

# AGENDA

## PLANNING COMMITTEE MEETING



Date: Thursday 10 January 2013  
Time: 6.00 p.m.  
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

---

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - 17 January 2013

**Continued Over/:**

---

**Issued on 2 January 2013**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEBBIE SNOOK on 01622 602030**. To find out more about the work of the Committee, please visit [www.maidstone.gov.uk](http://www.maidstone.gov.uk)

*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 13 December 2012 - to follow
11. Presentation of Petitions (if any)
12. Report of the Head of Planning - Deferred Items 1
13. MA 11 0478 - YMCA MELROSE CLOSE MAIDSTONE 2 - 16
14. MA 11 1944 - GMS & D K HOLDINGS SITE AT STATION APPROACH STAPLEHURST MAIDSTONE KENT 17 - 68
15. MA 11 2169 - GEORGE MARSHAM HOUSE HOLMESDALE CLOSE LOOSE MAIDSTONE KENT 69 - 89
16. MA 12 0232 - LAND AT STATION APPROACH AND GEORGE STREET STAPLEHURST KENT 90 - 146
17. MA 12 0324 - RHENCULLEN BRIDGE STREET LOOSE MAIDSTONE KENT 147 - 157
18. MA 12 0760 - LAND AT THE MEADOWS LENHAM ROAD HEADCORN MAIDSTONE KENT 158 - 177
19. MA 12 0980 - LAND WEST OF BURIAL GROUND LANE TOVIL KENT 178 - 203
20. MA 12 1299 - KEEPERS COTTAGE RUMSTEAD LANE STOCKBURY SITTINGBOURNE KENT 204 - 211
21. MA 12 1769 - 31 EARL STREET, MAIDSTONE, KENT 212 - 229
22. MA 12 1770 - 31 EARL STREET MAIDSTONE KENT 230 - 238
23. Report of the Head of Planning - Appeal Decisions 239 - 242
24. Chairman's Announcements

## PART II

**To move that the public be excluded for the item set out in Part II of the Agenda because of the likely disclosure of exempt information for the reason specified having applied the Public Interest Test.**

### **Head of Schedule 12A and Brief Description**

- |  |                                   |           |
|--|-----------------------------------|-----------|
| 25. Exempt Appendix to the Report of the<br>Head of Planning Relating to Application<br>MA/11/2169 | 3 – Financial/Business<br>Affairs | 243 - 246 |
|--|-----------------------------------|-----------|

### **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.**

# Agenda Item 12

## MAIDSTONE BOROUGH COUNCIL

### PLANNING COMMITTEE

10 JANUARY 2013

### REPORT OF THE HEAD OF PLANNING

#### 1. DEFERRED ITEMS

1.1. The following applications stand deferred from previous meetings of the Planning Committee. The Head of Planning will report orally at the meeting on the latest situation. The applications may be reported back to the Committee for determination.

1.2. Description of Application Date Deferred

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

(2) MA/12/0760 - CONTINUED USE OF LAND AS A RESIDENTIAL GYPSY SITE WITHOUT COMPLYING WITH PREVIOUSLY IMPOSED CONDITIONS RELATING TO RESTRICTED OCCUPANCY TO MR J BIGNALL SNR AND HIS IMMEDIATE FAMILY, AND INCLUDING THE STATIONING OF A MOBILE HOME; THE RETENTION OF HARDSURFACING AND BOUNDARY FENCING AND PROPOSED BOUNDARY FENCING; THE RETENTION OF A DAY ROOM WITH CONSERVATORY ADDITION; A SEPARATE STOREROOM BUILDING; AND THE RETENTION OF A NEW ACCESS CREATED ONTO THE LENHAM ROAD - LAND AT THE MEADOWS, LENHAM ROAD, HEADCORN, KENT 22 NOVEMBER  
2012

Deferred to enable further negotiations to take place with the applicant in order to minimise the impact of the development upon the countryside. The negotiations should address issues regarding boundary treatments, landscaping, hardsurfacing, lighting and visibility in the wider countryside.



# THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/0478

GRID REF: TQ7653

**YMCA, MELROSE CLOSE,  
MAIDSTONE.**



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 100019636, 2013. Scale 1:2500



**Rob Jarman  
Head of Planning**

APPLICATION: MA/11/0478 Date: 12 April 2011 Received: 12 April 2011

APPLICANT: Mr C. Brown, Galamast

LOCATION: YMCA, MELROSE CLOSE, MAIDSTONE, ME15 6BD

PARISH: Maidstone

PROPOSAL: Application to discharge conditions relating to MA/03/1147/02 (approval of reserved matters of siting, means of access, design, external appearance and landscaping pursuant to conditions 1, 2 and 3 of outline permission MA/03/1147 for a replacement community centre, junior football pitch, 83 dwellings associated parking, access road and landscaping, resubmission of MA/03/1147/01) being submission of details received on 24th March 2011 and 8th March 2012 pursuant to conditions 11 - slab levels, 14 - floodlighting and 16 - perimeter fencing to the sports pitch

AGENDA DATE: 10th January 2013

CASE OFFICER: Catherine Slade

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

- Councillor Chittenden has requested it be reported for the reason set out in the report.

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV49, CF14
- South East Plan 2009: SP3, CC1, CC6, BE1, S5
- Government Policy: National Planning Policy Framework 2012

## **2. HISTORY**

MA/11/1010 Amendments to Community Centre and Car Park approved under MA/03/1147/02 (application for approval of reserved matters of siting, means of access, design, external appearance & landscaping pursuant to conditions 1, 2 & 3 of outline permission MA/03/1147 for a replacement community centre, junior football pitch, 83 dwellings, associated parking, access road & landscaping) being amendments to entrance

canopy & entrance feature, revised position of a first floor window to south elevation & revisions to parking layout including knee guard rail and dwarf wall, and lighting to car parking areas (resubmission of MA/10/1126) – CURRENTLY UNDER CONSIDERATION

MA/10/1126 Amendments to Community Centre and Car Park approved under MA/03/1147/02 (application for approval of reserved matters of siting, means of access, design, external appearance & landscaping pursuant to conditions 1, 2 & 3 of outline permission MA/03/1147 for a replacement community centre, junior football pitch, 83 dwellings, associated parking, access road & landscaping) being amendments to entrance canopy & entrance feature, revised position of a first floor window to south elevation & revisions to parking layout – WITHDRAWN

MA/10/0515 Application for a non-material amendment following a grant of planning permission MA/03/1147/02 (Application for the approval of reserved matters of sitting, means of access, design, external appearance and landscaping pursuant to conditions 1, 2 and 3 of outline permission MA/03/1147 for a replacement community centre, junior football pitch, 83 dwellings associated parking, access road and landscaping) being a single first floor window in lieu of two separate windows on the north and south elevations, changes to the size and colour of panels on the north, south and west elevations, a reduction of projecting brick piers and louvers above two doors in lieu of coloured metal cladding on the east elevation, vertical profile metal cladding instead of horizontal and external rainwater goods – APPROVED

MA/10/0087 Application for a non-material amendment following a grant of planning permission MA/03/1147/02 (Application for the approval of reserved matters of sitting, means of access, design, external appearance and landscaping pursuant to conditions 1, 2 and 3 of outline permission MA/03/1147 for a replacement community centre, junior football pitch, 83 dwellings associated parking, access road and landscaping) being the revised external rainwater pipe locations, revised entrance feature and canopy to North elevation, vertical metal cladding in lieu of brick work at high level in the central section of the East elevation – REFUSED

MA/09/1076	Variation of Condition 10 of MA/03/1147/02 (Application for the approval of reserved matters of siting, means of access, design, external appearance and landscaping pursuant to conditions 1, 2 and 3 of outline permission MA/03/1147 for a replacement community centre, junior football pitch, 83 dwellings associated parking, access road and landscaping) to allow a Level 2 or better to be achieved for each of the residential units for private sale instead of Level 3, under The Code for Sustainable Homes – APPROVED
MA/03/1147/02	Application for the approval of reserved matters of siting, means of access, design, external appearance and landscaping pursuant to conditions 1, 2 and 3 of outline permission MA/03/1147 for a replacement community centre, junior football pitch, 83 dwellings associated parking, access road and landscaping – APPROVED WITH CONDITIONS
MA/03/1147/01	Application for the approval of reserved matters of siting, means of access, design, external appearance and landscaping pursuant to outline planning permission MA/03/1147 for a replacement community centre, junior football pitch, play area, 88 no. dwellings, associated parking, access road and landscaping – WITHDRAWN
MA/03/1147	Outline application for demolition of existing buildings and redevelopment to provide for a replacement community centre with open space and play area, provision of residential development at a minimum density of 30 DPHA and construction of a revised access – APPROVED WITH CONDITIONS

### **3. SITE HISTORY**

- 3.1 Outline planning permission was granted subject to conditions in 2005 for the redevelopment of the site to provide a replacement community facility and residential development. Reserved matters were subsequently approved subject to conditions in 2007 under MA/03/1147/02.
- 3.2 In addition to the planning history detailed above, various applications to discharge and vary conditions attached to the permissions have been submitted and determined.

3.3 Prior to the history set out above, the site was the subject of various applications relating to the historic use of the land by the YMCA as a sports and recreation facility which date back decades.

