.

6.4.8 Policy NRM16 states:

"Through their local development frameworks and decisions, local authorities should in principle support the development of renewable energy... Consider the contribution the development will make towards achieving national, regional and sub-regional renewable energy targets and carbon dioxide savings."

National Planning Policy Framework 2012 (NPPF)

6.4.9 Since the submission of this application, the NPPF was introduced on 27th March 2012. The NPPF effectively replaces the majority of the previous Planning Policy Statements and Planning Policy Guidance Notes.

6.4.10 The NPPF outlines a set of core land-use planning principles (paragraph 17) which should underpin both plan-making and decision-taking including to,

"support the transition to a low carbon future in a changing climate... and encourage the use of renewable resources (for example by the development of renewable energy)" and

"recognise the intrinsic character and beauty of the countryside"

6.4.11 Chapter 10 (Meeting the challenge of climate change, flooding and coastal change) states that,

"Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions... and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development."

6.4.12 Chapter 10 (paragraph 97) outlines that local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should:

- *"have a positive strategy to promote energy from renewable and low carbon sources;*
- *design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts;*
- *consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources; and*
- *identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers."*

6.4.13 At paragraph 98 it is advised that, when determining planning applications, local planning authorities should:

- *"not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and*
- *approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas."*

6.4.14 Chapter 11 (Conserving and enhancing the natural environment) states the planning system should contribute to and enhance the natural and local environment by:

- *"protecting and enhancing valued landscapes; and*
- *minimising impacts on biodiversity and providing net gains in biodiversity where possible, contribution to the Government's commitment to halt the overall decline in biodiversity."*

6.4.15 At paragraph 118 it is advised that, when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles relevant to this development:

- *"if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- *opportunities to incorporate biodiversity in and around developments should be encouraged;*
- *planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss."*

6.4.16 Chapter 12 (Conserving and enhancing the historic environment) states that,

"Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset)... they should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal."

International, European and National Considerations

6.4.17 The draft European Renewable Energy Directive 2008 states that, in 2007, the European Union (EU) leaders had agreed to adopt a binding target requiring 20% of the EU's energy (electricity, heat and transport) to come from renewable energy sources by 2020. This Directive is also intended to promote the use of renewable energy across the European Union. In particular, this Directive commits the UK to a target of generating 15% of its total energy from renewable sources by 2020.

6.4.18 At the national level, The 2008 UK Climate Change Bill sets an 80% target for reduction in greenhouse gas emissions by 2050 (based on 1990 levels). The UK Committee on Climate Change 2008, entitled 'Building a Low Carbon Economy', provides guidance in the form of recommendations in terms of meeting the 80% target set out in the Climate Change Bill, and also sets out five-year carbon budgets for the UK. The 2009 UK Renewable Energy Strategy (RES) provides a series of measures to meet the legally-binding target set in the aforementioned Renewable Energy Directive. The RES envisages that more than 30% of UK electricity should be generated from renewable sources.

6.5 Principle of Development & Main Considerations

6.5.1 National and regional planning policy seeks to support and achieve sustainable development through economic, social and environmental roles and provides positive encouragement for renewable energy development. In terms of location, countryside sites are feasible with priority given to less sensitive parts of the countryside including previously developed land and major transport areas. However, there remains a need to protect the character and beauty of the countryside, and particularly important landscapes, such as AONBs, as well as heritage and ecology assets.

6.5.2 I therefore consider that subject to other considerations, the principle of the development at this site is endorsed by planning policy. Much emphasis in planning policy is put on the benefits of renewable energy development and I consider this must be balanced against the visual impact of the proposals on landscape and heritage, the impact upon ecology and biodiversity, the impact upon local living conditions, the loss of agricultural land, and highway safety and access.

6.6 Environmental Impact Assessment (EIA)

6.6.1 A screening opinion was submitted under application MA/10/1858 in late 2010 for the same proposal where it was determined that an EIA was not required. An assessment on the need for an EIA was carried out when the current application was received and it was considered that an EIA was not required, and that the development could be appropriately and properly considered through information accompanying the planning application.

6.7 Landscape Character

6.7.1 The site is not located within a specially designated landscape but is some 1.2km south of the Kent Downs AONB. The site falls within an area identified as the 'East Lenham Vale' in the Council's Landscape Character Assessment 2012 (LCA) but borders the 'Harrietsham to Lenham Vale' to the west and the 'Lenham

Heath Farmlands' to the south. The LCA describes some of the key characteristics of the local landscape as an undulating landscape beneath the North Downs made up of arable and pasture farmland of medium to large irregular fields with some small areas of broadleaved woodland. Land to the east and south of Lenham has medium fields with a greater sense of enclosure than to the northeast, with scattered mixed blocks of ancient woodland and frequent native hedgerows, often with standard oak trees. The North Downs encloses the landscape to the north and there is historic parkland at Chilston Park to the south of the site.

- 6.7.2 Built development consists of scattered buildings and small hamlets with the exception of the village of Lenham just to the north. There is also recent commercial development along the A20 at the 'Ashmill Business Park' to the north. Mineral extraction is also locally a feature of this area, with Lenham Forstal pit an active mineral site some 1.7km to the west. The M20, A20, CTRL and Maidstone East railway line have had a significant impact on the local landscape and the site falls between these transport corridors. Otherwise, very few roads cross the landscape, which is largely accessed via private tracks which link to farms and a network of public footpaths.
- 6.7.3 The LCA describes the 'condition' of the landscape to the north, northeast and east as, *"a unified landscape where consistently undulating topography, frequent woodland blocks and hedgerow enclosed fields provide a coherent pattern of elements. There is a good hedgerow network, frequent woodland blocks and also a network of drainage ditches. Oxley Wood and pasture and ponds at Lenham Forstal are designated local wildlife sites. However, the significant amount of arable intensification means that the ecological integrity is moderate. Whilst some trees are over mature and there are some gaps in hedgerows, the overriding condition of remaining hedgerows, woodland and the built environment is good."*
- 6.7.4 The condition of land to the south and southeast is described as, *"significantly fragmented by recent subdivision into small land parcels, and the major infrastructure corridor to the south. There are a number of visual detractors within this fragmented landscape including major infrastructure, agricultural buildings, factory buildings, sand extraction, poor boundary treatment and the use of temporary electric fencing and recent development which does not respect local vernacular."*
- 6.7.5 The 'sensitivity' of the landscape to the east and northeast is described as, *"Overall, visibility is high in this location at the foot of the Downs. Whilst immediate views are often enclosed by intervening vegetation, there are striking long distance views of the North Downs."* However, to the south and southeast it

is stated that, *"overall there is a very weak sense of place, largely because many traditional elements have been removed or diminished... visibility is moderate."*

6.7.6 Overall, the condition of the surrounding landscape is more unified to the north and northeast with medium to large fields with good hedgerows and woodland blocks. To the south and southeast it is more fragmented land with poorer boundary treatments and the major transport corridor. Similarly, the landscape is more sensitive to the north and northeast where it is more open but less so to the south and southeast where the landscape is more enclosed and there is major infrastructure.

6.8 Landscape Impact

6.8.1 There are no similar developments within the vicinity of the site so it would represent a feature that is out of character with built development in the vicinity. The height and scale of the development is not dissimilar to polytunnel development, however, this is also not a common feature of the local landscape, as it is in other parts of the Borough. However, there is clearly major infrastructure development in the form of the M20 and CTRL just south of the site and the Ashford to London railway line to the north, which are visible in the wider landscape. For these reasons, whilst the appearance of an area of solar panels is not in keeping with the area, the presence of large scale infrastructure development is a local feature.

6.8.2 The main visual impact of the development would be from a section of Lenham Heath Road to the southeast and sections of public footpaths to the east and northeast all within a range of approximately 1.5km.

6.8.3 For approximately a 280m section of Lenham Heath Road (from the access point heading southeast) there is existing deciduous vegetation between 2m-2.5m in height running along the boundary of the site with the road, which is outside the site. During summer months this does provide a good screen of the site from this section of the road, however, views would be possible through in the winter, although they would be broken. Some views are currently possible over this vegetation when approaching the site from the CTRL bridge to the south and through the access to the site. Nonetheless this provides a decent screening of the site from here and it is proposed to provide an additional 5m wide planting strip inside this with some trees. Further southeast along the road, the site becomes much more exposed with clear views possible over a gated access to the neighbouring field, however the new landscaping would break views of large parts of the site from here. The road rises to the southeast offering views of large parts of the site for around a distance of approximately 380m from the edge of the site. Beyond here the site is no longer visible due to the topography of the land.

- 6.8.4 There are a network of public footpaths to the east and northeast. The closest path (KH397) runs from north to south and passes within 20m of the southeast corner. From this path clear views of the site are possible, particularly near the southeast corner for a 230m section of the path where views to the northwest, over much of the site are possible due to the lack of any hedgerow here. However, the proposed landscaping along this boundary (6-8m) will in time break views of much of the development from here as the path is relatively near the site boundary. As the path moves further from the site and heads north, views remain clear for a 400m section of the path from between 100-400m away as the northwest boundary has limited vegetation. The proposed 6-8m landscaping would again provide good screening of the development but as the application site rises to the west it would not be able to fully screen the higher part of the east half of the site.
- 6.8.5 The 'Stour Valley Walk' County trail, which begins at Lenham, passes within 600m of the site to the northwest and generally runs from west to east. From this path, clear views of the parts of the site are limited to short sections of the path around 550m to the north, 600-650m to the northeast and approximately 780m to the east. Otherwise views are broken by hedgerows and trees. Running on a similar line to the Stour Valley Walk from west to east is footpath KH412. This path is closer to the site and two 100m long sections offer clear views of the eastern part of the site from 470m and 530m away to the northeast. The proposed 6-8m landscaping would again provide good screening of the development from these paths but would not fully screen the higher parts of the site.
- 6.8.6 As these paths extend to the north views are screened by the Ashford to London railway line which sits upon a raised embankment. Whilst, I have not viewed the site from the railway line, as it is raised considerably, views of the site would be possible for what I would estimate as at least a 1.5km section.
- 6.8.7 There is a local path within the 'Heaths Countryside Corridor' on the south side of Lenham Heath Road. This is an area of land open to the public which rises to the east and where within 100m of the site it offers clear views over the east half of the site. The existing and proposed landscaping on the south and east boundaries would partially screen parts of the development but much would remain visible.
- 6.8.8 Further east around 1.5km away, views of a large part of the site are possible from local footpath KH408 near 'Mount Castle Farm' where the land is at a similar level to the site. Views are possible for just under a 1km section of this path as you head northwest.

- 6.8.9 Views of a small section of the site are possible from the bridge over the M20 motorway on Bowley Lane around 700m to the southeast but these are seen in the context of the motorway and the CTRL in the foreground. From the motorway itself, there is a glimpse of a small part of the site from the M20 heading westbound to Maidstone but no clear views heading eastbound. Views heading westbound are seen in the context of the motorway itself and the CTRL and so would not be unduly intrusive.
- 6.8.10 To the south of the motorway there are no clear views of the site from public footpaths or roads due to the topography of the land and intervening vegetation. Whilst the land rises to the south of the motorway, the CTRL embankment and mature vegetation provides a screen around the southwest corner of the site blocking all views. This is true of Lenham Heath Road 120m to the south where the site cannot be seen. From the west, no clear or prominent views are possible from Boughton Road 100m away, because of roadside hedging but mainly because the site falls away from here. From the northwest no clear views are possible from Headcorn Road due to topography and the screening provided by the two large woodland areas on this side of the site. Similarly, any potential views from Lenham village to the north are screened by Oxley Wood.
- 6.8.11 Having walked a 3km section of the North Downs Way National trail to the north and northwest between 1.8km and 3.5km away, there are open sections of this path where views of the lower parts of the site are possible. However, the majority of the path is flanked by hedgerows and trees obscuring views of the site. It must be noted that from here, only the back of the panels would be visible so no significant glare or reflection would be experienced. Some of the open sections are over 3km away to the northwest (including part of the 'Lenham Picnic Area' and the higher part of Rayners Hill) and from here, the development would not be prominent or intrusive. In closer views from the 'Lenham Chalk Cliffs Area' (2.2km) and the North Downs Way (1.9km), the development would be seen with the 'Ashmill Business Park' industrial buildings in the foreground or same view, which is also the case for the higher section of Hubbards Hill (2.5km). In this context, it is not considered that the development would result in any significant intrusion in the landscape. Overall, views of the site are limited to sections of the path and it is considered that the development would not be an unduly harmful feature in the landscape from here, nor would it significantly effect the enjoyment of this trail.
- 6.8.12 To conclude, there would be short to medium range views of the site from sections of local footpaths and part of the Stour Valley Walk to the northeast and east to a distance of approximately 1.5km away. Clear and prominent views would be possible from Lenham Heath Road for a section of around 380m and there would be a short glimpse from the motorway. The proposed

landscaping would help to further screen/break views of parts of the site but would not be able to totally hide the development from some of these local vantage points because the site rises in height to the west. The landscaping would also be less effective in the winter months when not in leaf. However, the site is screened from public vantage points to the south, west and north by the topography of the land and vegetation, and long range views from the North Downs Way are limited or seen in the context of existing development such that the development would not be unduly harmful from here. Therefore the main impact is from a non-classified local road for a short section and local footpaths up to 1.5km away. For this and the above reasons, I consider the landscape impact of the development is localised and moderate.

6.8.13 The development would undoubtedly cause some harm to the landscape in terms of being a feature that is out of character and visible, but this would be localised harm limited to local non-classified roads and paths. The site falls within undesignated countryside with no harm caused to any specially designated landscape and no objections are raised from the 'AONB Unit' in terms of the setting of the AONB. The site is also adjacent to major infrastructure in the form of the M20 and CTRL. I will return to the landscape impact in my balancing of matters later in the report.