#### **4. CONSULTATIONS**

4.1 Councillor Chittenden has requested that the application be reported to Planning Committee for the following reasons:

4.1.1 *"I still have concerns, although the situation has improved. You will have seen the copy of the NLRA letter containing comments from their lighting consultant which I believe still raises 2 major issues before we can consider the current situation to be satisfactory.*

4.1.2 *Firstly I refer you to the comment relating to the difference in lighting levels between new bulbs and older ones which suffer from Lumen deprivation. Bearing in mind the current lighting has been in place for almost 2 years it is clear that in making an assessment that this should have been taken into account, and it does not seem to have been considered.*

4.1.3 *Secondly, as you know on the night, we were not able to obtain readings from numbers 19 or 21 Westwood Close, who have clear problems relating to lighting from the car park. My understanding is that these rules do not just relate to sports pitches, they are general guidelines for all lighting of this nature adjacent to housing and therefore these must be checked. From the visual inspection on the night, it would seem that the residents of 19 and 21, could be justified in their comment. I have said all the way along that this is about the height of the poles in relation to the respective levels between the car park and the level of the housing levels which are lower by 2m. To clarify, the residents did point out that they were not available that night due to the very short notice.*

4.1.4 *I do think these points need to be considered before a decision is made. With regard to my call in to committee, I am confirming that this is still required."*

4.1.5 To confirm, the lighting to the car park referred to in the second point is the subject of a separate application for full planning permission which is currently under consideration. Councillor Chittenden has confirmed that he wishes the full text of his call in to be included in this report.

4.1.6 Members will be aware that applications to discharge conditions are not normally reported to Planning Committee, however in the circumstances of this case due to the significant public interest and indeed the expenditure on consultants by the representatives of members of the public I consider it appropriate for the details to be heard in the public arena.

4.2 The **Maidstone Borough Council Environmental Health Officer** raises no objection to the details, and makes the following detailed comments:

4.2.1 *"It is clear to me that the situation has improved greatly. To my mind, the question to ask now is what else can be done to improve the situation? In my view, there is very little – the only concrete measure that could be employed would be to raise the height of the boundary fence in the vicinity of No. 8 Skye Close, the property mentioned above whose garden seems to be the most adversely affected property, to a similar height to that at neighbouring properties. This would go a long way to ensure compliance with the E3 zone, though a reading would be helpful to prove this beyond doubt; this would be a matter for the Y centre and/or residents of the property to carry out. To reiterate previously, complaints have been made to Environmental Health, Planning and the Y centre concerning the lighting principally from the sports pitches, and car park as well as noise from participants. The current situation is that the levels of illumination have been altered and are no longer as intrusive. It is clear that there is one locality where it could be argued that the lighting is still intrusive; also there is, at present, no reading at the window of the affected property to prove/disprove ILE E3 compliance; this issue needs definitive proof by a reading being taken. However, it still needs to be stated that the lights are switched off at 10 p.m. every evening – at this time of the year, the floodlights have very little effect on ambient lighting as the sunset is well after 9 p.m. – this is a major factor in convincing me that this situation is not unreasonable, because it does not affect the sleep pattern for the majority of people and is certainly not a statutory nuisance. Therefore from my perspective, it is just the issue of the low fencing around No. 8 Skye Close that needs confirmation of ILE zone E3 compliance."*

(comments received 6<sup>th</sup> July 2012)

4.2.2 *"I suggested that a fence should be erected on the boundary between the YMCA site and No. 8 Skye Close. This work has now been completed and a light spillage reading was taken on 26<sup>th</sup> July 2012 by Mechelec (Lighting Engineers) at window level in the garden of 8 Skye Close, which was my other suggested condition. As hoped for, the reading was 8-9 Lux and therefore compliance with zone E3 of the 2005 ILE guidance. I revisited the site on 2<sup>nd</sup> August 2012 and was satisfied with the fence, its position, height and type. I therefore am satisfied that the adjusted lighting positions now conform to E3 guidance and that the lighting issue has now been resolved. The situation will improve further with the passage of time, as the vegetation will mature and should provide further protection to surrounding residential properties. The new properties do not have the benefit of enhanced vegetation, but were built after the sports pitch was in place and are at a higher level than the established properties, thus the*

*spillage is less of an issue and in any case, predicted readings indicate compliance with E3 zone. This information leaves me with no doubt that the outstanding lighting condition can now be removed."*

(Comments received 3<sup>rd</sup> August 2012)

4.2.3 *"Following a meeting at MBC offices on 23<sup>rd</sup> August 2012, it was agreed that another set of light readings would be taken from within neighbour's gardens so that there would be confirmation of previous readings taken nearer to the sports pitches. The readings were carried out on the evening of Monday 10<sup>th</sup> September. As expected, the readings, taken at selected properties around three sides of the floodlit pitches showed compliance with zone E3 of the ILE guidance. The one exception was a reading taken at the new properties on Melrose close, where a conservatory had been added and was closer to the pitch than the original façade. This reading marginally exceeded the 10 lux level. However, another property showed compliance at the façade. The original layout of the property complies with the guidance and I am not aware of any complaints concerning light nuisance from this or any other address in Melrose Close.*

4.2.4 *I am also aware of a communication from Nick Smith Associates dated 27<sup>th</sup> September 2012 which was prepared to answer continuing concerns expressed by the North Loose Residents Association. The first point mentions the continued exceedence at the one property at Melrose close. This point is dealt with in my comments above. All other readings are less than the 10 lux stipulated in the ILE guidance. There is nothing in this guidance that takes account of lumen deprivation. I have not been able to find out the frequency of lamp replacement at this site and how significant this factor is. We cannot comment on the significance of the current light levels due to an unknown factor of illumination drop-off. The third point reinforces our view over the suitability of the engineer that took the light readings.*

4.2.5 *These readings have given extra reassurance to the previous readings and isoline predictions. As previously stated, the lighting condition can be discharged."*

(comments received 5<sup>th</sup> December 2012)

4.2.6 *"In my memo dated 4<sup>th</sup> December 2012, I referred to the communication from Nick Smith Associates dated 27<sup>th</sup> September 2012 which was prepared to answer continuing concerns expressed by the North Loose Residents Association. I have now been sent technical information concerning the mortality/degradation of the lamps installed at the YMCA. They were installed in January 2011 and have currently had less than 10% usage/degradation based on an average daily usage of 4 hours. I am told that the lights are rated at 10% degradation up to 6000*

*hours or approximately 4 years at current usage. On this basis, the current light levels should not degrade by more than 10% until early 2015. I am therefore satisfied that, based on this level of usage, any degradation would have had no noticeable effect on the light readings, compared with those on installation, obtained on 10<sup>th</sup> September 2012. Therefore the readings taken on that date are accurate and are consistent with my view that they are acceptable and comply with E3 zone as described in the 2005 ILE guidance."*

(comments received 13<sup>th</sup> December 2012)

- 4.3 The **Kent County Council Biodiversity Officer** raises no objection to the details.

## **5. REPRESENTATIONS**

- 5.1 **North Loose Residents Association** (NRLA) raised objection to the application on the grounds that the lighting to the sports pitch causes harm to residential amenity. The NLRA also expressed concern that the measurements taken on site were close to and, in one instance, exceeded ILE guidance levels. Objection was also raised in respect of the procedural matter of the readings being taken.

- 5.2 In addition, the NRLA has provided an assessment of the information provided undertaken by an independent lighting consultant, who raised the same concerns in relation to the readings taken on site, as well as the issue that lumen deprivation of the lamps and build up of dirt in the structures had not been taken into consideration. A copy of the most recent letter from the consultant is attached as Appendix 1.

- 5.3 8 neighbour representations have been received. They raised the following concerns relating to the current application:

- Light spillage and glare from the floodlighting to the sports pitch.
- Disturbance and damage to property as a result of the use of the sports pitch.

- 5.4 In addition, the following concerns, which do not relate to the current application to discharge conditions, were received:

- Light spillage and glare from the lighting to the car park.
- Noise as a result of the use of the sports pitch and the car park.
- Highway safety and on street parking.
- Foul language.
- Lack of privacy.
- Security.
- Failure to retain existing landscaping on the site.



- Insufficient screening to the development.

5.5 The lighting has also been the subject of formal complaints to the Council.

## **6. CONSIDERATIONS**

### **6.1 Site Description**

6.1.1 The site comprises a large area of approximately 2.56Ha. The site is located within the defined settlement boundary of Maidstone, and has no specific environmental or economic designations in the Local Plan. The site is surrounded by residential development fronting onto Melrose Close and Cripple Street (to the north), Loose Road (to the east), Anglesey Avenue and Skye Close (to the south) and Westwood Road (to the west).

6.1.2 As set out in sections 2 and 3 above, the site has been the subject of planning permissions for the redevelopment of the land, and planning permission has been granted at outline and reserved matters stages for the erection of a replacement sports/community facility and residential development. The residential development is predominantly located in the north and east of the site, whilst the sports/community facility, and associated parking is located in the north west of the site and the sports pitch in the south/west of the site.

6.1.3 The community facility and residential development are complete, and have been operational for some time.

6.1.4 Site visits have been undertaken on numerous occasions during 2010, 2011 and 2012, including during the hours of darkness on 9<sup>th</sup> May 2012, 25<sup>th</sup> June 2012 and 10<sup>th</sup> September 2012. On the two latter occasions light readings were taken in the presence of Council officers and representatives of the local community.