6.9 Ecological Impact

6.9.1 An extended Phase 1 Ecological Assessment of the site has been carried out involving walkover surveys of the site (November 2010 & May 2012). In light of this, the Council has requested full specific surveys relating to Great Crested Newts and reptiles. The Phase 1 survey identifies the presence of any habitats of conservation importance or other features of ecological interest likely to be directly or indirectly affected by the development, the presence or possible presence of protected species likely to be affected, and any need for further ecological survey. With regard to protected species the report advises the following (summarised):

6.9.2 Great Crested Newts (GCN)

A specific GCN survey was requested by the Council and this has recorded GCN within the ponds on site and within the surrounding area. A GCN mitigation strategy has been submitted and the KCC Biodiversity Officers are satisfied with this subject to a change to the cutting regime of grassland which can be dealt with by condition. The mitigation strategy would see areas of grassland retained; the arable land within the construction footprint re-sown and maintained as grassland; arable land outside the construction footprint converted to rough grassland/hedgerow/scrub and protected with stock fencing; and ponds, woodland, trees, hedgerow, field margins, ditch and scrub retained. Prior to

carrying out works, grassland areas would be cut to a sward height of between 50 and 100mm to deter use by GCN. Within the arable areas, the crop would be harvested as normal and vegetation thereafter would be maintained short for the duration of the construction phase to deter the ad hoc use by GCN. Should GCN be found at any time during works, all works in the immediate vicinity would cease.

6.9.3 *Reptiles*

A specific reptile survey was requested by the Council and this has identified that common lizard, slow worm and grass snake are present on the site. Advice from the KCC Biodiversity Officers is that as there is a minimal amount of habitat to be lost as a result of the development, and they are satisfied that the updated precautionary mitigation proposed for GCN (above) will also ensure that the works will minimise the impact on reptiles.

6.9.4 *Bats*

One dead tree within the site is potentially suitable for bats but otherwise trees are relatively small and/or appear generally sound and to lack features suitable for use as roosts. Trees and woodland adjoining the site present features suitable for use as roosts though. Such trees were not thoroughly assessed on the basis that the proposals are considered highly unlikely to have any significant impact upon any roosts that may be present within them. The arable fields themselves are considered unlikely to be subject to any significant foraging and/or commuting and the changes to the site are considered likely to lead to an increase in local invertebrate abundance and thus improve the overall attractiveness of the site to foraging bats. No objections have been raised by the KCC Biodiversity Officers in respect of the report subject to a precautionary approach if the dead tree is to be removed. This can be covered by way of condition.

6.9.5 *Badger*

No setts were apparent within or immediately adjacent to the site and no evidence was found for concentrated foraging or commuting activity by badger within the site itself. However, it is recommended that any new fencing should be designed to allow access for badgers, essentially having some small openings. No objections have been raised by the KCC Biodiversity Officers in respect of badgers.

6.9.6 *Hazel Dormouse*

Abutting woodland appears suitable for use by hazel dormice as does the patch of cleared woodland in the middle of the site. It is recommended that a new hedgerow be provided to link the central woodland area to the woodland to the northwest. No objections have been raised by the KCC Biodiversity Officers in respect of hazel dormice.

6.9.7 *Nesting Birds*

Birds are likely to nest within trees, scrub and marginal strips or rougher vegetation during spring and summer months. It is advised that the development be carried out between September and February or otherwise only following a thorough check to confirm that no active bird nests are present. No objections have been raised by the KCC Biodiversity Officers in respect of nesting birds.

6.9.8 *Water Vole*

No evidence was found for use of any water bodies on the site by water voles.

6.9.9 Overall, no objections have been raised by the KCC Biodiversity Officers with regard to ecological impacts of the development subject to a slight amendment to the GCN mitigation strategy. The MBC landscape officer does not consider there would be any harmful impacts upon the ancient woodland. Natural England has commented on GCN and has no objection subject to the mitigation strategy being secured by condition. As such, and subject to the recommendations of the report, the proposals are not considered to have an unacceptable impact upon ecology and accord with Chapter 11 of the NPPF. To summarise the ecological recommendations for the whole site include:

- Proposed native hedgerow and tree planting around the boundaries of the site to improve biodiversity and to provide improved connectivity to the central woodland area.
- Re-sowing the arable land to be maintained as grazed grassland with the edges and areas adjacent to ponds converted to rough grass/hedgerow/scrub and protected with stock fencing to improve biodiversity and to provide connectivity between ponds.
- Management and enhancement of existing grassland areas on the east side of the site.
- Retention of all woodland, trees, hedgerow, field margins, ditches, scrub and other non-arable vegetation.

- Retention of all ponds and enhance the connectivity between them.
- Development being carried out between September and February or otherwise only following a thorough check to confirm that no active bird nests are present.
- Openings within fencing to provide access across the site for badgers.

6.9.10 These recommendations will ensure no detrimental impacts upon biodiversity, however, I consider a detailed ecological management plan is essential by way of a condition to secure these measures and to ensure the long term maintenance throughout the life of the development. It could also provide other enhancements and this would be in accordance with policy NRM5 of the South East Plan and the NPPF. Additional enhancements can include:

- Management and enhancement of the woodland area in the centre of the site.
- Management of existing and proposed hedgerows.
- Creation of reptile refugia and hibernacula throughout the site.
- Provision of bird and bat boxes throughout the site.

6.9.11 The issue of the solar panels being potentially mistaken for water and becoming traps for certain wildlife has been raised. I have specifically discussed this with the KCC ecologists and have been advised that this is not generally recognised as a significant problem. With this in mind, I do not consider this is grounds to object.

6.10 Heritage Impact

6.10.1 There are a number of listed buildings within the vicinity of the site the closest being the grade II listed 'Oxley House' immediately west of the site. Other buildings include grade II* listed 'Royton Manor' and grade II listed 'Chapel Mill' 750m to the east, grade II listed 'Home Farm House', 'Barn' and 'Cottages' 200m to the southwest, and grade II listed 'Little Barleythorpe', 'Halfway House' and 'Leading Cross Farmhouse' between 140 to 200m to the northwest. Chilston Park and stables is grade I listed around 560m south of the site and its historic parkland is grade II registered which runs near to the southeast boundary of the site, although split by the CTRL and M20. There is also the 'Sandway' Conservation Area 420m to the west. Archaeological issues have been considered by the KCC Heritage Section.

6.10.2 Both English Heritage and the Council's Conservation Officer consider the impact upon the setting of Chilston Park buildings would be very limited due to the topography and intervening vegetation and also the impact the M20 and

CTRL already has. There is considered to be some impact upon the setting of the northern section of the parkland, immediately opposite the south east corner of the application site. This part of the Park is severed from the main part by the M20 and CTRL and consequently is already seriously compromised. The development will have some impact on the setting of the detached part of the historic park, however, boundary planting in the south east corner of the site is considered to provide adequate mitigation, which is proposed.

6.10.3 In terms of 'Oxley House', the site lies immediately adjacent to the grounds of this building. However, the boundary between the sites is largely formed by a sizeable modern single storey building in the grounds of Oxley House and the rest of the boundary has substantial tree planting. As such, it is considered that there is little inter-visibility between the two sites and the impact on the setting of the listed building (which lies some distance from the boundary in any case) is likely to be very slight.

5.10.4 There is a woodland screen between 'Royton Manor', 'Chapel Mill' and the site and as such there would be no harmful impact upon the setting of these buildings. There is no inter-visibility between the site and listed buildings to the southwest and northwest, nor to the Sandway Conservation Area and so no harmful impacts upon their settings.

6.10.5 Some potential for archaeology from the Prehistoric period onwards has been identified at the site by the KCC Heritage Section but at present there is no evidence to indicate significant or sensitive archaeology. As such, and in view of the limited nature of proposed groundworks, it is recommended that targeted field archaeological works to address buried archaeological concerns are carried out which can be dealt with by condition.

6.10.6 Overall, it is considered that the impact of the development on the significance of nearby heritage interests would be low and there would be no conflict with policy BE6 of the South East Plan or the NPPF.

6.11 Residential Amenity

6.11.1 The main implications for residential amenity would be the impact of any sun glare from the solar panels, any noise or disturbance (during construction and when operational), and impact upon outlook.

6.11.2 An assessment of glare from the solar panels and framework has been submitted with the application. This report predicts a worse-case scenario and was carried out firstly as a desktop exercise followed by a site visit to clarify the results. The assessment identifies the areas where glare reflections would be experienced without taking into account possible obstructions or topography.

This covers an area between west and southwest of the site and an area between east and southeast. The author then carried out a site visit in the potential areas. The Environmental Health Manager has reviewed the report and raised no objections in terms of light glare nuisance.

- 6.11.3 In the west and southwest the report states that no clear views of the site are possible due to topography, CTRL earthworks and vegetation, which I can also confirm to be the case. As such there would be no impacts of glare in this direction from houses, roads or the M20. With regard to 'Oxley House', it is advised that the existing building and vegetation between the property and the site would prevent glare reaching this property and I note additional planting is also proposed here. I have visited this property within the garden and the rooms (kitchen and bedroom) facing the site and note that views of the site are largely broken by existing vegetation or the single storey building at the rear of the garden.
- 6.11.4 In the east and southeast the potential for glare effects on Lenham Heath Road are limited to a 370m section south of the site when driving eastwards. It is advised that the existing and proposed 3m or 4m planting along this boundary would eliminate the impact from here. No glare would be experienced on the M20. Houses to the west including 'Chapel Oast', 'Mount Castle Farm', 'Mount Castle Cottage', 'Bakers Cottage', 'Bakers Barn' and properties at Lenham Forstal would fall within the areas for potential glare. For 'Chapel Oast', glare reflection would be possible from around the beginning of June until mid July between around 6pm and 6:15pm, however, mature trees between this property and the site would prevent clear lines of site. For 'Mount Castle Farm', 'Mount Castle Cottage', 'Bakers Cottage' and 'Bakers Barn' glare reflections would be possible from mid April to mid August between 5:50pm and 6:10pm. However, it is advised that as the reflections would be at a low angle, the sun would actually have a much higher impact as the difference in angle between the two is relatively small. Therefore it is advised that no significant additional glare would be realised to these properties. No direct visibility to the site occurs further east.
- 6.11.5 Glare effects would be possible from sections of some footpaths to the east. The closest (KH397) is on a north to south alignment and so users would not be facing the application site or the angle of glare. Whilst glare may still be noticeable from here, I do not consider it would render the use of the path as unpleasant. Other paths are generally heading in a northwest or southeast direction and are further away and I do not consider any glare experienced on these paths would warrant objection.
- 6.11.6 In terms of noise and disturbance, once operational the only noise would be associated with the inverter stations, which would be from internal fans

operating in the daytime when the installation is producing electricity. The nearest property 'Oxley House', has its garden 150m from one station and at this distance any impact would be minimal, especially in the context of the background noise from the nearby M20 motorway. Construction noise would primarily be associated with works on site and traffic, which would be for a limited period only and on this basis I do not consider it to warrant any objection.

6.11.7 In terms of outlook, views of the site from 'Oxley House' are largely broken by vegetation within the garden of this property and blocked by the single storey building along the east boundary. There would be some angled views of the development from a first floor bedroom window but at a distance of 100m away. Overall, the impact upon the outlook from this property would not be unacceptable. There are clear views of parts of the site from 'Inkstand Meadow Farm' and to a lesser extent, 'Inkstand Cottage' and 'Inkstand Bungalow' some 315m away to the northwest. I have viewed the site from 'Inkstand Meadow Farm' and whilst views would change from arable fields to the proposed development, at this distance, I do not consider it would result in a harmful or overbearing outlook. I also note that new planting eventually grown to 6-8m in height would soften views from here. Otherwise houses would not have clear views of the development due to vegetation or topography or are a sufficient distance away such that there would not be harmful impacts on outlook.

6.11.8 In terms of glare to aircraft, the author of the report advises that, "*the effect of glare for aircrafts is only to be considered in the relevant field of view of the pilot. This applies only in the area of the landing runway, and partially in the area of the runway. All other glare has no effect on aircrafts because they are outside the pilot's field of view. Since no airport is located near the site this wasn't part of the glare report.*" This seems logical and I have no reason to question this or raise objections.

6.11.9 Overall, it is considered that the development would not have any unacceptable impacts upon residential amenity to justify an objection and therefore comply with policy ENV28 of the Local Plan and the NPPF in this respect.

6.12 Highway Safety

6.12.1 As outlined above at paragraphs 5.9.3 and 5.9.4, there would be no glare effects to the M20 or any roads to the west. Glare to Lenham Heath Road would be limited to a 370m section south of the site when driving eastwards and it is advised that the existing and proposed 3m/4m planting along this boundary would eliminate the impact from here. As such, there would be no highway safety implications from glare and I note no objections are raised by KCC Highways subject to the planting being put in place.

6.12.2 The impact of construction traffic has been considered by KCC Highways and no objections are raised to the proposed route subject to a construction phase traffic management plan, which would look to avoid 2 HGV's meeting on Lenham Heath Road.

6.13 Agricultural Land

6.13.1 The proposals would result in the loss of agricultural land, albeit for a temporary period and the development is reversible. Submissions indicate that the land does not fall within the 'best and most versatile' category (which is afforded some protection under paragraph 112 of the NPPF). The Council's agricultural consultant agrees with this assessment and as such the temporary loss of this agricultural land is not grounds to object to the proposal.

6.14 Balancing of Matters

6.14.1 The NPPF at paragraph 98 states that when determining planning applications for renewable energy development,

"Local Planning Authorities should not require applicants to demonstrate the overall need for renewable energy, and, approve the application if its impacts are (or can be made) acceptable, (subject to other material planning considerations)."

6.14.2 The NPPF encourages the use of renewable energy and considers its delivery as central to the economic, social and environmental dimensions of sustainable development. Policy NRM16 of the South East Plan states that Local Planning Authorities should in principle support the development of renewable energy. Whilst the South East Plan is to be abolished, it does not conflict with the aims of the more recent NPPF in respect of renewable energy development so should be afforded due weight. It is considered that the NPPF and South East Plan policies are very positive towards renewable energy development, although clearly there is a requirement to consider the other impacts of such development.

6.14.3 The main negative impact of the development is the visual harm caused to the landscape, which would be apparent to the east of the site. In this respect there is some conflict with policy ENV28 of the Local Plan, which seeks to prevent harm to the character and appearance of the countryside. The harm would, however, only be apparent to the east of the site for a medium range distance and would be a localised impact. This impact would be mitigated to a degree by the proposed landscaping but it would not be possible to completely hide the site and so there would be visual harm experienced. The site,

however, benefits from extremely good screening by topography and established vegetation on its remaining south, west and north sides. The development is also sought for a temporary period, and is reversible.

- 6.14.4 More recent policy NRM15 of the South East Plan can allow for such development outside urban areas but with priority given to less sensitive parts of countryside. For this reason, I do not consider any conflict identified with policy ENV28 above represents a departure from the Development Plan. Clearly, medium to large scale renewable energy development is likely to have some noticeable impact on the countryside and in this case it is considered to be a localised impact. The site is not located within a sensitive landscape or has a harmful impact upon the setting of the AONB, and is located next to major infrastructure in the form of the CTRL and M20. There would be no unacceptable impacts upon ecology, heritage interests or residential amenity and there are no highway objections to the proposals.
- 6.14.5 I consider that this is a finely balanced case, however, taking into account the NPPF's position in terms of such development being considered central to sustainable development, and balancing the contribution of this renewable energy source, (capacity to generate 5MW of energy, equivalent to powering approximately 1,340 dwellings per year), against the localised visual harm and lack of any other unacceptable harm, I consider that on balance the proposed development is acceptable at this particular location.

6.15 Other Matters

- 6.15.1 The site is not located in an area with a high risk of flooding but a flood risk assessment (FRA) is required as it is over 1ha in area. The FRA demonstrates that surface water run off from the development would be low and a sustainable urban drainage system (SUDS) with swales is proposed to allow interception and infiltration of the flows. This would include two 'swales' of 15cm in depth and 15cm in width along the east edge of the site and along the west edge of the central wooded section and there would also be the introduction of small 'scrapes' across more central parts of the site. The Environment Agency has been consulted on the FRA and raises no objections subject to the SUDS measures being carried out. This is in accordance with policy NRM4 of the South East Plan and the NPPF for dealing with flood risk.
- 6.15.2 Other matters raised by local residents and not addressed above include alternative sites; cumulative impact with potential mineral quarry; precedent; the lack of benefits to the local community, employment or economy; impact on tourism; loss of property value; potential health risks from radio frequency electromagnetic radiation; pollution from toxins leaking from panels; fire risk; the applicant is member of Parish Council so they cannot act objectively; solar

arrays offered to Parish Council would not compensate for harm; and that the public consultation by the applicant has been poor.

- 6.15.3 In terms of alternative sites, there is no requirement for a sequential approach to sites for renewable energy development within the NPPF or South East Plan and therefore this proposal cannot be dismissed on the grounds of potential alternatives. The application before the Council must be determined on its own merits. The NPPF at paragraphs 97 and 98 refers to Local Planning Authorities identifying suitable areas for renewable energy sources, however, we are not currently in such a position and I note advice from Spatial Policy is that at present it is not considered necessary to designate areas appropriate for specific types of renewable energy development.
- 6.15.4 In terms of the potential minerals quarry, there is a preferred option for a soft sand quarry in the County Council's Draft Mineral Sites Plan immediately east of the site covering an area of 60ha. Consultations on the preferred sites were carried out earlier in the year and Maidstone Council raised objections. The next stage is the production of a draft Mineral Site Plan currently scheduled for September 2013 with adoption expected in September 2014. Clearly, this proposed quarry is being advanced by the County and could be implemented. However, at present it has not been adopted and there is no guarantee it will happen and so it can only be given low weight in the consideration of this application. Notwithstanding this, if the quarry was adopted, it would cover an area of some 60ha and in this context it is considered that the cumulative impact with the proposed solar park (14ha) would not be significant.
- 6.15.5 In terms of precedent, any decision to approve this application would only judge that this renewable energy development is acceptable at this particular location. It would not set a precedent that such development is acceptable anywhere in the Borough. It is a well held planning principle that each application must be judged on its own merits.
- 6.15.6 In terms of benefits, the NPPF at paragraph 93 recognises that the delivery of renewable energy and associated infrastructure is central to the economic, social and environmental dimensions of sustainable development. Advice from the Council's Economic Development Section, states that, "*the proposal will help to promote sustainable growth and energy security in both the local area and the Borough as a whole and it is envisaged that a site of such a size will provide an excellent example of our intent to move towards a low carbon economy and will have the subsequent effect of stimulating growth in this growing industry sector.*" As such, there are clearly wider recognised benefits associated with such development.

- 6.15.7 It is not considered that the development would have any significant impact upon tourism. The main potential impact would be on users of local footpaths, and for the reasons outlined above, the impact on these footpaths is not considered to be so significant such that it would deter people from coming to the area. The loss of property value is not a material planning consideration.
- 6.15.8 In terms of health risks, the applicant has advised that the level of electromagnetic radiation is below the legally permissible values, which is controlled by other legislation and the solar panels do not contain any toxic substances which could leak. I am informed that the materials used are poorly flammable and I would not suggest that there is any great risk of fire from this particular development that would warrant objection.
- 6.15.9 Comments in relation to the position of the applicant within the Parish Council are not matters for the Borough Council to consider in determining this application. The application is being reported to Planning Committee for a decision on the request of a Ward Councillor and the Parish Council. The issue of solar panels for the Parish Council has been discussed at paragraph 5.3.10. They do not form part of the proposals and are not considered as part of the assessment of this application. Consultations carried out by the applicant/agent are a matter for themselves. The Borough Council has consulted over 100 nearby properties and erected 6 site notices in public places around the site and so has met the requirements for publicity of the application.

6.16 Conditions

6.16.1 Conditions are recommended to cover the following matters:

- Standard implementation within 3 years.
- 25 year temporary permission to include a restoration scheme to ensure the land returns to agricultural use. (25 years is the period of time proposed by the applicant based on the lifespan of the solar panels)
- Detailed landscaping scheme (planting specification, long-term management and maintenance plan (10 years) for retained and proposed).
- Detailed ecological management plan and GCN mitigation strategy (to include changes to proposed cutting regime of grassland).
- Prevention of any external lighting being installed once operational.
- Removal of permitted development rights for fencing, surfacing etc.
- Construction phase traffic management plan.
- Details of materials for inverter stations and colour of fence.

- Archaeological field evaluation works.
- Implementation of flood risk assessment.
- Precise details of any cabling within root protection areas.
- To ensure development is carried out strictly in accordance with approved plans.

7. CONCLUSION

- 7.1 I consider that this is a finely balanced case but taking into account the NPPF's position in terms of such development being considered central to sustainable development, and balancing the contribution of this renewable energy source, (capacity to generate 5MW of energy, equivalent to powering approximately 1,340 dwellings per year), against the localised visual harm and lack of any other unacceptable harm, I consider that on balance the proposed development is acceptable at this particular location. I have taken into account all representations made on the application but this does not lead me to a different conclusion. It is recommended that temporary 25 year permission be granted subject to the following conditions.

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. Within 25 years of the date of this decision, or within six months of the cessation of electricity generation by the solar PV facility, or within six months following a permanent cessation of construction works prior to the solar facility coming into operational use, whichever is the sooner, all development hereby permitted including the solar PV panels, frames, inverter modules, all foundations, track ways and all associated structures and fencing shall be dismantled and removed from the site. The developer shall notify the Local Planning Authority in writing no later than five working days following cessation of power production. The site shall subsequently be restored to agricultural land in accordance with a scheme, the details of which shall be submitted and approved in writing by the Local Planning Authority prior to the commencement of development;

Reason: To ensure the achievement of satisfactory restoration of the land in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, policies NRM15 and C4 of the South East Plan 2009 and the NPPF 2012.

3. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority 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. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and include the following:
 1. Detailed planting specification of new, trees, shrubs and hedgerows to include planting mixes in accordance with the Council's Landscape Character Assessment and Landscape Guidelines.
 2. Detailed planting specification of new grassland and scrub areas to include planting mixes in accordance with the Council's Landscape Character Assessment and Landscape Guidelines.
 3. Retention of all existing hedgerows and trees within the site.
 4. Programme for the approved scheme's implementation and long term management.

Reason: To ensure a satisfactory appearance and setting to the development in accordance with policies ENV28 and ENV6 of the Maidstone Borough-Wide Local Plan 2000, policies NRM15 and C4 of the South East Plan 2009 and the NPPF 2012.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the implementation plan approved under condition 2 and any trees or plants which within a period of ten 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 appearance and setting to the development in accordance with policies ENV28 and ENV6 of the Maidstone Borough-Wide Local Plan 2000, policies NRM15 and C4 of the South East Plan 2009 and the NPPF 2012.

5. No external lighting (whether permanent or temporary) shall be installed or retained at the site once operational;

Reason: In the interests of visual amenity and biodiversity in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, policies NRM5 and C4 of the South East Plan 2009 and the NPPF 2012.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order amending, replacing or re-enacting that Order), no development shall be carried out at the site without prior planning permission from the Local Planning Authority;

Reason: In the interests of visual amenity in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, policy C4 of the South East Plan 2009 and the NPPF 2012.

7. The development shall not commence until a Construction Phase Traffic Management Plan (CPTMP) and programme of works has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include construction vehicle details (number, size, and type), vehicular routes, delivery hours and contractors' arrangements (compound, storage, parking, turning, surfacing, drainage and wheel wash facilities). The development shall be carried out strictly in accordance with the approved CPTMP.

Reason: In the interests of maintaining a safe and efficient highway network, and to protect surrounding environmental and amenity interests in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, policy C4 of the South East Plan 2009 and the NPPF 2012.

8. The development shall not commence until, written details and samples of the materials and colours to be used in the construction of the external surfaces of the buildings, fencing and solar panels 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 in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, policy C4 of the South East Plan 2009 and the NPPF 2012.

9. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a detailed ecological management and enhancement plan for the site to include the recommendations of the 'Reports 4 Planning: Extended Phase 1 Habitat Survey' and the 'Great Crested Newt Mitigation Strategy' dated 29th June 2012 and the following:

1. Details of management and enhancement measures for the woodland area in the centre of the site to improve its biodiversity.
2. Details of management of all existing and proposed hedgerows to improve biodiversity.
3. Details for the creation of reptile refugia and hibernacula throughout the site.
4. Details for the provision of bird and bat boxes throughout the site.
5. Changes to the proposed cutting of existing grassland in the Great Crested Newt Mitigation Strategy to include a staggered cutting in at least two stages.
6. Programme for the approved scheme's implementation and long term management.

Reason: To ensure there is no detrimental impact upon ecological interest at the site and to enhance biodiversity in accordance with policy NRM5 of the South East Plan 2009 and the NPPF 2012.

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

1. Archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
2. Following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and historic landscape features and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority;

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record in accordance with policy BE6 of the South East Plan 2009 and the NPPF 2012.

11. The sustainable urban drainage recommendations in the 'H20K Flood Risk Assessment' dated March 2011 shall be fully implemented prior to the operation of the site and thereafter maintained;

Reason: In the interests of sustainable flood risk management in accordance with policy NRM4 of the South East Plan 2009 and the NPPF 2012.

12. The development shall not commence until an arboricultural method statement providing the precise details of any cabling within the root protection area of retained trees in accordance with 'BS5837:2012 Trees in relation to design, demolition and construction - Recommendations' has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To safeguard existing trees to be retained, in the interests of biodiversity and to ensure a satisfactory appearance to the development pursuant to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, policy C4 of the South East Plan 2009 and the NPPF 2012.

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

Drawing nos. 10203.01, 2051.AP.004.2.A, P11-0959-EK01(page 1), P11-0959-EK01(page 2), P11-0959-EI01-E (page 1), P11-0959-EI01-E (page 2), P11-0959-EI01-E (page 3) and A3 grid connection plan;

Reason: In the interests of visual amenity and to prevent harm to the residential amenity of nearby residential occupiers in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, policy C4 of the South East Plan 2009 and the NPPF 2012.

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.

2.1 Views from the site



Figure 7: Viewpoint 2 – View across North-East Field looking North to East from site entrance



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2.1 Views from the site



Figure 9: Viewpoint 4 - View across South-West and North-West Fields looking North-west - North from South-west boundary.



2.1 Views from the site



Figure 12: Viewpoint 7 - View across South-West Field looking North to East from West corner of site.



2.1 Views from the site



Figure 15. Viewpoint 10 - View across North-West Field looking North to East from West boundary.



2.1 Views from the site



Figure 25: Viewport 20 - View across North-East Field looking North to East from East side of central copse



2.1 Views from the site



Figure 26: Viewpoint 23 - View across North-East Field looking South-east to South-west from North-east corner of site.



2.1 Views from the site



Figure 33. Viewpoint 28 - View across North-East Field looking West to North from North-east boundary.



2.1 Views from the site



Figure 40 - Viewpoint 55 - View across South-East Field looking West to North-east from South-east corner of site.