### **6.2 Current Application**

6.2.1 The current application relates to the discharge of conditions attached to planning permission MA/03/1147/02. These are conditions 11 (slab levels), 14 (sports pitch floodlighting) and 16 (sports pitch perimeter fencing).

### **6.3 Principle of Development**

6.3.1 The principle of the redevelopment of the land for the purposes of providing a replacement sports/community facility with floodlighting and residential development has been accepted, and is not for consideration at the current time.

### **6.4 Condition 11 – Slab Levels**

- 6.4.1 The details of the slab levels of the Y Centre are shown on drawing number 09060 009 rev C received , and show the building to have a finished floor level of 73.2000 AOD rather than 73.650 AOD as approved under MA/08/1917 (the previous application to discharge slab level conditions). The levels shown on the drawing are considered to be acceptable, being lower than those previously approved; it is not considered that the variation from the approved details would result in harm either visually or to residential amenity.
- 6.4.2 The details of the slab levels of the Y Centre are therefore considered to be acceptable, and I therefore recommend discharge of this condition.

## **6.5 Condition 14 - Sports Pitch Floodlighting**

- 6.5.1 The details of the sports pitch floodlighting are set out on drawing number KL 3771 received 24<sup>th</sup> March 2011 in respect of the height and form of the lighting columns, and a Kingfisher Lighting specification received 24<sup>th</sup> March 2011. The floodlights used in the development are the Sport 7 2000 2kW. Further supporting information has also been provided in respect of the requirements of Sport England for facilities of the kind that the lighting serves.
- 6.5.2 There is a Local Plan policy which seeks to restrict the detrimental impact of external lighting on the character of the surrounding area and the residential amenity of the occupiers of neighbouring properties, and requires that the lighting is necessary and the minimum required for the task satisfactorily and with the minimum of light spillage. In this, the Local Planning Authority is supported by the National Planning Policy Framework 2012. Notwithstanding this, the widely accepted Guidance Notes for the Reduction of Obstrusive Light published by the Institution of Lighting Engineers (ILE) is a material consideration in the assessment of applications such as this. The guidance sets out design guidance for exterior lighting installations, which for developments in locations such as this which are considered to fall within category E3 of the guidance (medium district brightness areas – small town centres or urban locations), the limitation on maximum light trespass into windows is 10Lux pre-curfew (which in the circumstances of the case of the Y Centre is 2200, controlled by condition, which is within the suggested curfew hours set out in the guidance).
- 6.5.3 Members will be aware that the lighting serves an existing sports and community facility which has the benefit of planning permission, and as such the need for and acceptability of floodlighting to the sports pitch, and the location of the sports pitch and therefore the lighting within the site, has been accepted in principle by the Council, and the matter for consideration at the current time

under the application to discharge condition 14 is the detail of the floodlighting only.

- 6.5.4 Following the original submission, concern was raised by the Case Officer and the Council's Environmental Health Officer in regard to the impact of the lighting on the amenity of the occupiers of the residential properties and the quality of the information initially provided in support of the application. Subsequently the tilt and orientation of the lighting installations have been altered to reduce light spillage outside the sports pitch from the lighting. These details are shown on drawing number D16498/PY/G received 8<sup>th</sup> March 2012.
- 6.5.5 The floodlights are arranged in six pairs of floodlights, each pair sharing a lighting column. Three columns are located to the north and south of the pitch. The columns have a height of 12m, and although the floodlights have differing orientations subject to their exact position in relation to the sports pitch (detailed in a table on drawing number D16498/PY/G), they are all oriented at 15° to horizontal. It is my view that the level of detail submitted in support of the application is adequate to ensure compliance and enforcement of the floodlighting.
- 6.5.6 Lux readings were taken around the perimeter of the site during the hours of darkness on 25<sup>th</sup> June 2012 in order to assess the accuracy of the light spillage calculations. These readings, which were witnessed by Council Officers and representatives of the local community, were all in accordance with or below the predicted values shown on the submitted spillage drawing which indicated that the calculated values would satisfy ILE guidance in respect of light spillage to neighbouring properties, however concern was subsequently raised by Councillor Chittenden and the NLRA that the readings taken did not accurately reflect the impact of the lighting at the windows of people's houses, and therefore could not be said to be in compliance with the ILE guidance.
- 6.5.7 In view of these concerns, a 2m close boarded fence was erected along the boundary of the site with numbers 8 Skye Close and 1 Anglesey Avenue by the developers, in accordance with comments received from the Council's Environmental Health Manager, and 10 further readings were taken; 1 to the rear of 8 Skye Close by the lighting contractor which recorded levels of 8-9Lux to the side elevation of this property, and 9 on 10<sup>th</sup> September 2012, which were witnessed by Council Officers and representatives of the local community. On the latter occasions measurements were taken in the gardens of properties adjacent to the sports pitch, in the manner recommended in the guidance of the ILE, i.e. adjacent to openings of the properties.
- 6.5.8 The readings recorded on 10<sup>th</sup> September 2012 were taken at various points at the rear elevations of numbers 25 and 27 Westwood Road, 78 and 84 Melrose

Close, and numbers 8 and 9 Skye Close, which is considered to be a representative sample of the neighbouring properties.

- 6.5.9 All but one of the readings recorded were lower than 10Lux and therefore in compliance with the ILE guidance, with the exception of a reading taken to the rear of 78 Melrose Close. This reading was taken at the rear elevation of a conservatory to this property which projects 2.8m beyond the main rear elevation of the property. The measurements taken at the main rear elevation of this property and a neighbouring dwelling fronting onto Melrose Close satisfied the ILE guidance.
- 6.5.10 Members will be aware that the process of decision making in the determination of planning applications is a matter of balancing harm and benefit. In this case, the lighting serves a community/sports facility which has a historic use of the land for such purposes, and whilst a single reading exceeds the recommended levels of lighting trespass by 1Lux, it is my view that this does not justify refusal of the scheme; the failure of a single reading to accord with the guidance is to my mind de minimus in the wider context of the scheme. This assessment accords with that of the Council's Environmental Health Officer who supports discharge of the condition. Complaints have been received by the Environmental Health team in respect of lighting to both the sports pitch and the car parking (8 complaints during 2011/12), of which 4 were received on the same day and are believed (by reason of their date and the originator) to have resulted from the reconsultation exercise relating to the current application. Given the scale and intensity of the activities taking place on the site, this is not considered to represent a significant level of public disturbance or a statutory nuisance.
- 6.5.11 I am aware that the lighting consultant employed on behalf of the NLRA has raised concern that the values recorded do not take into account the degradation of the lights and associated apparatus, and in response to this concern further information was sought from the applicant in this regard. Notwithstanding the fact that the ILE guidance does not refer to degradation, it has been confirmed that the lamps installed would be expected to degrade by approximately 10% in four years of usage. If that is the case, it is reasonable to expect that during the 18 months that the lighting has been installed, the lumen output has reduced by less than 10%. I am advised that, as the Lux levels measured at the windows of adjacent properties are proportionate to the level of luminance of the lamps, the measurements taken on site, allowing for a degradation of 10% from the optimum 100% brightness of lights as installed, satisfy the guidance in the ILE. This view accords with that of the Council's Environmental Health Officer. I therefore do not consider that there is any merit to the objection raised in this regard.

6.5.12 Whilst I note the objections received from the occupiers of the properties located adjacent to the sports pitch, the fact remains that although the glare resulting from the lighting is bright when viewed from the surrounding properties, there is limited light spillage into the gardens and to the windows of these properties. This is confirmed by all but one of the readings that have been taken on three separate occasions.

6.5.13 Furthermore, it is the case that the landscaping to the south and west of the pitch (adjoining the neighbouring properties fronting onto Westwood Road, Anglesey Avenue and Skye Close) approved under conditions MA/08/1917 and the long term management plan approved under MA/10/0133, which requires the planting and long term maintenance of "native mix planting" including Downy Birch, Field Maple, Pendunculate Oak and Common Beech. This planting has been undertaken, and whilst currently relatively immature will, in the fullness of time, provide additional screening to these boundaries of the site.

6.5.14 The Kent County Council Biodiversity Officer has confirmed that due to the site's location in urbanised surroundings, the use of the floodlights is unlikely to have any implications for bats or other nocturnal animals.

6.5.15 For the reasons set out above, I consider that in the circumstances of the case that the details of the floodlighting to the sports pitch are acceptable, and I therefore recommend discharge of this condition subject to an additional condition requiring the lighting to be maintained in accordance with the approved details. Condition 15 attached to MA/03/1147/02 restricts the use of the lighting to between the hours of 0800 and 2200, and as such a further condition in this regard is considered to be unnecessary in the circumstances of this case.

## **6.6 Condition 16 - Sports Pitch Perimeter Fencing**

6.6.1 The sports pitch perimeter fencing is shown on un-numbered drawings, which show the fencing to extend around the entirety of the pitch area. The fencing comprises a 3m chain link fence, above which is netting to a height of 7m, with intermediate supporting posts at approximately 7m intervals. It is my understanding the fencing was erected in response to complaints to the operators of the site

6.6.2 The chain link fencing and netting, whilst of a considerable height, allows through views and allows light to pass whilst preventing balls from exiting the pitch area. It is therefore not considered to be detrimental to the residential amenity of the occupiers of the neighbouring properties. In the context of the site and its surroundings, the green finished fencing is considered to be visually acceptable.

6.6.3 The details of the sports pitch perimeter fencing are therefore considered to be acceptable, and I therefore recommend discharge of this condition.

## **6.7 Other Matters**

6.7.1 A number of representations are raised concern with regard to the issue of noise and language resulting from the use of the sports pitch. Noise arising from the use of the pitch and the matter of foul language is not a planning issue in the circumstances of this case. The Council's Environmental Health team are aware of complaints having been made in this regards, and the matter is currently the subject of an Environmental Health investigation.

6.7.2 Concerns have been raised in regard to the landscaping of the site and the car park lighting. These matters are the subject of a separate application for full planning permission for amendments to the approved scheme, which is currently under consideration, and will be fully assessed in the determination of that application.

## **7. CONCLUSION**

7.1 The current application seeks discharge of conditions 11, 14 and 16 attached to planning permission MA/03/1147/02 relating to slab levels and floodlighting and perimeter fencing to the sports pitch permitted under that consent. The details submitted in support of the application are considered to be acceptable for the reasons set out above, and as such I recommend discharge of the conditions, subject to the additional conditions detailed in paragraph 5.5.15 above.

## **8. RECOMMENDATION**

Maidstone Borough Council hereby **APPROVES** the details received pursuant to the Conditions set out in the proposal above, **SUBJECT TO** following conditions:

1. The floodlighting to the sports pitch hereby approved shall be implemented and maintained in accordance with the details shown on drawing number KL 3771 and the Kingfisher Lighting Specification received 24th March 2011 and drawing number D16498/PY/G received 8th March 2012 and maintained henceforth in accordance with the approved details;

Reason: In the interests of minimising light pollution, securing the character and appearance of the surrounding area, and preventing harm to the residential amenity of the occupiers of neighbouring residential properties pursuant to policies ENV49 of the Maidstone 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.

#### Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

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 13, Page 2**

**MA/11/0478:**

**Address**

**YMCA, MELROSE CLOSE,  
MAIDSTONE, ME15 6BD**

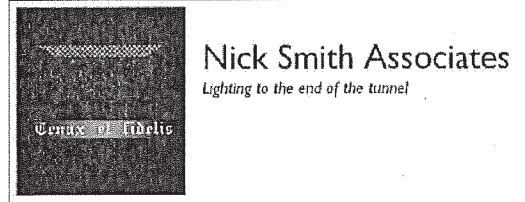
**Appendix 1:**

The letter appended to the report was omitted from the final copy of the agenda; a copy is attached to this urgent update report.

**Recommendation:**

My recommendation remains unchanged.





Nick Smith Associates  
36 Foxbrook Drive  
Chesterfield  
S40 3JR

North loose residents Association

Your ref:  
Our Ref: -L-NLRA-2012-09-27.docx

Date: 27 September 2012

**Light Trespass from YMCA sports lighting**

I am in receipt of a letter from Mechelec building services regarding lighting measurements from spill light from the YMCA sports pitch lighting. There are a number of observations I have made which I felt needed pointing out.

1. The measurements taken in the vicinity of 78 Melrose close are still above MAXIMUM permitted lighting level of 10 lux as stated in GN01 from the Institution of Lighting Professionals.
2. The lighting levels measure in the vicinity of 84 Melrose close are also close to the 10 lux MAXIMUM but no consideration has been taken into account for lumen deprivation of the lamps and buildup of dirt in the floodlights during usage. Normally 1Kw and 2Kw lamp would be replaced on a 3 yearly bulk change cycle and a drop off of 30% is normal in this time period.
3. The contracts manager look very well qualified electrically but I do not see any qualifications in lighting this is of course not critical to take light meter readings.

It appears this installation is still causing obtrusive light into the living areas of people houses and as such the installation can be considered as a statutory nuisance from Clean Neighbourhoods and Environment Act 2005. This was amended to state that under Section 79 of the Environmental Protection Act 1990 (c. 43) artificial light emitted from premises so as to be prejudicial to health or a nuisance; can be considered to be a statutory nuisance. This matter could be taken up with the Environmental health department as well as a planning dept too.

Yours sincerely

Nick Smith.... IEng MILP  
For Nick Smith Associates Ltd





21





22

10.09.2012

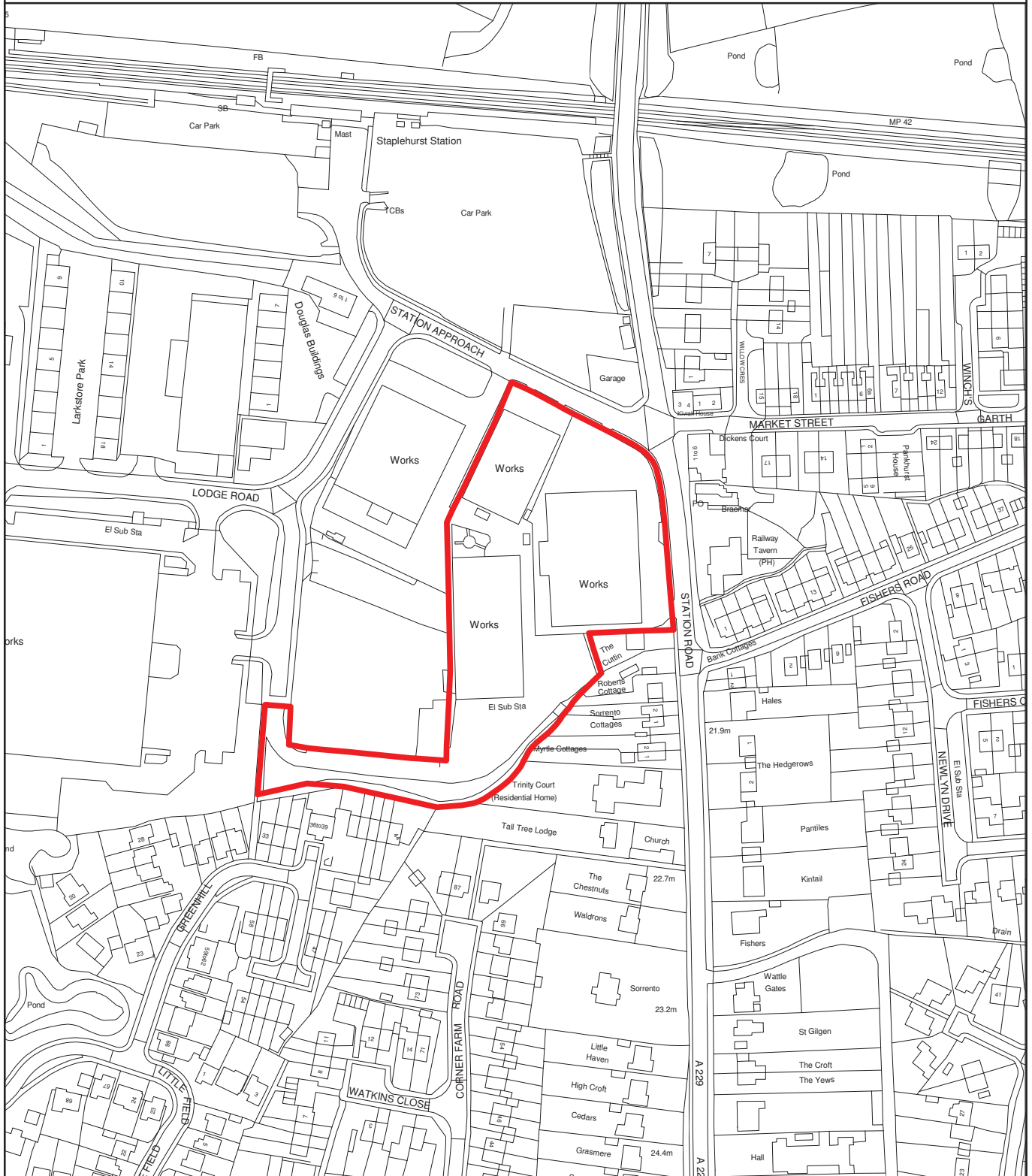
# Agenda Item 14

## THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/1944

GRID REF: TQ7844

GMS & DK HOLDINGS SITE AT,  
STATION APPROACH, STAPLEHURST.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 100019636, 2013. Scale 1:2500



**Rob Jarman**  
Head of Planning

APPLICATION: MA/11/1944 Date: 10 November 2011 Received: 10 November 2011

APPLICANT: Sainsbury's Supermarkets & D K Holdings

LOCATION: GMS & D K HOLDINGS SITE AT, STATION APPROACH, STAPLEHURST, MAIDSTONE, KENT, TN12 0QN

PARISH: Staplehurst

PROPOSAL: Demolition of existing buildings and redevelopment of the site to provide new (Use Class A1) food store with associated car parking, landscaping and access in accordance with Design and Access Statement; Planning Statement; Retail Statement; Employment Land Report; Transport Assessment and Travel Plan; Tree Report; Flood Risk Assessment; Green Wall Feasibility Study; Habitat Survey; Report on Community Engagement; Renewable and Energy Efficiency Report; plans numbered CHQ.08.8389 - PL10; CHQ.08.8389 - PLO1; CHQ.08.8389 - PL03; CHQ.08.8389 - PL08; CHQ.08.8389 - PL07; 845 - 01; CHQ.08.8389 - PL02 as received on the 10 November 2012 and cumulative retail assessment and cumulative highway assessment as submitted on the 20 July 2012.