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2. 10. 2012



2.2 Views of the site



Figure 48 Viewpoint 4. View from Lenham Heath Road looking north-east to south-west, adjacent to the South-East Field





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2. 10. 2012

2.2 Views of the site



Figure 49: Viewpoint 5: View from Lenham Heath Road looking north-west to north, at southern corner of the South-East Field



2.2 Views of the site

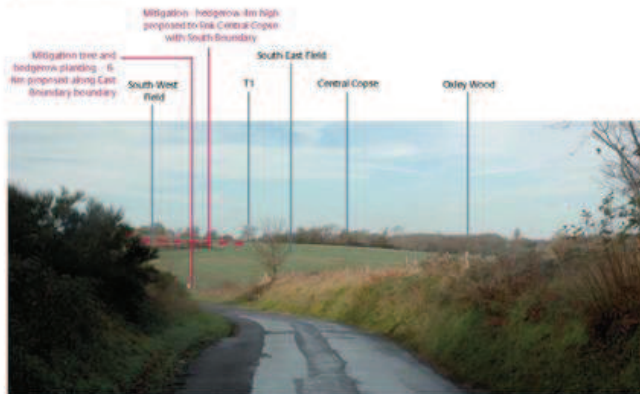


Figure 50. Viewpoint 6. View from Lenham Heath Road looking north-west to north, 75m south-east of the site.



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APPLICATION SITE

30. 9. 2012





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30. 9. 2012

2.2 Views of the site

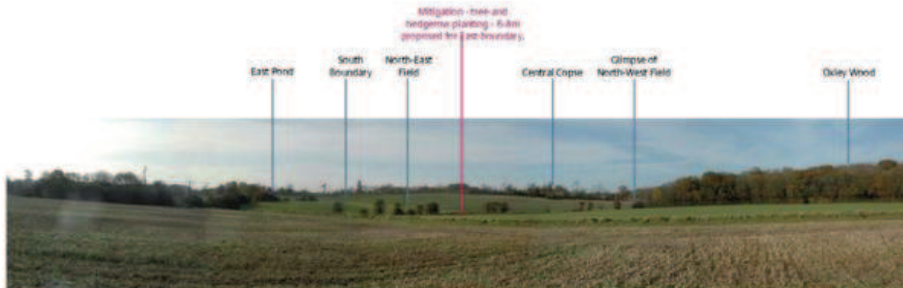


Figure 54. Viewpoint 10: View from public footpath looking south-west to north-west, 150m east of the North-East Field.



2.2 Views of the site



Figure 59. Viewpoint 14. View from National Trail - The Stour Valley Walk looking south-west to north-west, 750m east of the site.



2.2 Views of the site



Figure 59: Viewpoint 15: View from track to the north of Chapel Farm looking west to north-west, 700m east of the site



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2.2 Views of the site



Figure 60. Viewpoint 16: View from junction of Hubbards Hill with National Trail – Pilgrim's Way/North Downs Way looking south-west. 2.0kms north-east of the site



2.2 Views of the site



Figure 61. Viewpoint 17: View from public footpath linking East Lenham with National Trail – Pilgrims Way/north Downs Way looking south-west, 2.10kms north-east of the site



2.2 Views of the site



Figure 54: Viewpoint 20: View from National Trail - Pilgrims Way/North Downs Way off Rayners Hill looking south-west, 2.70km north-east of the site.



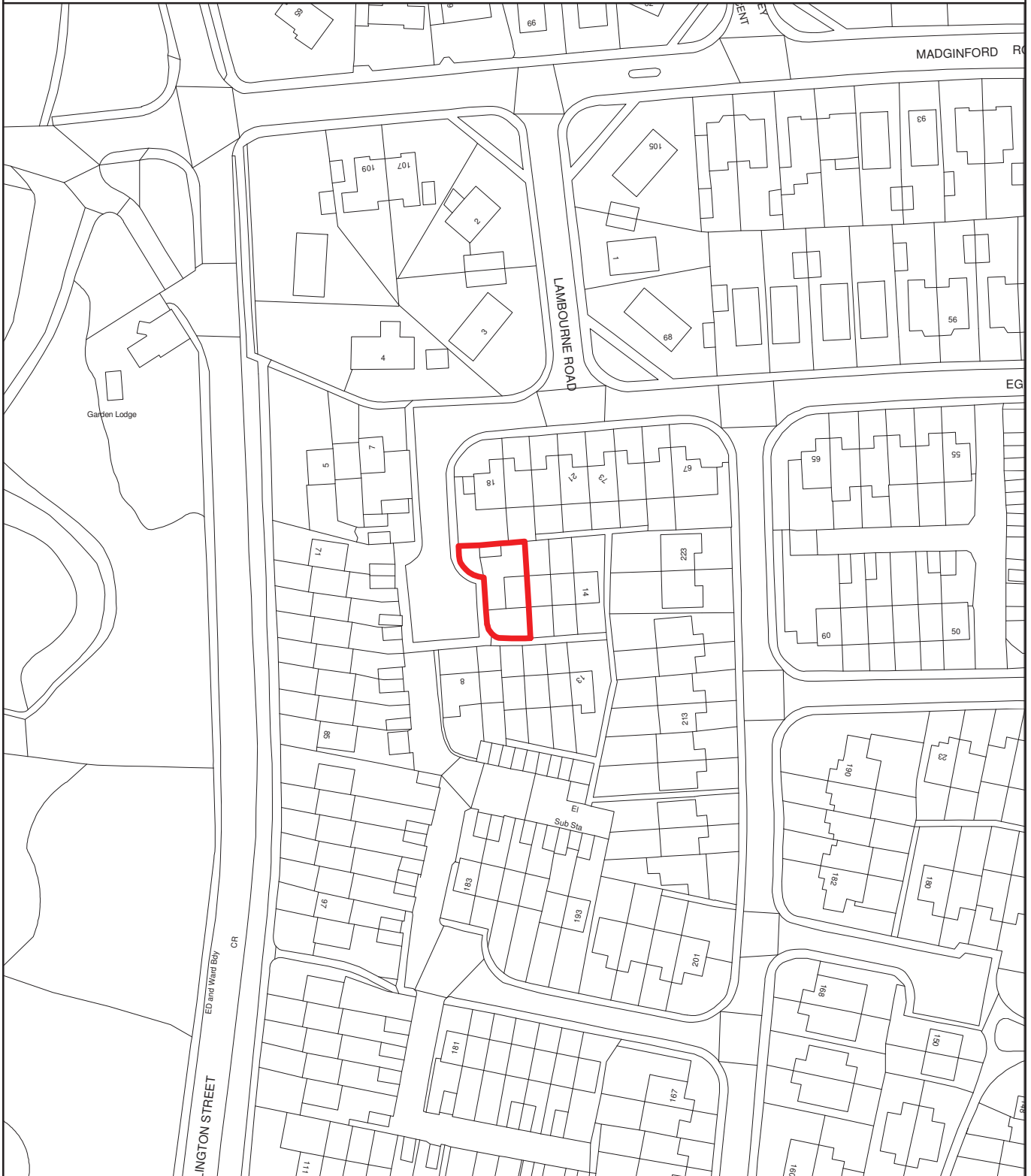
Agenda Item 17

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/0127

GRID REF: TQ7854

17 LAMBOURNE ROAD,
BEARSTED.



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Rob Jarman
Head of Planning

APPLICATION: MA/12/0127 Date: 26 January 2012 Received: 27 January 2012
APPLICANT: Remake Ltd
LOCATION: 17, LAMBOURNE ROAD, BEARSTED, MAIDSTONE, KENT, ME15 8LZ
PARISH: Bearsted
PROPOSAL: Erection of end of terrace dwelling as shown on the site location plan, supported by a design and access statement received 27th January 2012 and an un-numbered drawing received 24th October 2012.
AGENDA DATE: 1st November 2012
CASE OFFICER: Catherine Slade

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

- it is contrary to views expressed by Bearsted Parish Council.

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, T13
South East Plan 2009: SP3, CC1, CC4, CC6, H2, H4, H5, T4, BE1
Government Policy: National Planning Policy Framework 2012

2. HISTORY

MA/78/1826 Repositioning of fence to allow pedestrian access to garage -
APPROVED

3. CONSULTATIONS

3.1 **Beasted Parish Council** raise objection to the proposal for the following reasons:

3.1.1 "The shoehorning of an additional dwelling at the end of an existing terrace will erode the limited amount of un-built spaces within the surrounding area and be at variance with the fundamental design principles of this estate;

3.1.2 The proposed dwellinghouse will have grossly inadequate garden and amenity space; and

- 3.1.3 The additional parking generated by the proposal will significantly aggravate the severe parking problem in Lambourne Road which, at present, creates serious difficulties for service and emergency vehicles needing to access the site."
- 3.2 **The Kent County Council Highway Services Engineer** raises no objection to the proposal subject to a condition requiring parking and garaging areas to be provided and retained for that purpose.
- 3.3 **Southern Water** raise no objection to the proposal and make the following detailed comments:
- 3.3.1 *"Southern Water requires a formal application for a connection to the foul sewer to be made by the applicant or developer.*
- 3.3.2 *We request that should this application receive planning approval, the following informative is attached to the consent:*
- 3.3.3 *"A formal application for connection to the public sewerage system is required in order to service this development, please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688), or www.southernwater.co.uk".*
- 3.3.4 *Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer.*
- 3.3.5 *The Council's Building Control officers/technical staff or Environment Agency should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.*
- 3.3.6 *Southern Water's current sewerage records do not show any public sewers to be crossing the above site. However, due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site."*

4. REPRESENTATIONS

4.1 16 representations were received, of which 6 were submissions of a pro forma objection letter. All representations raised objection to the proposal. The matters of concern are set out below:

- Issues of highway safety including an increase in vehicular traffic and on street parking, and resultant access issues.
- Harm to residential amenity by way of loss of privacy (overlooking), loss of light (overshadowing), and general disturbance.
- The design of the proposed dwelling, and its relationship to the existing pattern of development.
- The proposal would result in “garden grabbing” and loss of a green space.
- The scale of private amenity space to be provided for the proposed dwelling.
- Problems with sewerage.
- Loss of a view.
- The proposal site and adjacent property are in the ownership of a developer who rents the latter out, with the result that the stock of “affordable” housing for sale to local people is diminished.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The proposal site comprises a two storey end of terrace dwellinghouse and associated side and rear garden and detached garage. The site is located in Madginford within the defined built up boundary of Maidstone. Notwithstanding this, it is also within the parish of Bearsted.

5.1.2 The existing dwelling is one of a terrace of four of a uniform scale and overall appearance. The site is located at the apex of a residential cul de sac, and the terrace is accessed via a footpath which extends from the public highway and runs along the front boundaries of the dwellings; the proposal site being the only property in the terrace which directly adjoins the Lambourne Road.

5.1.3 The terrace is part of a large mid twentieth century residential estate of no particular architectural or historic interest. The immediate surroundings are characterised by dense residential development with few trees, and small, marginal grassed areas.

5.1.4 The site has no specific environmental or economic designations in the Maidstone Borough- Wide Local Plan 2000.

5.2 Proposal

5.2.1 The proposed development is the erection of a two storey end of terrace dwellinghouse. The dwelling would have a width of 4.5m, in comparison to the existing dwellings, which have widths of 5m. The ridge and eaves heights would be the same as that of the original terrace, and the front and rear elevations flush with those of the original terrace. The design incorporates a porch to the front elevation which would be similar in overall appearance to those of the existing properties, being a simple flat roofed structure, however whilst it would have a similar projection this would be greater in width by 1m.

5.2.2 The proposed development would provide a two bedroom dwelling with private amenity space to the rear in the form of a patio and grassed area. Off road parking for number 17 and the proposed dwelling comprising 3 spaces would be provided to the rear (north) of the garden area.

5.3 Principle of Development

5.3.1 The planning policy context comprises the Development Plan (the saved policies of the Maidstone Borough-Wide Local Plan 2000, together with any other formally adopted planning policy documents, and the policies of the South East Plan 2009), and national planning policy and guidance as set out in the National Planning Policy Framework 2012 (NPPF). As stated above, the site is located in a sustainable location in close proximity to local facilities and services including shops, schools and health facilities within the defined settlement boundary of Maidstone, and has no specific economic designations in the Local Plan. As such the location of the site is considered to be favourable in terms of the general principle of the siting of new development, as set out in South East Plan 2009 policy SP3 and the National Planning Policy Framework.

5.3.2 Notwithstanding the above, the site currently forms the part of the side garden of number 17, and as such represents a garden development. There are no specific Development Plan policies which relate to such development, however, the NPPF explicitly excludes garden land from the definition of previously developed land. Although the NPPF advises Local Planning Authorities to consider the case for policies which would prevent incidences of inappropriate

development of garden land “where development would cause harm to the local area”, the document does not explicitly prohibit such development (paragraph 53), and as Members will be aware there are no Development Plan policies relating to proposals for development on garden land.

- 5.3.3 The position of the Council is that the effect of the removal of garden land from the scope of previously developed land is to remove a presumption in favour of development of garden land. However, whilst the previous policy position did not allow for the development of all garden sites, it is not now the case that all development in gardens should be refused. It follows that each application must be judged on its own merits. However, it does mean that proposals for such development should be subjected to rigorous assessment.
- 5.3.4 In the circumstances of this case, it is my view that a balance should be struck between the suitability of the site in respect of being located in a sustainable location with reasonable public transport links in close proximity to the amenities and services that a residential occupier might reasonably expect; and the impact of the proposal on the character and appearance of the area which would result from the loss of the garden land.
- 5.3.5 The proposal site comprises private garden land enclosed by a close boarded fence at the apex of a residential cul de sac, and has a limited role in establishing the openness or otherwise of the immediate area. As such I do not consider that the proposed development would be detrimental to the character and appearance of the area.
- 5.3.6 In the light of these factors, it is considered that the principle of the development is acceptable in policy terms, subject to all other material considerations, including the amenity of the occupiers of neighbouring residential properties.