AGENDA DATE: 10th January 2013

CASE OFFICER: Chris Hawkins

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

- It is a departure from Policy ED2 of the Development Plan.
- Staplehurst Parish Council requested that it be brought to Planning Committee.

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ED2 (viii), T13, ENV6, ENV49, R1, R2, R18 (viii)
- South East Plan 2009: BE4, RE3
- Draft Core Strategy 2011: CS1, CS4, CS6, CS7, CS8, Village Design Statement: N/A
- National Planning Policy Framework 2012 (NPPF); Ministerial Planning for Growth Letter; Practice guidance on need, impact and the sequential approach (December 2009).

## **2. HISTORY**

MA/91/0435 - Reposition of crane and hoist with access doorway to existing building. Approved.

MA/91/0224 - Alterations & extensions to existing factory premises with associated office and storage areas. Approved.

MA/80/2078 - Factory extension, light machine tool manufacture. Approved.

MA/77/1561 - Factory with ancillary offices. Approved.

## **3. CONSULTATIONS**

### **3.1 Staplehurst Parish Council** were consulted and made the following comments:

3.1.1 'After much discussion Councillor John Kelly proposed, seconded by Councillor Green and agreed unanimously to recommend APPROVAL with the following conditions/request for further consideration:-

- (1) That consideration be given to the location of the bus stops and provision of lay-bys.
- (1) That staff car parking provision be increased but not at the expense of customer parking. MBC is requested to reconsider its standards applied to staff car parking.
- (2) The footpath to the south side of Station Approach to be improved along its full length from Station Road junction to Lodge Road.
- (3) The siting of the pedestrian crossing needs to be revisited as it is considered too close to Fishers Road junction.
- (4) Section 106 Agreement to be negotiated with the Parish Council with reference to its approved list (to be submitted with this response).
- (5) The store should sell primarily food with no pharmacy.
- (6) Liaison with other businesses in Lodge Road should take place regarding delivery times to the store to reduce traffic conflicts.
- (7) Signage on the roof of the building is considered unacceptable and should be redesigned to be more discreet and below roof height.



- (8) Highways issues need to be reconsidered. Yellow Box areas for Market Street and Fishers Road are recommended together with extending the 30 mph gateway on the A229 to north of George Street. Improved speed warning signs and interactive signs to advise of queues ahead are considered necessary. Removal of the proposed "pinch-point" north of the railway was requested.
- (9) A free bus service to serve local villages such as Frittenden (that had no commercial bus service) would be appreciated.
- (10) Light pollution and landscaping concerns were expressed. It would be appreciated if the local impact of the proposals could be checked and improved upon.
- (11) The size of the store as proposed is considered to be acceptable. The net retail floorspace should not be increased or reduced from the proposed 19,000 square feet in accordance with the guidelines at PPS6 3.31. In particular, no mezzanine floors for sales space should be added to the building in future.

3.1.2 Councillors requested that this application be referred to Maidstone Borough Council Planning Committee.'

**3.2 Maidstone Borough Council Landscape Officer** was consulted and made the following comments:

3.2.1 'There is generally no objection to this proposal on landscape grounds. However, the 'Tree Removal, Retention & Protection' plan produced by Arthur Amos associates, drawing no. 845-02 revision A, dated 06/07/11, shows that there is likely to be some disturbance within the proposed location for tree protective fencing around trees 15 to 22. To ensure any potential disruption is minimised an arboricultural method statement should be provided in accordance with BS5837: 2005. This should include a methodology covering any removal of hard surfacing and cultivation in the vicinity of existing trees to be retained.

3.2.2 It is, therefore, recommended that on landscape/arboricultural grounds the application should be approved with standard landscape conditions, together with an additional condition requiring the submission of an arboricultural method statement in accordance with BS5837: 2005 as detailed above.'

**3.3 Maidstone Borough Council Spatial Policy Team** were consulted and raised no objection to the proposal. As much of the comments raised relate to the

principle of development, and in particular the loss of land allocated for economic development, their comments have been integrated into the main body of the report. The comments received highlight the following three matters are the principal planning policy issues:

- The application sites are identified for B1/B2 use in the Maidstone Borough-wide Local Plan.
- The availability of sequentially preferable alternative sites for the proposed supermarket.
- The impact of the proposed supermarket on Staplehurst village centre and other identified retail centres.

The comments are concluded by stating:

- 3.3.1 'Regarding the presumption in favour of sustainable development, in this case the development plan is not considered 'absent, silent or out of date'. The application site is the subject of a specific policy designation to retain employment uses. Further, the Council's emerging approach in the Core Strategy is directing the retention and enhancement of existing employment sites in the Rural Service Centres, of which Staplehurst is one.
- 3.3.2 The thrust of ED2 is to retain suitable sites for B class uses. The proposal results in net loss of B class floorspace. This would need to be provided elsewhere based on Council's employment land projections. It has not been definitively demonstrated that sites cannot be retained although the state of market indicates that there are other available site for a firm wanting to locate to Staplehurst in the short to medium term. The proposed supermarket use in its place does not accord with Policy ED2.
- 3.3.3 The proposed store would have an impact on existing stores. The evidence on the significance of the impact is not conclusive, although the RTP report indicates that there is no evidence that stores will close as a consequence. Assessment of the impacts on Staplehurst centre suggest that its vitality and viability will be reduced 'slightly'. It would seem likely that some shoppers currently using the shops in the centre will be diverted to the new store, including for 'top up' shopping. Actions which would help to sustain the attractiveness of the centre (such as environmental improvements) could help to mitigate this effect. The new store will add to local consumer choice.
- 3.3.4 Overall it is not considered that the evidence points to an impact of such severity to constitute a 'significant adverse' impact which is the test of NPPF.

- 3.3.5 The proposal will add to number and diversity of jobs in Staplehurst. This is regarded as particularly important in larger villages such as Staplehurst where the range job of opportunities is inevitably more limited.
- 3.3.6 Further, the proposals will benefit the operation of an established Staplehurst business (D K Holdings) and will expand Staplehurst's range of facilities and thereby help to further support its function as a service centre. Additionally, the provision of a supermarket will help reduce the need for longer distance trips to larger supermarkets elsewhere.
- 3.3.7 In this case, it is considered that the balance of considerations weigh in favour of approval of both applications
- 3.3.8 It is recommended that the implementation of any consents are linked, by means of a legal agreement or otherwise, to ensure completion of new factory for D K Holdings before the redevelopment of the existing buildings'.
- 3.4 Maidstone Borough Council Environmental Health** were consulted on the application and raised no objections subject to the imposition of the suitable conditions.
- 3.5 Maidstone Borough Council Economic Development** were consulted and made the following comments:
- 3.5.1 'DK Holdings is an established manufacturing business of over 50 years and employs around 110 people according to my records. As such it is a significant employer in the Maidstone area and one of only around 60 businesses in the Borough of this size out of a population of around 7000 businesses. As the national economy enters into a double dip recession the opportunity to raise investment capital, win new business and grow becomes more challenging for many businesses. For the Borough to remain prosperous it must retain existing businesses and jobs, remove barriers to their growth and create the right conditions for economic development. It is essential that in the first instance businesses that are already located here, employing local people with local supply chains in place, are supported where appropriate. The application will enable DK Holdings to operate from modern, purpose built premises, consolidate their operations to become more efficient and position it to expand.
- 3.5.2 Central Government (Department for Business Innovation and Skills) values manufacturers as set out in the "Plan for Growth" and continues to invest in the Manufacturing Advisory Service and considers international trade and investment as a driver for UK's economic recovery. With 50% of DK Holdings sales exported overseas this is a company that should be supported.'

**3.6 Kent Highway Services** were consulted and made the following comments:

- 3.6.1 'I refer to the above named planning application for a new Sainsbury food store on land off Station Road in Staplehurst replacing the existing industrial (B2) use.
- 3.6.2 Access to the development is to be made via a new mini roundabout to the south of the junction of the A229 Station Road/Station Approach/Market Street. Deliveries would be made via Station Approach. The trip rates and traffic generation methodology have been accepted and capacity assessments have been made on the existing A229 Station Road/Station Approach/Market Street junction and the proposed mini roundabout. The results indicate that the proposal would not be detrimental to highway capacity. A safety audit has been completed on the proposed mini roundabout junction and this is acceptable.
- 3.6.3 Additional highway works are proposed and these include the provision of pedestrian refuges on the northern and western arm of the mini roundabout, a puffin crossing to the south of the mini roundabout, bus stop improvements (the provision of new shelters and real time bus information), a gateway feature provided on the northern boundary of the village, a puffin crossing in Marden Road and a footway/cycleway link. The applicant is required to provide these works as part of a S278 Agreement, all details to be agreed with KCC Highways.
- 3.6.4 Additionally a Travel Plan has been prepared and a monitoring fee of £5000 is required. Details of the Travel Plan shall be approved by KCC Highways prior to any beneficial occupation of the development and this shall include details of the incentives to be provided to encourage the use of public transport by staff, including discounted public transport travel.
- 3.6.5 Parking is proposed for 171 cars, including disabled spaces and parent/child spaces with additional colleague parking provided and a car park management strategy is to be implemented. This is considered to be acceptable. A taxi pick up point is provided adjacent the store frontage, 21 cycle spaces are proposed together with an electric car charging facility.
- 3.6.6 A free shuttle bus service is to be provided for customers for a minimum of five years from the date of opening, serving the local area and details of this should be agreed with the local planning authority prior to any beneficial occupation of the development.
- 3.6.7 I can confirm that subject to the above I do not wish to raise objection to this application subject to the imposition of suitable safeguarding conditions.'

- 3.7 Kent County Council Archaeology** were consulted and raised no objections subject to the imposition of a suitable condition requiring a watching brief to be undertaken.
- 3.8 Kent County Council Ecology** were consulted and raised no objections to this proposal subject to the imposition of a condition requiring a watching brief to be provided on site.
- 3.9 Kent Police Authority were consulted** and no comments have been received.
- 3.10 The Environment Agency** were consulted and raised no objections to the proposal subject to the imposition of suitable safeguarding conditions. These conditions are set out at the end of the report.
- 3.11 Southern Water** were consulted on the application and raised no objections to this application subject to the imposition of safeguarding conditions. These conditions are set out at the end of the report.
- 3.12 EDF Energy** were consulted and raised no objections to the proposal.

#### **4. REPRESENTATIONS**

- 4.1 Neighbouring occupiers were notified of the application and to date 68 letters of representation have been received. Of these letters, 48 are in favour of the development, and 18 object to the proposal. The points raised within the letters of support are summarised below:
- The villagers would benefit from a new store as it would reduce the need to travel into Maidstone or elsewhere to other larger stores.
  - Staplehurst is too large not to have a facility of this nature.
  - The proposal would create a significant number of jobs.
- 4.2 The main points of concern raised within the objections are summarised below:
- The noise from the car park would have a detrimental impact upon the neighbouring occupiers.
  - The proposal would have a detrimental impact upon existing shops within the village centre.
  - The proposal would be likely to generate unacceptable levels of traffic and congestion.
  - Impact upon value of neighbouring occupiers property.
  - The proposal would result in light pollution.

- The proposal would result in noise and disturbance to existing neighbouring occupiers through its operation (deliveries etc).
- Increased road traffic will result in structural damage to existing properties.
- There would be a detrimental impact upon highway safety.
- The proposal would not be permeable by foot from the railway station – this will discourage those using the station to utilise the store.
- The proposal is not correctly orientated to make it accessible to other modes of public transport.
- The pedestrian crossing would be outside a residential property, causing a build up of people outside this property.
- The proposal would result in an increase in air pollution.
- The proposal would create security concerns to the rear of the existing residential properties.
- The proposal would change the character of the village.
- The increase in litter that would occur due to the proposal.
- There is not significant labour within Staplehurst to serve the supermarket.
- The visual impact of the proposal within the village would be unacceptable.
- The landscaping is unacceptable.
- It will be more difficult for some residents to access and exit their driveways.
- Concern is raised with the loss of the existing employment floorspace, and allocation.
- Concern is also raised that no marketing exercise has been carried out by the applicants. Whilst it is acknowledged that there is no specific guidance in the Local Plan in relation to the scope of extent of such exercises, guidance is given in a recent study carried out for a London Borough (it is attached).
- To summarise it sets out that evidence should be sought to justify the loss of industrial space to other land uses.
- It is stated that 'it is not sufficient to argue that the jobs which may be created by the retail store, offset the lack of a marketing exercise.'

4.3 Two further letters have also been received expressing no views on the application.

## **5. CONSIDERATIONS**

### **5.1 Background**

5.1.1 This is a full application for planning permission for the erection of a new supermarket and provision of car parking following the relocation of the existing DK Holdings building currently on site. The application was initially submitted to the Authority on the 10 November 2011, with addition

information requested and submitted during the life of the application, relating to cumulative impact and the potential S106 contributions.

- 5.1.2 Shortly after this application was submitted, the Authority received an application (MA/12/0232) on behalf of Tesco for a new supermarket at the land that currently contains Staplehurst railway station car park. This application would not only see the redevelopment of this site, but also the provision of a new station car park to the north of the railway line. These proposals all formed one full planning application.
- 5.1.3 Maidstone Borough council has sought a legal opinion on the merits of hearing the planning applications separately or together, and it was concluded that it would be most appropriate for Members to be able to hear both applications at the same meeting. However, in order for both applications to be determined on one evening, both applicants have been required to provide us with cumulative impact assessments, both in terms of highways impact and retail impact. All information has now been submitted, and as such, both applications are able to be determined.
- 5.1.4 In terms of the applications, an officer recommendation is given on each proposal, and it is suggested that each application is presented and discussed prior to a determination of either application. As such, on each application conditions and reasons for refusal are appended, which could be used, should Members disagree with the recommendations. These are for the purposes of Members being able to make a decision on the evening of Planning Committee, not 'options' per se – the recommendations have been fully considered, with all material considerations balanced fully, and carefully. The applicants of the Tesco scheme have requested a side-by-side analysis of each of the two schemes and within each report there is an assessment of the main aspects of the schemes. This should not be used as a substitute for reading the full reports.

## **5.2 Site Description**

- 5.2.1 The application site is located within the village confines of Staplehurst, within the northern part of the village. The site is allocated by the Maidstone Borough Wide Local Plan (2000) for employment purposes (Policy ED2 (viii)) and for vehicles sales and showrooms (Policy R18 (viii)).
- 5.2.2 At present the site contains a factory for DK Holdings, a company that manufactures tools for stone production. The existing building is two storey, of brick built construction, with part of the building provided with a shallow pitched roof, and part flat roof. The existing GMS building has a width of 59 metres, and a depth of 49metres, with a height fronting on to Station Road of

7.5metres. This building is set back between 14 and 16metres from the edge of the highway (A299). To the front of this building is an area of car parking set behind a hedge, which wraps around the corner into Station Approach. Vehicular access into this site is served from Station Approach, and is currently approximately 20metres in from the junction. There are two further buildings within this application site, one of which faces onto Station Approach. This building is set back approximately 11metres from the edge of the highway. The building is 28metres in width, and 49metres deep, and has a height fronting the highway of 6.6metres. This building is currently used by DK Holdings. The building behind this is also used by DK Holdings, and has a depth of 60metres, and a width of 29metres. This building has a maximum height of 6.4metres. It is proposed that these buildings be demolished to allow for the construction of the supermarket, and associated car park.

- 5.2.3 The site is bound to the north by Station Approach Road, which in turn leads into the Lodge Road Industrial Estate. Staplehurst railway station lies to the north of the highway, with a large open air car park immediately opposite the application site. It should be noted that a full planning application (reference number MA/12/0232) has been submitted by 'Tesco's' for this land to the north to erect a 1,795 sqm store (new sales), car park and petrol filling station. Part of the application is also for the provision of a 660 space car park to the north of the railway line. This planning application was submitted on the 14 February 2012.
- 5.2.4 Immediately to the south of the application site is the commercial property, 'the Cuttin'. The neighbouring property to this (to the south) is Roberts Cottage, which is a residential property, set back from the road by approximately 17metres. Station Road (A229) then continues southwards towards the village centre with a predominately residential character.
- 5.2.5 There is an existing bus stop (with shelter) on the A229, upon the western side of the road. In addition, there is a low hedge (approx 800mm) on the junction of the A229 and Station Approach Road
- 5.2.6 At present there is no significant landscaping within the application site, save for a few small self seeded trees, and the hedge that bounds the site to the north and east.
- 5.2.7 To the west of the application site is the land where the new factory building is proposed. This building would be a functional design, and would provide enhanced factory facilities for DK Holdings. Beyond this land is a large distribution centre (by some distance the largest building within the trading estate).



- 5.2.8 To the east of the application site, across the A229, is the Railway Tavern public house which has large car park on its northern side. To the north of the car park is an existing newsagents, which has a bus stop serving the Cranbrook bound bus service.
- 5.2.9 In terms of its location, Staplehurst is approximately 15km from Maidstone, 5km from Marden, 6km to Headcorn, 9km to Cranbrook and 15km to Hawkhurst. In terms of public transport provision, buses run once an hour from Staplehurst to Maidstone (and to Cranbrook) from the bus stops opposite the application site, on the A229, and trains run to Ashford and London every 30 minutes during the day (with increased frequency during peak hours).