5.4 Visual Impact

- 5.4.1 As is clear from the site location plan, the pattern of development in the locality is such that the grain of the area is distinguished by terraces of small residential properties with diminutive front and rear gardens. In the immediate vicinity of the proposal site these are manifested as a long terrace arranged along a north-south axis to the west of the hammerhead of the cul de sac, with three smaller terraces arranged along east-west axes to the east of the hammerhead. These smaller terraces are staggered in terms of their proximity to the hammerhead, with the central terrace being set back by 5m and 15m in relation to the north and south terraces respectively. The proposal site is located at the western end of this central terrace adjacent to the hammerhead. The introduction of the proposed dwelling would reduce this set back to 1m and 11m respectively,

however a set back would be retained, and in the circumstances of this case, it is considered that the proposed development would be in keeping with the existing pattern of development and this would be overly detrimental to the character and appearance of the area.

- 5.4.2 The proposal site is prominent in public views in the context of the streetscene of Lambourne Road, and whilst the erection of a new dwelling which would abut the public highway would normally be considered to be intrusive and overbearing, and potentially to result in a feeling of enclosure, in the circumstances of this case the location of the site to the edge of a hammerhead turning area and the relationship of the terrace to those to the north and south, both of which project beyond the site, it is considered that the impact of the proposal on the streetscene is acceptable.
- 5.4.3 Further mitigation is provided as a result of the location of the site at the end of the highway, which is a vehicular no through road, although pedestrian through access can be gained from an off shoot of Merton Road. Furthermore, the proposal site is only visible in close range views as a result of the screening effect of existing dwellings in the vicinity of the site. To my mind, the location of the site is such that whilst it is visible in the streetscene, public views are limited as a result of the limited through traffic that might be expected. Furthermore, the existing garden is currently enclosed by a close boarded fence, and the only vegetation visible in public views are two Christmas trees of limited public amenity value. It is therefore my view that the proposal would therefore not result in the erosion of the openness of the locality or cause harm to the local area.
- 5.4.4 The side elevation would bring built development closer to the hammerhead, however a window is proposed to the first floor of this side elevation, mimicking those to the flank elevation of numbers 18, the end of terrace property located to the north of the proposal site. This would serve to articulate this façade, and overall I consider that the visual impact of this element of the proposal in the streetscene is acceptable.
- 5.4.5 Whilst concern has been raised by neighbouring occupiers in respect of the design of the proposed dwelling, in particular the scale of the porch and the appearance of the fenestration to the front elevation, which do not match those of the existing dwellings, it is not considered that this is unacceptable. The dimensions of the elements of the design of the dwelling are clearly a function of the space available for the proposed development, the proposed building being narrower than the existing buildings by 0.5m, and are not out of proportion to the façade of the dwelling. The point made in respect of the failure of the design to accurately mimic that of the existing buildings is noted, however end properties in terraces are often of differing design and scale to those of mid

terrace properties, and this, together with the fact that the terrace would be subject to limited public views in its entirety is such that I do not consider that the design of the property would be detrimental to the streetscene.

5.4.6 For the reasons set out above, the proposal is considered to be acceptable in terms of both its general visual impact within the streetscape and detailed design, subject to a condition requiring the submission and approval of samples and details of external materials.

5.5 Residential Amenity

5.5.1 Concern has been raised in regard to the impact of the proposed development on residential amenity by way of loss of privacy (overlooking), loss of light (overshadowing) and general disturbance.

5.5.2 In terms of overlooking, the proposed dwelling would most immediately have an impact upon the occupiers of numbers 9 and 18 Lambourne Road, which would be located to the immediate north and south of the dwelling. These properties are located within 21m of the facing elevations, which is generally accepted as the "rule of thumb" when assessing such matters. However, it is the case that the separation distances between the proposal site and numbers 9 and 18 are not significantly less than those between other properties forming the three terraces, and as such it is not considered that a refusal on these grounds would be sustainable. This is supported by appeal decisions relating to refusals on such grounds, which have previously found that in densely built up areas some level of overlooking is "to be expected". Although a window is proposed to the first floor of the side elevation, the separation distance between this and the facing properties (73 and 75 Willington Street) exceeds 29m, and as such it is not considered that this would result in harm to the residential amenity of the occupiers of these properties.

5.5.3 The design of the proposed dwelling, and its siting relative to the surrounding properties, are such that it is not considered that the proposal would result in any significant additional loss of light to the occupiers of the neighbouring dwellings in relation to that resulting from the existing pattern of development. It is not considered that the proposal would result in any harm by way of outlook or sense of enclosure.

5.5.4 In respect of the scale of private amenity space available for the future occupiers of the proposed dwelling, whilst it is limited in scale, a secluded space with an area of 21.625m², comprising a patio and a grassed area, which in the context of the scale of the proposed accommodation provided and the proximity of Mote Park is considered to be adequate.

5.5.5 For the reasons set out above, the proposal is considered to be acceptable in terms of impact upon the residential amenity of the occupiers of the neighbouring dwellings or those of the proposed dwelling.

5.6 Highways

5.6.1 Concern has been raised in regard to highway matters, in particular the issue of increased traffic, a reduction in the available on street car parking and the level of on site car parking proposed.

5.6.2 Lambourne Road is an un-classified no through road with no parking restrictions, and most properties in the immediate vicinity of the proposal site are provided with private garaging, either within the curtilage of the properties, or in purpose built blocks of nearby garages.

5.6.3 The proposal would result in the loss of a single on street car parking space. The current on site car parking provision for number 17 is 1; the on site parking provision for number 17 and the proposed dwelling is 3, or 1.5 places per unit (albeit that 2 are allocated to number 17 and 1 to the proposed dwelling on the submitted drawings). This is considered adequate to off set the loss of the on street parking space.

5.6.4 Whilst the concerns and frustrations of neighbouring occupiers are noted, as Members will be aware, Maidstone Borough Council has no adopted parking standards, and the provision of 1.5 on site car parking spaces for the two properties is in excess of that provided for the other properties. Furthermore, Kent County Council Highway Services have raised no objection to the proposal subject to a condition restricting the spaces to be retained for the parking of vehicles, which in this case is considered to be reasonable and necessary.

5.6.5 For the reasons set out above, the proposal is considered to be acceptable, subject to the condition set out above, in terms of matters of highway safety, including on and off site parking.

5.7 Landscaping

5.7.1 As set out above, the proposed development would result in the loss of two specimens, which are considered to be of limited value. An indicative landscaping scheme has been provided in support of the application, however in order to secure the optimum appearance to the development and landscape improvement which would benefit the wider streetscene it is considered necessary and appropriate to impose conditions requiring the submission and approval of a detailed landscape scheme and long term maintenance plan appropriate to the scale and setting of the site, and securing its implementation.

5.8 Other Matters

- 5.8.1 There are no heritage or biodiversity assets which would be affected by the proposed development and the site is not in a location recorded by the Environment Agency as being prone to flood.
- 5.8.2 Concerns have been raised with regard to the impact of the development on the local sewerage system. Southern Water have been consulted on the application and has not raised objection to the proposal. A condition has been requested, as set out above, however this is more appropriately dealt with by way of an informative.
- 5.8.3 The applicant has confirmed in writing that the proposed dwelling would achieve Level 3 of the Code for Sustainable Homes, which in the circumstances of this case is considered to be appropriate and in accordance with the expectations of the Council in respect of residential development of this scale. This can be secured by way condition.
- 5.8.4 I am aware of the recent appeal decision at land adjacent to 18 Merton Road (MA/11/1406) where an appeal against the refusal of an application to erect a detached dwelling at the end of a terrace of properties was dismissed, however to my mind this is not comparable to the current case, firstly because the proposal would have resulted in significant disruption of the building line; secondly as the erection of a detached dwelling would be out of keeping with the established pattern of development; and thirdly because the site is in a prominent location on a through road and therefore highly visible in public views to passing drivers and pedestrians.
- 5.8.5 These factors do not apply in the circumstances of the current case. There are, in any case, other examples in the wider locality of the erection of end of terrace properties similar to that currently under consideration at such sites as 2 Tydeman Road (MA/07/2495) and 41 Egremont Road (MA/07/1569).
- 5.8.6 As Members will be aware, loss of views are not a planning matter and cannot be taken into consideration in the determination of planning applications.
- 5.8.7 Whilst it may be considered regrettable that the proposal has been submitted on behalf of a property company, land ownership is not a planning matter, and the scale of the proposed development is such that there is no requirement that the property be retained as affordable housing for local residents.

6. CONCLUSION

- 6.1 In the circumstances of this case the application for the erection of a two storey end of terrace dwellinghouse is considered to be acceptable in principle in this location, and it is not considered that the loss of garden land would be detrimental to the appearance of the streetscene or the character of the area.
- 6.2 For the reasons set out above and having regard to the policies of the Development Plan and any other material considerations, the proposed development is considered to be in accordance with the policies of the Maidstone Borough-Wide Local Plan 2000, the South East Plan 2010 and central government planning policy guidance and advice as set out in the National Planning Policy Framework 2012, and I therefore recommend the application for approval subject to the conditions set out above.

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 development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces, including all hard surfacing areas which shall be constructed of permeable materials, 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 safeguard the character and appearance of the area in accordance with policies CC1, CC6 and BE1 of the South East Plan 2012 and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

3. The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species and a programme for the approved scheme's long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: To ensure a satisfactory setting and external appearance to the development, and safeguard the character and appearance of the area in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6 and BE1 of the South East Plan 2009 and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

4. 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, and safeguard the character and appearance of the area in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6 and BE1 of the South East Plan 2009 and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

5. The approved details of the parking areas shall be completed before the commencement of the use of the development 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 provision is likely to lead to parking inconvenient to other road users and in the interests of road safety in accordance with policies T13 of the Maidstone Borough-Wide Local Plan 2000 and T4 of the South East Plan 2009, and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

6. The proposed dwelling shall achieve Level 3 of the Code for Sustainable Homes. The dwelling shall not 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 and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

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

un-numbered drawing supported by a design and access statement, all received 27th January 2012;

Reason: To ensure a satisfactory appearance to the development and safeguard the character and appearance of the area in accordance with policies CC1, CC6 and BE1 of the South East Plan 2012 and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

8. No development shall take place until details of surface water drainage have been submitted to and approved in writing by the Local Planning Authority and these works shall be completed in accordance with the approved details before the first occupation of the dwelling. The submitted details shall show drainage to a soakaway and not a public sewer;

Reason: To ensure an adequate surface water drainage scheme in accordance with the National Planning Policy Framework (2012).

Informatives set out below

The details submitted in regard to condition 2 above (materials) shall respect those of the adjoining properties.

Please note that a formal application for connection to the public sewerage system is required in order to service this development, please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688), or www.southernwater.co.uk. Southern Water's current sewerage records do not show any public sewers to be crossing the above site. However, due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

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.

Item 17, Page 86

MA/12/0127:

Address

**17, LAMBOURNE ROAD, BEARSTED,
MAIDSTONE, KENT, ME15 8LZ**

Additional representations:

Two additional representations have been received in response to a consultation in respect of an amended drawing which has been received. These do not raise any new planning matters, however one questions whether the correct consultation procedures have been followed. The amended drawing is the subject of a seven day reconsultation which expires on 31st October 2012; if any further responses are received they will be the subject of an urgent urgent update report.

Recommendation:

My recommendation remains unchanged.

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24. 10. 2012

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24.10.2012



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24. 10. 2012

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24. 10. 2012

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/0428

GRID REF: TQ8054

LAND SOUTH WEST OF,
CARING ROAD, LEEDS.



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Rob Jarman
Head of Planning

APPLICATION: MA/12/0428 Date: 6 March 2012 Received: 27 March 2012
APPLICANT: Mr Andrew Desmond
LOCATION: LAND SOUTH WEST OF, CARING ROAD, LEEDS, KENT
PARISH: Otham
PROPOSAL: Erection of fencing and gate on west boundary of Caring Paddock
AGENDA DATE: 1st November 2012
CASE OFFICER: Jon Lawrence

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

- It is contrary to views expressed by the Parish Council

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV28, ENV34, ENV39
- South East Plan 2009: CC1, CC6, C4
- Government Policy: NPPF

2. HISTORY

- 2.1 This application resulted from a letter sent to the Council in February 2012 by the (now) applicant advising that they were to erect agricultural fencing and gates with the intention to use the land for sheep grazing. A letter in response was sent advising that planning permission would be required due to an Article 4 Direction confirmed in March 2003 that includes the land subject to this application. This Article 4 Direction prevents the erection of fences, walls and other means of enclosures as permitted development and also temporary uses of the land as permitted development. This Article 4 was sought in 2002 following LPA concerns arising from the sale and possible sub-division of parts of the land into individual plots. The existence of this Article 4 Direction is the only reason planning permission is required for the development subject to this application.
- 2.2 There is also substantial previous enforcement history involving the land both before and since the Article 4 Direction was issued. This includes successful enforcement action in 1999 against its use for storage of caravans and associated engineering operations to raise and re-sculpt the land. It also includes the use of the land for motorbikes; the stationing and occupation of

caravans; repairing and storing vehicles; and concerns over subdivision of the land and erection of fencing. These matters have all been resolved.

- 2.3 There has only been one planning application submitted and this relates to the wider land. This concerned the field adjacent to the east of the application site, and was an outline application for a manor house and gate lodge (ref MA/99/0355). This application was, however, withdrawn in June 1999.

3. **CONSULTATIONS**

- 3.1 The line of the proposed fencing and gates, and therefore effectively the application site, falls within the Parish of Otham. However, the eastern section of the wider land/fields falls within the Parish of Leeds, whilst land within the Parish of Downswood is also nearby. All three Parish Councils have therefore been consulted on this application.