### 5.3 Proposal

- 5.3.1 The proposal is a full planning application for the erection of a new foodstore (A1 use) upon the land currently occupied by DK Holdings and GMS.
- 5.3.2 The proposed supermarket would have an internal floor area (sales) of 1,784 sq m (19,203 sq ft), and a gross external area of 3,384 sq m (36,425 sq ft). This gross area would comprise of 2,975 sq m (32,023 sq ft) at ground floor and 409 sq m (4,402 sq ft) at first floor. The ground floor would consist of the main sales area (including delicatessen and bakery) and back up areas including ambient and cold storage and the unloading bay. The first floor would accommodate the staff facilities. The store would have a maximum width (east to west) of 73metres, and a maximum depth of 52 metres. The highest point of the proposal would be 7.8metres from ground level.
- 5.3.3 An application for a new factory for DK Holdings was submitted alongside this application (MA/11/1943). This has now been permitted and provides for a new 3,044sqm factory building for them on a currently undeveloped part of its site. The proposed new building is for B2 floorspace which Policy ED2 specifies as a suitable use for the area. Taking the two applications together, the following changes in B class floorspace would result:

	B2 (D K Holdings)	B8 (GMS)	All B class
11/1944	- 3,335sqm	-3,069sqm	- 6,404sqm
11/1943	+ 3,044sqm	nil	+ 3,044sqm
Overall position	- 291 sqm	- 3,069sqm	- 3,360sqm

Table 1 (change in floorspace)

- 5.3.4 The overall loss of B2 floorspace across the two proposals is marginal. Further, the two D K Holdings factory buildings are being replaced with a modern building fitting the firm's requirements. The stated benefits to the company relate to operational efficiency and cost savings (utilities, maintenance) as well as the potential opportunity to broaden the firm's product range and to re-organise factory equipment. However, this should be balanced against the loss of about 3360sqm of B class floorspace at the Station Road location. What needs to be acknowledge however is the loss of allocated land as a result of this proposal – i.e. not just the amount of existing floor space being lost, but the *potential* floor space. Due to the erection of a supermarket, there would be a large portion of the allocation 'lost' and this will not be replaced until further allocations are made. The balance therefore has to be made as to whether this would result in a damaging impact upon the strategy of the Authority, and the vitality of the village and outlying areas. It is my opinion that the loss of this potential floor space is unlikely to impact upon either as it has not been developed out fully since the adoption of the Local Plan in 2000, despite numerous planning applications being approved. I do not raise an objection on this basis.
- 5.3.5 The proposal would also include the provision of a new roundabout at the point of access into the site, located within the A229, with a new car park, provided with 171 car parking spaces (including 10 disabled spaces, 7 parent and child spaces, and 10 staff parking spaces). It is also proposed that 28 cycle spaces be provided for customers and 14 cycle spaces for staff. This car park would have internal landscaping, with the provision of tree planting and low level shrubs. The applicants have proposed the inclusion of a ragstone wall at the access point into the site, and within the car park.
- 5.3.6 The proposed building would be provided with timber cladding, white cladding panels, and a significant level of glazing within the car park elevation. Louvres are proposed to be placed upon the corner of the building above the vertical timber boarding. Illustratively, advertisements are shown to be located upon the corner at the junction of the A229 and Station Approach Road, and upon the front elevation facing the car park.
- 5.3.7 Whilst the proposal would see the loss of the existing employment within the GMS building, which employs six staff, (the owner of this company informs us that he intended to wind up his business irrespective of this proposal, as he is coming to his retirement age) it would create approximately 150 jobs within the supermarket. Within supermarkets, this tends to be approximately 1/3 full time, and 2/3 part time – although this would be determined once the store was operational. Within a comparable (albeit slightly larger store) that has recently opened, the staff profile was as follows:

- 9 managerial roles;
- 11 team leaders:
- 11 HR and administrative roles;
- 17 on counters and preparation;
- 102 upon the shop floor and within the back of house.

The current and expected position on jobs is set out below.

	Existing	Proposed
GMS	6	0
Sainsbury's	0	150
D K Holdings	80	80
<b>Total</b>	<b>86</b>	<b>230</b>

Table 2 (number of jobs)

- 5.3.8 It is proposed that the store would incorporate a number of sustainable energy elements, that would enable the development to achieve a BREEAM rating of 'very good'.
- 5.3.9 The car park would see the provision of some internal landscaping both between the spaces themselves and along the side boundary, with the nearest residential properties. This landscaping has been fully considered by the Council's Landscape Officer. The landscaping would include the provision of 9 new specimen trees within the car park, together with a minimum of 15 specimen trees along the western boundary. A cluster of tree planting is proposed within the south-eastern corner of the application site. Tree planting is also proposed on either side of the access into the site, which would frame the highway at this point. The hedge that runs along the highway is sought to be retained (as this falls outside of the applicants control).
- 5.3.10 In terms of the hard landscaping proposed, block paving is proposed at the point of access, that would give pedestrians greater priority as they enter the site. In terms of the rest of the site, the car parking would be constructed of tarmac, although all paving within the site is to be permeable.
- 5.3.11 The applicants are proposing a number of measures to improve the character and appearance of the village centre. These measures, provided through a S106 agreement would include:
- Improvements (to be confirmed with the Parish Council and Local Planning Authority subject to delegated powers to approve) to the centre of

Staplehurst, in particular, public realm improvements to 'The Parade' and the surrounding area.

- The provision of a 'community bus' that would transport customers from both the village and more outlying areas to the store.

5.3.12 Both Officers and the Parish Council have been involved in discussions with regards to the Heads of Terms proposed. Following these discussions the applicants have submitted a draft S106 agreement which agrees the following:

- Not to occupy the building until the new factory building (permitted under MA/11/1943) has been constructed;
- To provide a contribution of £50,000 towards the enhancement of the existing village centre as outlined above;
- The provision of a community bus that would transport customers from both the village and the more outlying areas to the store;
- Provide a Travel Plan Monitoring Fee of £5,000.

## **5.4 Supporting Documents**

5.4.1 In addition to the submitted plans and drawings the application is accompanied by the following documents:

- Design and Access Statement
- Planning and Retail Statement
- Transport Assessment and Travel Plan
- Renewable Energy and Efficiency Statement
- Flood Risk Assessment
- Public Consultation Report
- Geotechnical and Geo-environmental Report
- Local Air Quality Assessment
- BREEAM Assessment
- Noise Impact Assessment
- Lighting Statement
- Tree Survey
- Green Wall feasibility study
- Village Health Check
- Employment Statement

5.4.2 These documents can be viewed via the planning pages on the Council website.

5.4.3 Following the initial submission, the proposal has been subject to assessments by independent Retail Consultants (Roger Tymms Associates) appointed by the

Council. Additional information was also submitted during the course of the application, that included:

- Further details on the sequential test for identifying the application site
- A statement on how the release of the National Planning Policy Framework impacts upon this proposal.
- Estimated costs for selected S106 improvements.

## **5.5 Principle of Development/Planning Policy**

### **1) Planning for Growth**

- 5.5.1 On 23 March 2011 when the Chancellor of the Exchequer announced the Budget, the Minister for Decentralisation, Greg Clark, delivered a written statement. This statement sets out the steps the Government expects all local planning authorities to take (with immediate effect) in order to rebuild Britain's economy. Relevant extracts from the statement are given below as they are material to the consideration of this application.

*The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.*

*The Chancellor has today set out further detail on our commitment to introduce a strong presumption in favour of sustainable development in the forthcoming (now released) National Planning Policy Framework, which will expect local planning authorities to plan positively for new development; to deal promptly and favourably with applications that comply with up-to-date plans and national planning policies; and wherever possible to approve applications where plans are absent, out of date, silent or indeterminate.*

- 5.5.2 The statement goes on to advise that:

*When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. Where relevant – and consistent with their statutory obligations – they should therefore:*

- (i) *Consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession;*

- (i) *Take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;*
- (ii) *Consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);*
- (iii) *Be sensitive to the fact that local economies are subject to change and so take a positive approach to development where new economic data suggest that prior assessments of needs are no longer up-to-date;*
- (iv) *Ensure that they do not impose unnecessary burdens on development.*

*In determining planning application, local planning authorities are obliged to have regard to all relevant considerations. They should ensure that they give appropriate weight to the need to support economic recovery, that application that secure sustainable growth are treated favourably, and that they can give clear reasons for their decisions.*

5.5.3 Finally, the statement concludes by saying:

*Benefits to the economy should, where relevant, be an important consideration when other development-related consents are being determined, including heritage, environmental, energy, and transport consents. The Secretary of State for Culture, Olympics, Media and Sport, the Secretary of State for the Environment, Food and Rural Affairs, the Secretary of State for Energy and Climate Change and the Secretary of State for Transport have consequently agreed that to the extent it accords with the relevant statutory provisions and national policies, decisions on these other consents should place particular weight on the potential economic benefits offered by an application. They will reflect this principle in relevant decisions that come before them and encourage their agencies and non departmental bodies to adopt the same approach for the consents for which those other bodies are directly responsible.*

### **1) The National Planning Policy Framework (NPPF)**

5.5.4 The National Planning Policy Framework, which was released in March 2012 (after the application was submitted), seeks to promote sustainable development, both within town centre locations, and rural areas. The Framework sets out the three key 'dimensions' to sustainable development, which set out the roles that 'planning' should perform:

- *An economic role – with development contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation.*
- *A social role – with development supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of the present and future generations, and by creating a high quality built environment with accessible local services that reflect the communities need.*
- *An environmental role – with development contributing to protecting and enhancing our natural, built and historic environment; and as part of this helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and to adapt to climate change.*

5.5.5 The NPPF sets out that the Government expects Local Authorities to support the delivery of sustainable development, although does highlight that this requirement does not simply override the existing policies within the Development Plan. The Maidstone Borough Wide Local Plan was adopted in 2000, however, the policies within were 'saved' (and thus revisited) in 2007. The South East Plan was adopted in 2009 – however, the fact that the government intends to revoke this document is a strong material consideration. It is on this basis that I consider the aims of the NPPF to carry significant weight in the determination of this planning application.

5.5.6 The NPPF states that:

*The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meet the twin challenges of global competition and of a low carbon future.*

*The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.*

5.5.7 Whilst 'significant weight' should be given to delivering economic growth, the NPPF does not state that this should override existing planning policy, but that it should be a strong material consideration.