- 3.2 OTHAM PARISH COUNCIL wish to see the application REFUSED and REQUEST that it is reported to Planning Committee. They report that both residents and local farmers have expressed concern regarding this matter. They also offer some more detailed comments as follows:

"History of the site -

This 6½ acre field was sold in Oct 1981 as grazing land, and was used as such.

The site was sold on to a developer who sought to build a large detached house on the Eastern boundary. Permission was refused.

The site was then sold off in small parcels, mostly to people in the Stratford area of London. The land is now divided into ten plots.

Alerted to this sale, MBC obtained an article 4 directive in March 2003 prohibiting amongst other things building and fencing. Numerous complaints of misuse of the land have been dealt with by MBC. The most serious being an attempt by itinerant workers to squat on the land with 28 caravans in June 2006. Because of the fragmented ownership this presented difficulties to MBC. But the Borough managed to gain an eviction fairly speedily.

Plot 8 (Southern corner) change hands again in 2007/2008. Over a weekend this plot was fenced and a shed was erected. MBC took enforcement action and the site was returned to grazing.

During the period 2006 – 2012 there have been two forms of agricultural use. Sheep grazing has occurred on an informal arrangement.

However, there have since been occasions of wide spread usage for pony grazing. The ownership of the animals has been difficult to trace, and the density has been such that both police and RSPCA have been asked to investigate.

The Parish Council does not wish to comment as such matters are outside of its planning remit being a civil matter between land owners.

Comments -

In viewing this application the Parish Council has, therefore, to express an opinion on the justification for removing part of the Article 4 direction on a specific strip. As no formal tenancy contracts have been offered, and the owners' stated intention is not related to their own farming activity, the Parish views the request with suspicion.

The effect of permission would be to divide the land unnecessarily (into two parcels of about 3 acres.) Furthermore, it could result in plots 1-8 on the western boundary being left derelict and potentially require action from MBC on environmental concerns. The only source of water would be outside of these plots making grazing use more difficult.

In practical terms an informal grazing arrangements would be acceptable and not require sub-division of the land.

The Parish Council, therefore, opposes this planning application. It asks that the Article 4 directive remains in place".

3.3 DOWNSWOOD PARISH COUNCIL wish to see the application REFUSED and REQUEST it is reported to Planning Committee as *"We see no reason to remove part of the Article 4 Directive for a specific strip of land and therefore ask that the directive remains in place."*

3.4 LEEDS PARISH COUNCIL – No response.

4. REPRESENTATIONS

4.1 Nine objections have been received from local residents including a local farmer. In summary, the grounds for objection are as follows:

- Breach of Article 4 Direction
- Question agricultural motives – instead an attempt to mark territorial ownership

- Speculative and non-agricultural ownership of the land
- To sub-divide the field will damage the chances of it ever being returned to agriculture
- Will not ensure agricultural future of field so no need to lift Article 4
- The land would be better farmed without sub-division.
- If field separated into individual lots it would not be of use for grazing or crops, so is a threat to its agricultural usefulness
- Would set precedent for destruction of larger fields/parcels of land in area
- Would set precedent for fencing off of other plots, destroying field and those to east and west
- Natural beauty of this Len Valley Landscape Area would be lost forever, with impact on visual appearance of aesthetic value, and which would be worsened by an possible subsequent change of use
- Loss of recreational resource
- Gate not necessary as there is already a gate providing access to this field from Caring Road
- As one large field access is currently possible to natural water supply on Caring Road – to fence off would mean isolating the plots beyond the fence which would then have no legal access to mains water and therefore could not be used for grazing
- A divided field would not be large enough to graze the horses currently in the entire field
- This is for a new field boundary within an existing field and not for the fencing off of an identifiable existing paddock

5. CONSIDERATIONS

5.1 Site Description

5.1.1 This application relates to a parcel of land within fields in the open countryside east of Maidstone and between urban areas to the north and west and the village of Otham to the south. Most of the application site is within Otham Parish but a small section of the wider land on the east side appears to be in the Parish of Leeds. The field(s) comprising and surrounding the application site rise to the east and west and to the south, so naturally have a valley type feature. The Article 4 Direction confirmed for the land and the wider fields removes the right to erect fences and other enclosures and to use the land for temporary uses under permitted development.

5.1.2 Otham Lane runs along the west boundary of the wider fields within which the application site is located, and Caring Road is adjacent to the north. There is hedgerow, planting and vegetation generally around the boundaries of the wider field with both Otham Lane and (including the application site) Caring Road, although the inner field boundaries of the site are both unmarked and with post

and rail fencing to the south side. There are some residential properties in the vicinity of the site, particularly along Otham Lane.

- 5.1.3 The application site and adjoining fields are presently used to graze horses. There is also the remains of a dilapidated former stable building on the top of the slope at the eastern end of the field adjacent to the east of the application site. The land and wider fields have in the past been subject to enforcement investigations and formal action concerning unauthorised activity and developments, which in the early 2000's led to the Council seeking the Article 4 Direction that was later confirmed.

5.2 Proposal

- 5.2.1 This application seeks permission, as described on the application forms, for a proposed 1.22m high wooden post and wire/proof netting fencing, over a distance of some 160-170 metres along the entire western boundary of the application site, and including the provision of a '5 bar rounded' gate in the southern end of that fencing. The netting is described as being galvanised, with two strands of galvanised barbed wire at the top. The gate would provide an "access way" through to the fields either side of the proposed fence and their separate access points from the highways of Otham Lane to the west and Caring Road to the north.
- 5.2.2 The proposed gate is described as being a galvanised 5-bar agricultural gate, and being 3.65m in length and 1.2m in height.
- 5.2.3 There is no proposal under this application to change the use of the land and any use other than agriculture would require planning permission.
- 5.2.4 If planning permission were granted for the proposed development this would not result in the Article 4 Direction being removed. This Direction would remain in force and any proposal for future fencing would require planning permission.

5.3 Considerations

- 5.3.1 Although the application site lies within open countryside and also immediately south of a designated Special Landscape Area, I am satisfied in principle that this development is acceptable in line with development plan policies and government advice aimed at rural areas and settlements.
- 5.3.2 Strong regard must be had to development plan policies and government advice aimed at protecting the countryside and landscapes of quality and character. Further, the development must accord with the principle of sustainable development that underwrites government policy.

5.4 Visual Impact

- 5.4.1 The development would be visible from public areas along Caring Road to the north and Otham Lane to the west, at close distances in part from Caring Road which the fencing would run up to, and at distances of around 45-50 metres from Otham Lane which it would run parallel to.
- 5.4.2 However, the height, form, scale, type and material of the development proposed is considered to be acceptable for the location. In fact, it is considered a typical agricultural post and wire fencing and gate type enclosure for the countryside, and would not therefore have an unacceptable impact on its character and appearance, nor the scenic quality and distinctive character of the nearby designated SLA.
- 5.4.3 A significant reason for seeking the Article 4 Direction was to stop fencing off of plots of this land and therefore the formation of small plots. The proposed line of fencing and gates would not lead to the fencing off and formation of small individual plots, and would not therefore result in harm contrary to aims of the Article 4.
- 5.4.4 I therefore consider that on balance the proposed scheme is acceptable in visual terms.

5.5 Other matters

- 5.5.1 The proposal raises no issues concerning sustainable development.
- 5.5.2 The history over the application site and wider fields, as brought up in representations, does form some of the background of this application, as identified in Section 2 above. However, the consideration of this application should only be based on the proposal submitted.
- 5.5.3 With regard to concerns over what might happen in the future should this proposal be granted planning permission, it is important to remember that any further development requiring planning permission, including further sub-division of the application site or wider land by any physical enclosures, would not automatically be considered acceptable, and also that enforcement action could still be taken against any future unauthorised development on the application site and wider land.

6. CONCLUSION

- 6.1 The proposed scheme would not have an unacceptable visual impact on the character and appearance of the countryside or nearby SLA and would appear as a typical rural fence.
- 6.2 There are no sustainable development issues.
- 6.3 Should the proposed scheme be granted planning permission then any further fencing on the application site and wider fields would not automatically be considered acceptable, would still require planning permission, and would be open to enforcement action.
- 6.4 I therefore consider the development to be acceptable and that planning permission should be granted subject to a standard time implementation condition.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following condition:

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

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

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

un-numbered site plan received 8 March 2012
un-numbered site/block plan received 27 March 2012

Reason: in the interests of visual amenity in accordance with policies ENV28, ENV34 and ENV39 of the Maidstone Borough-Wide Local Plan 2000 and policies CC1, CC6 and C4 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 considerations to indicate a refusal of planning consent.

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A photograph of a rural landscape. In the foreground, a wet asphalt road curves from the bottom right towards the center. To the left of the road is a grassy area with a wooden fence made of two horizontal rails and vertical posts. A wooden post on the left side of the fence has the number '169' written vertically on it. In the background, there is a green field, a utility pole, and a line of trees under a cloudy sky.

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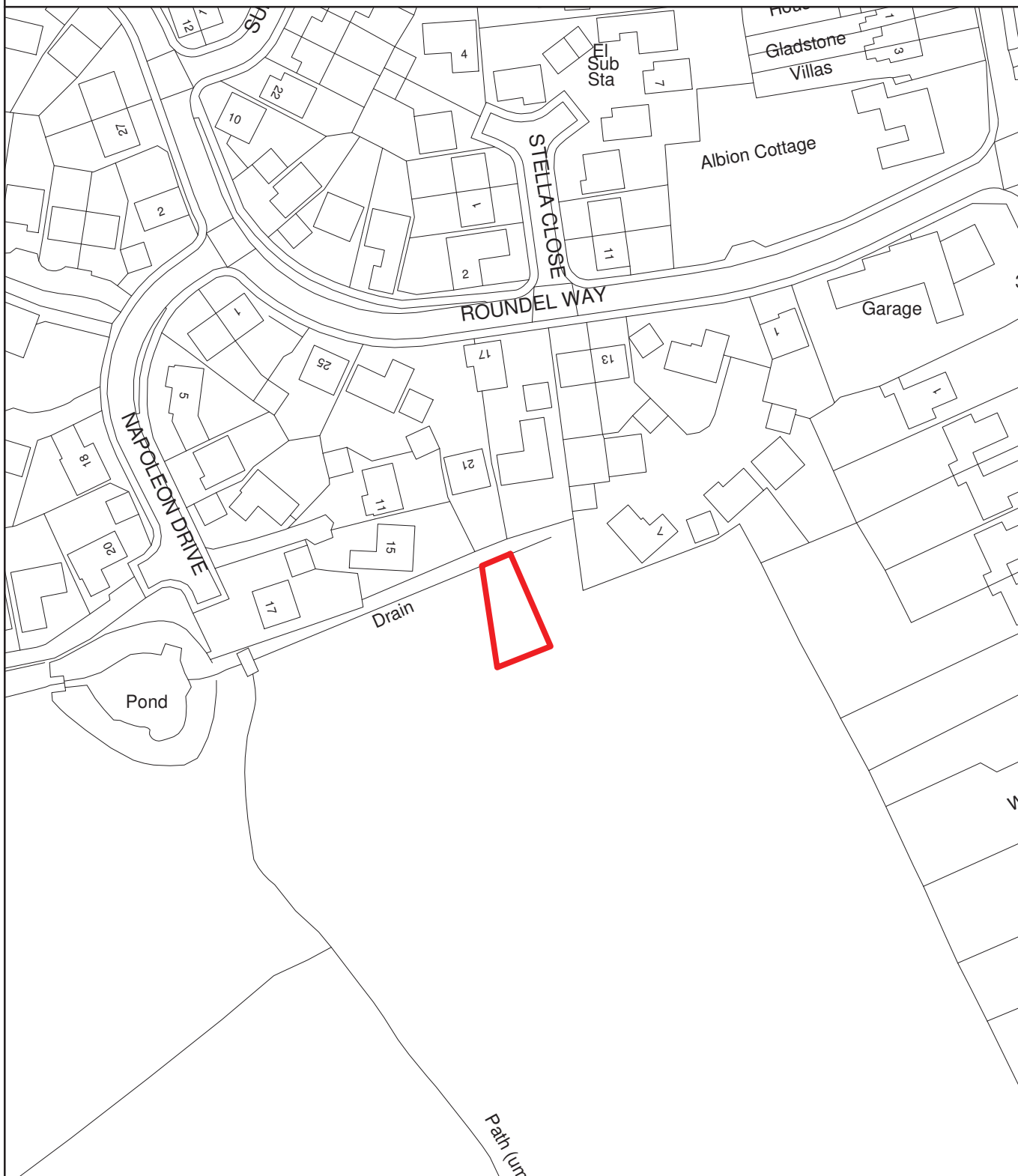
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THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/0751

GRID REF: TQ7444

21 ROUNDEL WAY,
MARDEN.



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Rob Jarman
Head of Planning

APPLICATION: MA/12/0751 Date: 22 April 2012 Received: 26 April 2012
APPLICANT: Mr J Watson
LOCATION: 21, ROUNDEL WAY, MARDEN, TONBRIDGE, KENT, TN12 9TW
PARISH: Marden
PROPOSAL: Change of use of land from agriculture to residential garden (resubmission of MA/11/0842) as shown on the 2No. change of use plans, 2No. un-numbered photographs, and 2No. supporting notes, received 26th April 2012
AGENDA DATE: 1st November 2012
CASE OFFICER: Catherine Slade

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

- it is contrary to views expressed by the Parish Council.
- it is a departure from the Development Plan.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, H31
- South East Plan 2009: CC1, CC6, NRM5, C4
- Village Design Statement: Not applicable
- Government Policy: National Planning Policy Framework 2012

2. HISTORY

Land to rear of 21 Roundel Way:

MA/11/0842 Change of use of land from agriculture to residential garden - REFUSED

Land to rear of neighbouring properties:

MA/11/0154 Retrospective planning permission for the change of use of land from agriculture to residential garden – REFUSED, ALLOWED AT APPEAL (land to rear of 7 Roundel Way)

MA/11/0201 Retrospective planning permission for the change of use of land from agricultural land to residential garden - REFUSED, ALLOWED AT APPEAL (land to rear of 5 Roundel Way)

3. CONSULTATIONS

3.1 **Marden Parish Council** wish to see the application refused on the following grounds:

3.1.1 "if approved (it) would leave the ditch behind 19 Roundel Way completely landlocked and inaccessible for maintenance/clearance. This ditch forms a key part of the surface water run-off from the eastern part of the Cherry Orchard estate. Furthermore, it is not clear if and how the applicant proposes to cross the ditch to access the area within the red line and Councillors would be very concerned if any culvert or any other crossing reduced the capacity of the ditch which is likely to lead to localised flooding."

3.2 The Kent County Council Biodiversity Officer raises no objection to the proposal, and makes the following detailed comments:

3.2.1 *"No ecological information has been submitted with this application. We have reviewed the information submitted with the application and in particular have compared the previous site photograph (Figure B) with current site photographs provided by the planning officer advise that the ecological status of the site has decreased significantly and currently provides minimal opportunities for wildlife. The creation of a native species hedge using the species proposed will however improve the site's ecological interest.*

3.2.2 *We recommend that to further increase the site's ecological interest, the grass under and adjacent to the hedge (once the hedge has grown up) is not maintained as short-cut. This will provide opportunities for small mammals and other wildlife which have been lost as a result of the loss of the field margin. In addition, log piles placed along the hedgeline will provide additional ecological enhancement."*

3.3 The **Rural Planning Consultant** objects to the application on the grounds that it results in the loss of the best and most productive agricultural land, and raises concern in respect to domino effect of consecutive changes of use of adjacent parcels of land, and makes the following detailed comments:

3.3.1 *"As you will be aware this application follows the earlier refusal of application MA/11/0842 for the same proposal. My letter of 16 June 2011 refers. At the same time I advised the Council as to the retrospective change of use of adjoining land in the same field at 7 Roundel Way (ref. MA/11/0154), and*

another plot adjoining that, in the field corner, at 5 Roundel Way (ref. MA/11/0201).

- 3.3.2 *The applications followed the recent sale of a strip of land (overall maximum dimensions about 100m x 20m) to the rear of the above 3 properties and No 19 Roundel Way plus two further adjoining properties off Napoleon Drive, no.s 15 and 17. The strip of land lies at the northern end of an arable field of 5ha or so.*
- 3.3.3 *My advice in respect of both the plots adjoining Nos 7 and 21 was that in both cases the change of use had involved (in the case of No 7), or would involve (in the case of No 21), a loss of "best and most versatile" (BMV) agricultural land.*
- 3.3.4 *In response to the various submissions by or on behalf of the applicants referring to awkward field corners, I pointed out that the creation of the extended plot to No 7 had now created in turn an awkward corner for cultivation at the rear of No 21, likewise extension of No 21 would cause a similar impact for the next plot westwards, and so on: a potential domino effect.*
- 3.3.5 *The refusal of the applications relating to Nos 5 and 7 were appealed and the appeals were allowed on 20 March 2012. The loss of agricultural land was not an issue re. No 5. Re. No 7, the Inspector found the loss of agricultural land to be an adverse impact, although in the overall balance he decided that the harm arising from the loss of the small area of potentially productive agricultural land to be outweighed by the benefit of providing an improved landscaped edge to the settlement and that this in turn would contribute to biodiversity.*
- 3.3.6 *The Inspector went on to observe that in determining the appeal in that way he was conscious that similar issues may arise on the strip of land to the west; however his decision was taken on the basis of the evidence before him and was confined to the land the subject of that appeal.*
- 3.3.7 *It remains the case that the change of use, now, of the land to the rear of No 21 would likewise conflict with Policy H31 in terms of the loss of an area of the best and most versatile land and contribute to a further potential domino effect of land loss westwards along the strip of land, as referred to above, in terms of consecutive plots each becoming awkward corners to cultivate."*

4. REPRESENTATIONS

- 4.1 A site notice was displayed at the site on 28th May 2012 and the application was advertised by means of a press advert which expired on 15th July 2012.
- 4.2 No responses were received as a result of the publicity procedure.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The proposal site comprises a trapezium shaped parcel of land with an area of approximately 0.02Ha. The site is located to the rear (south) of 21 Roundel Way and located in open countryside with no specific environmental or economic designations.
- 5.1.2 The site is a small part of a larger agricultural unit which abuts the rear boundaries of some of the properties on Roundel Way. The defined settlement boundary runs along these boundaries, the properties being located with the village and the land to the south being in the open countryside.
- 5.1.3 The site is grassed and well maintained as a lawn. The adjoining land uses include agricultural to the south east and west of the site, residential to the north, and garden land associated with number 7 Roundel Way to the east.
- 5.1.4 The site is enclosed to the north east by a close boarded fence, and to the west and south east by a post and rail fence. The site boundary to the curtilage of 21 Roundel Way, which is "blue land" in respect of the current application, is marked by a wooden fence.

5.2 Proposal

- 5.2.1 The application is retrospective, and seeks planning permission for a change of use of the land from agriculture to garden land associated with number 21 Roundel Way. The land has been enclosed with the boundary treatments described above, and is laid to lawn. A simple wooden bridge has been installed to provide access to the land from the adjoining residential property.
- 5.2.2 Planning permission for the change of use has previously been refused under MA/11/0842.

5.3 Principle of Development

- 5.3.1 The proposal site is located in open countryside and as such new development is subject to policies of restraint, in this case primarily under ENV28, which seeks to protect the open countryside and restricts new development to specified cases, such as development necessary for agricultural or forestry, or to other exceptions as set out in policies in the Local Plan.
- 5.3.2 In cases of applications for the change of use of agricultural land to garden land, there is a specific Local Plan policy, H31, which states that planning permission

for such changes of use such as that currently under consideration shall not be granted if there would be harm to the character and appearance of the countryside, and/or loss of the best and most versatile agricultural land.

- 5.3.3 As set out above, the Rural Planning Consultant confirms that the site comprises agricultural land falling within the scope of "best and most versatile". The development is therefore contrary to policy H31 of the Local Plan, and the previous application was refused on these grounds, as set out above in paragraph 5.2.2.
- 5.3.4 Notwithstanding the above, planning permission has been recently granted at appeal for similar changes of use of land adjoining and near the application site, Maidstone Borough Council case reference numbers MA/11/0201 and MA/11/0154; the appeal decisions relating to these applications are attached as Appendices 1 and 2 respectively. The sites are identified on the plan attached as Appendix 3.
- 5.3.5 The appeal decisions referred to above were both issued on the 20th March 2012, and postdate the refusal of MA/11/0842, the decision notice being issued on 12th July 2011. These appeal determinations are a material consideration in the assessment of the current application.

5.4 Visual Impact

- 5.4.1 The Inspector, in determining the appeals detailed above, concluded that whilst close boarded fencing was visually intrusive, that the enclosure of the land by what he termed "ranch style" fencing and the introduction of landscaping in the form of the introduction of native hedging within the southern boundaries of the site would mitigate this harm with the result that the visual impact of the development would not cause harm to the character or appearance of the countryside.
- 5.4.2 In the circumstances of this case, the fencing introduced by the applicant is of a post and rail construction and the close boarded fencing to the eastern boundary of the site introduced by the owner of 7 Roundel Way is required to be removed by condition attached to the previous appeal decision.
- 5.4.3 As such I am bound to agree with the Inspector in finding the visual impact of the application to be acceptable, subject to a time limited condition requiring the submission, approval and implementation of a landscaping scheme which shall include the introduction of a native hedge to the southern boundary of the site.

5.5 Loss Of Best And Most Versatile Agricultural Land

- 5.5.1 The Rural Planning Consultant is of the view, based on DEFRA classifications and records of such resources, that the land falls within the scope of best and most versatile agricultural land, in this, he concurs with the opinion of the Inspector in assessing the two appeal cases referred to throughout this report.
- 5.5.2 However, the Inspector was of the view that the awkward field corner caused by the curtilage of number 7 would impede use of this part of the larger agricultural unit by large, modern farming equipment, and concluded that the resultant difficulties in cultivating this land weighed against the best and most versatile value of the land.
- 5.5.3 The Inspector conceded that allowing the appeals would effectively displace the issue to another area of the larger field (paragraph 13 of APP/U2235/A/11/2167736), and specifically referred to the land to the rear of number 21 in this regard, and it is clear that the current application has resulted from the appeal decision. The Rural Planning Consultant has raised concern in respect of a "domino effect" of the erosion of the field margin in this location as a result of the appeal decisions and the current application, and I share this concern, however in the light of the appeal decisions, it is not considered possible to resist the current application for this reason.

5.6 Ecology

- 5.6.1 The site is not a designated ecological site, and the Inspector found in the appeal decisions referred to above that there was no "indication that either it or nearby land supports or supported any specific species". The Inspector further found that marginal agricultural areas could be of ecological value and gardens were of comparatively limited benefit. However, he opined that the planting of native hedgerows along the site boundary "would be sufficient to restore the ecological value of the area". The Kent County Council Biodiversity Officer has confirmed that the site is of limited ecological value as a result of the activities on site, and has recommended ecological improvements, as set out above.
- 5.6.2 In this case, I can find no reason to diverge from these views, and subject to the landscaping condition set out in paragraph 5.4.3 above, consider that there is no objection to the proposal on the grounds of impact on biodiversity.

5.7 Other Matters

- 5.7.1 The development does not have any implications for highway safety or heritage assets. The site is not known to be within an area recorded by the Environment

Agency as being prone to flood. The proposal would not result in harm to residential amenity.

- 5.7.2 The Parish Council has raised concern over the condition of the drainage ditch located in the north of the site, and the provision of access for the maintenance of the same. From observations on site it is clear that no part of the ditch is impeded in terms of free water flow, and as such it is not considered that this objection to the proposal is sustainable.
- 5.7.3 It is of note that the Inspector imposed conditions on the approvals granted at appeal. In both cases condition 1 of the decision required the submission of a landscaping scheme and details of the removal of close boarded fencing within 2 months of the decisions. In the case of MA/11/0154, the details were submitted in a timely fashion, and approved as such, however the removal of the close boarded fencing had not taken place at the time of the site visit (18th June 2012). In the case of MA/11/0201, the details were not submitted until 10th July 2012, and the application is currently undetermined as the details submitted are not of an adequate standard. Negotiations are underway to secure an appropriate scheme.
- 5.7.4 The wording of the conditions attached to the appeal decisions require that the use of the land as garden land ceases until such a time as the conditions have been approved and fully implemented; the cases have been reported to the Council's Planning Enforcement Team.
- 5.7.5 Whilst the breaches of planning control following the appeal decisions are regrettable, and are currently under investigation, the subsequent failure to comply with condition attached to the appeal decisions does not invalidate the Inspector's findings in respect to the changes of use.

6. CONCLUSION

- 6.1 For the reasons set out above, I consider that, whilst the development is contrary to development plan policy, the recent appeal decisions represent a strong material consideration which outweighs the policy concerns, which are fully exercised in the appeal decisions. I therefore recommend approval of the application, subject to the conditions set out above.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. Unless within 2 months of the date of this decision a scheme for the landscaping of the site, which shall include the introduction of a native species hedge to the south east boundary of the site, including a timetable for the implementation of the scheme and a programme for the future maintenance of trees and shrubs, is submitted in writing to the Local Planning Authority for approval, and unless the approved scheme is implemented in accordance with the approved programme, the use of the site as garden land shall cease until such a time as a scheme is approved and implemented. If no scheme is approved within 4 months of the date of this decision the use of the site as garden land shall cease until such a time as a scheme approved by the Local Planning Authority has been implemented. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines.

Reason: To ensure the quality of the development is maintained, safeguard the character and appearance of open countryside and mitigate against the loss of the field margin as a biodiversity habitat in accordance with policies ENV6, ENV28 and H31 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6, NRM5 and C4 of the South East Plan 2009, and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

2. If within 5 years of their planting in accordance with the landscaping scheme any trees or plants die, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation of the approved scheme;

Reason: To ensure the quality of the development is maintained, safeguard the character and appearance of open countryside and mitigate against the loss of the field margin as a biodiversity habitat in accordance with policies ENV6, ENV28 and H31 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6, NRM5 and C4 of the South East Plan 2009, and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected on the extended garden area other than as indicated within the landscaping scheme approved under the provisions of condition 1;

Reason: To ensure the quality of the development is maintained and safeguard the character and appearance of open countryside in accordance with policies ENV6, ENV28 and H31 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6 and C4 of the South East Plan 2009, and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

Informatives set out below

Please note that this planning permission grants a change of use of the land from agriculture to garden land; as such the land does not benefit from permitted development rights under the provisions of 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).

In order to enhance the ecological value of the site, the grass under and adjacent to the hedge should not be maintained as short-cut, and log piles should be provided along the hedgeline to provide additional ecological enhancement.

Although the proposal for the change of use of the land is contrary to the policies of the Development Plan, it is considered that the recent appeal decisions (APP/U2235/A/11/2166248 and APP/U2235/A/11/2167736) relating to similar developments on neighbouring sites represent a material consideration which justifies the approval of a scheme which is contrary to the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009).

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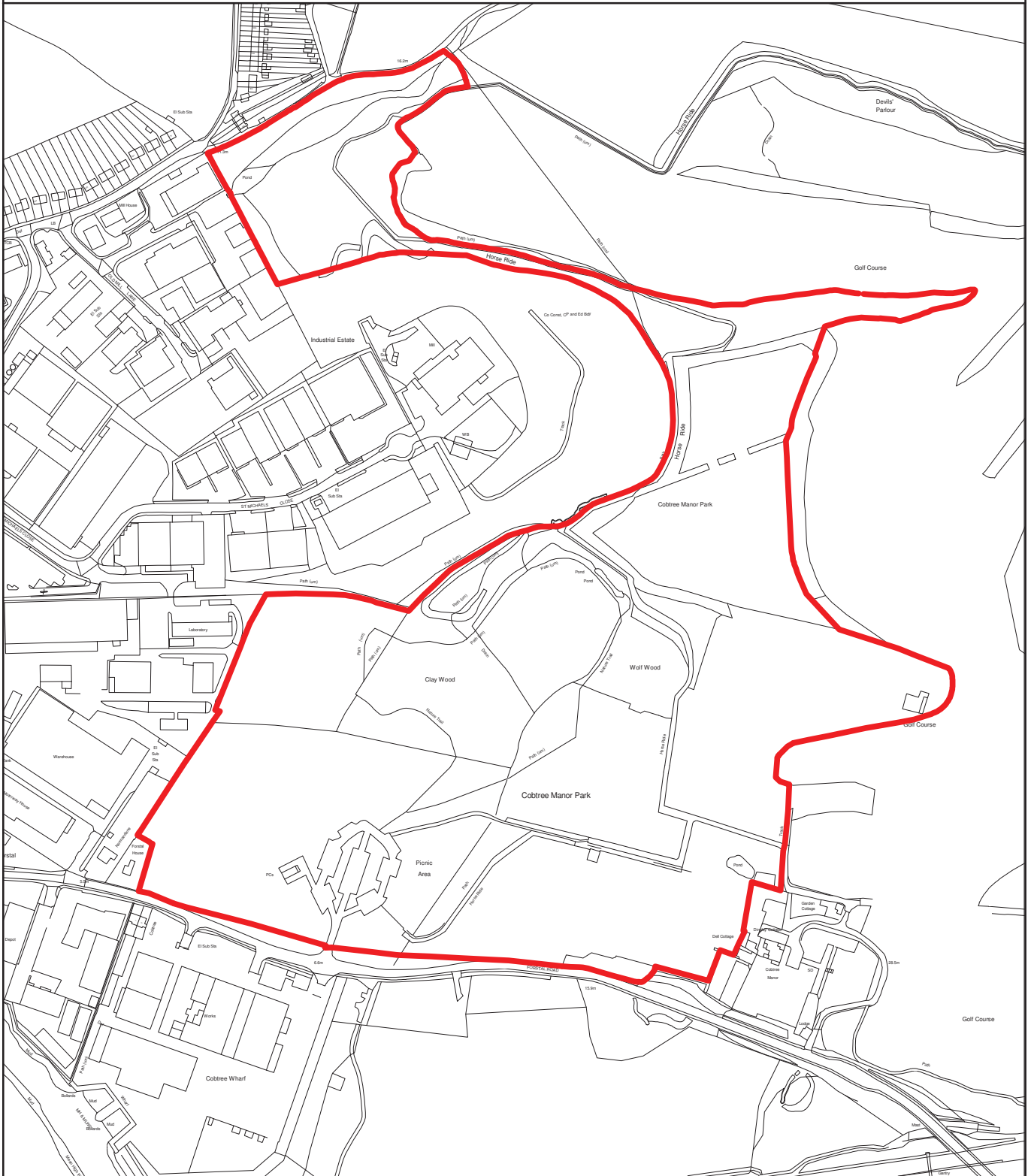
18.06.2012

Agenda Item 20

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/1644 GRID REF: TQ7458/7459

COBTREE PARK, FORSTAL ROAD,
AYLESFORD.



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Rob Jarman
Head of Planning

APPLICATION: MA/12/1644 Date: 7 September 2012 Received: 13 September 2012

APPLICANT: Miss Amanda Scott, Maidstone Borough Council

LOCATION: COBTREE PARK, FORSTAL ROAD, AYLESFORD, KENT

PARISH: Boxley,

PROPOSAL: Installation of a new play area as shown on site Location Plans and Block Plans received 6th September 2012, Proposed Elevations numbered A 1/1 received 13th September 2012, Design and Access Statement and Application Form received 6th September 2012.

AGENDA DATE: 1st November 2012

CASE OFFICER: Kevin Hope

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

- The Council is the applicant.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV28, ENV31, ENV34
- South East Plan 2009: CC1, CC6, C4
- Village Design Statement: N/A
- Government Policy: National Planning Policy Framework 2012

2. HISTORY

2.1 MA/06/2266 - Formation of a new independent access to the existing disabled toilet facility separating the public toilet from the food kiosk entrance lobby – Approved with conditions.

MA/77/0469 - Details of picnic site, Nature reserve, car park and toilet, pursuant to conditions (ii), (iii), (iv) and (v) for this park of the development of the Cobtree Estate, granted under permission on the 8/9/77 under reference 74/496 – Approved

MA/74/0496 - Use of land as leisure/recreation area – Approved with conditions

3. CONSULTATIONS

3.1 **Boxley Parish Council** – Wish to see the application approved.

4. REPRESENTATIONS

4.1 No neighbour representations received.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site relates to the Cobtree Manor Park located to the northern side of Forstal Road. The site is located within the designated open countryside and parish of Boxley. The site is also designated as a Special Landscape Area and within the Strategic Gap as designated by the Maidstone Borough Wide Local Plan 2000.

5.1.2 The site is accessed from an existing vehicular access from Forstal Road leading to a visitor car parking area. There is also a café within some outdoor seating to the west of the parking area. There is some existing play equipment within the western side of the park comprising a number of climbing frames and individual balancing apparatus.

5.1.3 The site is located close to major roads through Maidstone with the M20 to the south and A229 to the east. To the west of the site is an existing industrial area allocated for employment under policy ED2 of the Local Plan. The site also lies approximately 2.2 miles to the north of Maidstone Town Centre.

5.2 Proposal

5.2.1 Planning permission is sought for the installation of a new bespoke play area. This would be sited to the west of the café in a similar position to the existing play area which would be removed to facilitate this development.

5.2.2 The play area would have an overall floor space of approximately 475m². Play equipment for a variety of age groups would be included within the play area including slides cradle swings and rockers for younger children and walkways, larger slides and spinning disc roundabout for older children.

5.2.3 The play area would consist of a main wooden frame featuring walkways and towers between with a maximum height of 7.12m. Resin bonded rubber mulch safety surfacing would be used within the play area itself providing a safe environment. The play area would be sited among the existing trees within the

park and has been designed to reflect its history with a zoo and animal theme. There would also be a new footpath leading from the car parking providing pedestrian access for users.

5.3 Principle of development

5.3.1 In principle, this type of development is acceptable within a countryside location. The key considerations are whether the proposed development would result in any visual harm to the character or appearance of the surrounding countryside. In this respect, the main policy applicable is ENV28 of the Local Plan as outlined below:

5.3.2 *Policy ENV28 – The countryside is defined as all those parts of the plan area not within the development boundaries shown on the proposals map.*

In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers and development will be confined to:

- 1) That which is reasonably necessary for the purposes of agriculture and forestry; or*
- 2) The winning of minerals; or*
- 3) Open air recreation and ancillary buildings providing operational uses only; or*
- 4) The provision of public or institutional uses for which a rural location is justified; or*
- 5) Such other exceptions as indicated by policies elsewhere in this plan.*

Proposals should include measures for habitat restoration and creation to ensure that there is no net loss of wildlife resources.

5.3.3 I will consider these points under sections 5.4 and 5.5 below.

5.4 Visual Impact and design

5.4.1 In terms of the impact upon the countryside, whilst it is acknowledged that the proposed play area represents a significant scale, its positioning to the south western corner of the park would reduce its overall visual dominance and would retain the open park land appearance of this landscape. Furthermore, its setting with a rural backdrop with a significant number of trees within the locality, the play area would be screened to a degree and would not appear significantly visually intrusive. This is further supported by the timber construction of the frame, fencing and towers forming much of the external construction material which would further reduce any visual impact creating a development sympathetic to its surroundings.

5.4.2 Fundamentally, play ground facilities would be reasonably expected within a park or recreational space such as this. Therefore, this proposed children's play area would not represent an alien feature within this landscape and would enhance the use of this park as a community facility and a recreational space. I therefore consider the proposed development would fall under criterion 3 of policy ENV28 and would not result in any detrimental visual harm to the character or appearance of the surrounding countryside.

5.5 Neighbouring Amenity

5.5.1 The closest residential properties are 'Normandine' and 'Forstal House' located to the west of the proposed play area. However, the play area is located approximately 150m to the north east of these properties and by virtue of this distance, I do not consider that there would be any significant harm to the neighbouring amenity of these properties. In addition to this, the existing tree planting within this area would also provide some screening between the development and the neighbouring residential properties.

5.6 Landscaping

5.6.1 No additional landscaping has been proposed within this application. However, no significant planting would be lost by this proposal and the development would be sited amongst a significant number of existing trees with pockets of planting to the north west and north east of the play area. I therefore do not consider it is necessary to require further planting in this case.

5.7 Highways

5.7.1 Significant parking provision is currently provided within the site within the existing car park at the entrance to the park. This would be retained and is sufficient to provide parking for the users of the play area. Therefore, there would be no highways issues as a result of this development.

5.8 Ecology

5.8.1 I do not consider there to be any significant issues with regards to a possible impact upon protected species due to the maintained nature of grass within the park and the retention of existing trees.

6. CONCLUSION

6.1 For the reasons outlined above, I consider the development would not cause any demonstrable harm to the character or appearance of the surrounding countryside, it would not have a detrimental impact upon the amenities of the

existing residents and would not result in harm to ecology or highway safety. It is therefore considered overall that the proposal is acceptable with regard to the relevant provisions of the development plan and amenity impacts on the local environment and other material considerations such as are relevant. I therefore recommend conditional approval of the application on this basis.

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

Site Location Plans and Block Plans received 6th September 2012, Proposed Elevations numbered A 1/1 received 13th September 2012, Design and Access Statement and Application Form received 6th September 2012.

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 ENV28, ENV31 and ENV34 of the Maidstone Borough Wide Local Plan 2000 and policies CC1, CC6 and C4 of the South East Plan 2009 and the guidance contained within the National Planning Policy Framework 2012.

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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MA/12/1644:

Address

**COBTREE PARK, FORSTAL ROAD,
AYLESFORD, KENT**

Amendments to the report:

The Council's Play Facilities Development Officer has requested that the following amendments to the text of the report be made:

The following sentence be added to the end of paragraph 5.1.2:

"This play equipment was recently installed in July 2012 to start the play area project as a first phase to the scheme. The installation of this play equipment is allowed under Permitted Development rules as the equipment is under 4m tall and less than 200 cubic metres in volume."

The following sentence replace the second sentence in paragraph 5.2.1:

"This would be sited to the west of the café alongside the new play equipment installed in July 2012 as the second phase to the project."

Recommendation:

My recommendation remains unchanged.

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 1st Novemebr 2012**

APPEAL DECISIONS:

1. **MA/10/1592** Change of use from class A4 public house to a class C3 single dwelling as shown on Drawing Number 01 and set out in Business Viability Report and Planning Support Statements received on 13th September 2010 and applicants statement received on 29 October 2010.

APPEAL: DISMISSED

The Harrow Inn, The Street, Ulcombe, Maidstone, Kent. ME17 1DP

DELEGATED POWERS

2. **MA/11/1181** Erection of 2No. dwellings (Resubmission of MA/10/1418) as shown on plan numbers PA01.1, PA02.1, PA03.1, PA04.1, PA05.1, PA06.1, PA07.1, Noise Impact Assessment, Heritage Asset Statement, Ecological Scoping Survey, Tree Survey, Design and Access Statement and Application Form received 14th July 2011 and Ecology Update Report received 21st September 2011.

APPEAL: DISMISSED

The Old Farmhouse, Chatham Road, Maidstone, Kent. ME14 2ND

DELEGATED POWERS

3. **MA/11/1576** Application for advertisement consent for installation of one internally illuminated pole sign, as shown on 3 OS Sitemaps received on 07/12/11, an elevation received on 07/12/11 and lighting details received on 17/01/12.

APPEAL – ALLOWED FOR 5 YEARS AND SUBJECT TO STANDARD ADVERT REGS

452 Tonbridge Road Maidstone Kent ME16 9LW

DELEGATED POWERS

4. **MA/11/1622** Change of use of amenity land and erection of an oak framed garage block with storage over as shown on drawing numbers NORLODGE/11, NORLODGE/12, NORLODGE/13, NORLODGE/14 & NORLODGE/15 received on 21/09/11.

APPEAL: DISMISSED

Land adjacent North Lodge New Road Langley
Maidstone Kent ME17 3NE

DELEGATED POWERS

5. **MA/12/0185** Proposed construction of a replacement grass surfaced trackway approximately 55 metres in length and 2.5 metres in width, reinforced with a recycled polyethylene grid.

APPEAL: ALLOWED WITH CONDITIONS

Teasaucer Stables, Bockingford Lane, Tovil, Maidstone,
Kent ME15 6DP

DELEGATED POWERS

6. **MA/12/0447** Erection of single storey garden room extension and raised flagstone patio area as shown on drawing numbers DHA/9222/01, DHA/9222/02, DHA/9222/03, DHA/9222/04, DHA/9222/05, DHA/9222/06 and DHA/9222/07, supported by a covering letter, all received 9th March 2012.

APPEAL: DISMISSED

Scuffits, Water Lane, Hunton, Maidstone, Kent
ME15 0SG

PLANNING COMMITTEE