5.5.8 In terms of addressing the rural economy, the NPPF requires for planning policies to support economic growth in rural areas in order to create jobs and

prosperity by taking a positive approach to sustainable new development. In order to promote a strong rural economy local plans are required to (relevant to this application):

- *Support sustainable growth and the expansion of all types of businesses and enterprise in rural areas, both through the conversion of existing buildings and well designed new buildings;*
- *Promote the retention and development of local services and community facilities in villages such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.*

5.5.9 The NPPF also requires that a sequential test be carried out for town centre uses that are not in an existing centre and are not in accordance with an up-to-date Development Plan. This is the same requirement as set out within Planning Policy Statement 4 (PPS4) prior to the publication of the NPPF, and sets out that local planning authorities should require planning applications for main town centre uses to be located town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. In addition, the NPPF states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre, and that flexibility should be given on issues such as format and scale.

5.5.10 The NPPF does give some support for a development of this nature, insofar as it does encourage the delivery of sustainable economic development – to which I consider this proposal to be classified. Although I consider this to be tempered by the need to provide specific information on the impact upon the existing centre, and the need to demonstrate that more sequentially preferable sites have been considered. The NPPF does not give the ‘green light’ to this proposal, rather it encourages local planning authorities to look more carefully at their allocations, and to promote growth in the short term, should it not interfere with their longer term objectives of delivering, sustainable economic development.

## **2) Development Plan Policies**

5.5.11 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. The current Development Plan comprises the saved policies of the Maidstone Borough Wide Local Plan 2000 (saved in 2007) and the South East Plan 2009. The Government has indicated however that it intends to abolish the South



East Plan and this Statement of intent should be regarded as a material consideration.

- 5.5.12 The applicant site is located within land allocated for B1 and B2 employment uses within the Maidstone Borough Wide Local Plan (2000). Clearly, this proposal would not fall within either of these use classes - being A1 retail - and as such would be a departure from the Development Plan. Whilst clearly there is an allowance for local planning authorities to depart from the policies within this plan, due regard, and weight has to be given to all material considerations, with overriding justification required to effectively 'tip the balance' to go against an established policy. The policy in question reads:

**Policy ED2: The Borough Council identifies the following locations (list provided) as designated areas of economic activity or areas with planning consent for economic development (the site is question in then identified and being provided for use classes B1 and B2).**

**Planning permission will not be granted to redevelop or use vacant business, industrial, storage or distribution sites or premises for non-employment purposes unless the retention of the site or premises for employment use has been fully explored without success.**

- 5.5.13 In order to understand if it is possible to depart from the established Development Plan, it is firstly necessary to understand why the designation was given in the first instance. The allocation of the land was fully considered within the Inspector's report of November 1999 where it was felt that this would be a suitable site to retain such employment uses. Since the adoption of the Local Plan in 2000, the Council has sought to continually review the level of land suitable for employment purposes within the Borough, with the most recent Employment Land Review Update being completed in July 2011.
- 5.5.14 On this matter the Spatial Policy team have raised a number of comments on this matter. They summarise that with respect to alternative proposals on designated employment land, the NPPF states that "where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities." (paragraph 22).
- 5.5.15 In response, the Council's evidence indicates that there is a future need for B2 floorspace for which the site is allocated. There is also a substantial measured need for B8 floorspace which is the current use of the GMS building which will be lost through this proposed redevelopment. In the longer term any loss of

floorspace as a result of these proposals would need to be compensated for with provision elsewhere through the LDF and planning applications.

- 5.5.16 Balancing against this longer term need, there are a number of units available in the immediate locality for a firm wishing to locate to Staplehurst. This is an indication that short to medium needs could be met locally. There is some evidence that the age and construction of the GMS building would not make it immediately attractive for a new occupant although the site has not been marketed for sale.
- 5.5.17 Market indicators point to the prospect of this site being needed for B2/B8 use being a longer term one. In addition it is apparent that there is market demand for a supermarket in the locality; Tesco has submitted an application for a store on a nearby site.
- 5.5.18 The Employment Land Review Update indicates that the Borough (at the time of the report) had 10,761 sqm of vacant Industrial floor space, and 39,686 sqm of vacant warehouse floor space. Whilst it is important for any Borough to have a level of vacancy, to enable existing businesses to expand and contract, and to encourage inward investment without waiting for new buildings to be constructed, this is nevertheless a significant amount.
- 5.5.19 It is also acknowledged that much of the land that has been allocated for employment purposes within the Local Plan has remained undeveloped, even though the plan is now in excess of 11 years old. Indeed, land within the allocation in close proximity of this site has remained undeveloped during this plan period. This indicates that there *may* be a need to show an element of flexibility in the right locations bearing in mind the age of the policy, and the permissions that have been permitted elsewhere. Certainly the NPPF encourages a more flexible approach.
- 5.5.20 Whilst at present the Council's adopted Development Plan is the Maidstone Borough Wide Local Plan (2000), it is at currently formulating the Core Strategy, and has gone out to public consultation on the first draft. Within this Core Strategy Staplehurst is identified as a Rural Service Centre (RSC) which means that it is identified as a settlement that is able to accommodate some future growth. Within this (draft) policy it states that Council will retain and enhance existing employment sites, and *encourage new employment opportunities*. The policy also states that the Council will *'resist the loss of local shops and facilities, whilst supporting new retail development to meet local need.'* The applicants have been able to identify that there is both a quantitative and qualitative need for such a provision already within the village. This has been ratified by the Council's retail consultants.

- 5.5.21 Whilst the Core Strategy has limited weight as it is at a relatively embryonic stage, it is likely that Staplehurst would be retained as a centre that can accommodate future growth. Overall I do not consider that the Sainsburys scheme would prejudice the aims of this draft document in its current form but it should be borne in mind that Staplehurst is expected to cater for future class B uses as well as economic development such as a new retail schemes.
- 5.5.22 The relocation of the DK Holdings building to the adjacent site (which also falls within the employment allocation) would be controlled through a Section 106 legal agreement. Nevertheless the Sainsburys scheme would lead to a loss of class B floorspace and the potential to expand class B uses on the application site land. It would conflict with the terms of policy ED2 as it would be for a non-employment purpose (employment purposes in ED2 referring to class B uses) and the retention of the site and premises for employment purposes has not been fully explored. Furthermore, in terms of NPPF advice it cannot be said that there is no reasonable prospect of it being used for employment use in the future (accepting for the purposes of this report that a retail use is not a traditional employment use). It therefore has to be considered whether these factors would prejudice the long term aspirations for this site, and for the Borough as a whole and what weight should attach to them.
- 5.5.23 There have been a number of planning applications approved for the extension of the Lodge Road Industrial Estate, with many remaining unimplemented. This is despite the site having been allocated for such a purpose for in excess of 18 years (it was allocated in the previous Local Plan). Whilst clearly a relatively successful site – with many well established businesses - there is, and has been for a number of years, opportunities for growth which have yet to have been taken. With the existing economic climate borne in mind, I do not envisage these alternative, allocated sites coming forward in the near future, that would saturate the locality, and see a shortfall in B1 and B2 provision.
- 5.5.24 In addition to the land at Staplehurst, on a Borough wide basis, there have been a number of allocated employment sites that have been permitted for alternative forms of development – in particular a number have seen housing permitted. Whilst there are differences between this application and those – insofar as this allocation did have existing uses upon it, I do consider that it demonstrates that the provisions made in 1999 (when they were considered by the Inspector) could now be considered to be worthy of review, and as required by the NPPF, *will be* reviewed in the near future as part of the ongoing Core Strategy work.
- 5.5.25 The Local Plan identifies in policy ED2 the Station Road location as one for use classes B1 and B2. The Local Plan is anxious that the area continues to remain

available for “economic development uses” in order to maintain a variety of accommodation and to reduce pressure for fresh allocations. However, since the Local Plan was written the NPPF has defined “economic development” as including a retail scheme. The NPPF has made it clear that LPAs should proactively drive and support sustainable economic development. Whilst there is conflict with policy ED2 and it was clearly not written with the NPPF in mind, the scheme would provide a substantial economic development.

- 5.5.26 A key consideration is that the proposal would see the creation of a significant number of jobs. It is proposed that approximately 150 jobs would be created as a result of this proposal, and whilst approximately two thirds of these would constitute part time employment, this is still a high number of jobs per square metre within an allocated employment site. To my mind, this is a significant benefit that this proposal would bring, and whilst the jobs created would not fall within the precise definition of ‘employment’ as set out within Policy ED2, the proposal does undeniably provide jobs, and a significant number. A further key consideration is that this site is *deliverable* and that these jobs are likely to come forward should planning permission be granted. I therefore take the view that the proposal is not such a significant departure from the policy as say housing, and it would also fall within the definition of ‘economic development’ as defined previously within PPS4 and now within the NPPF. So, whilst a departure from policy ED2, I consider the proposal would nonetheless bring benefits to the locality in terms of employment provision, irrespective of the ‘need’ that has been identified both Borough wide and within Staplehurst itself.
- 5.5.27 There has been a number of planning permissions granted within the Borough for alternative uses within allocated employment sites. Whilst each of these have been determined on their own merits, I am of the view that this does indicate a ‘direction of travel’ in terms of the Council’s understanding of the success, and perhaps relevance of the now 12 year old land allocation policy.
- 5.5.28 I am therefore of the opinion that the principle of development of this site for a supermarket is acceptable within *this* allocated site, despite the loss of the land for B2/B8 uses, subject to all other material considerations being deemed acceptable. Whilst there is conflict with policy ED2, for the reasons I have detailed above, I consider it is appropriate to attach only limited weight to that conflict.

### **3) Emerging Core Strategy**

- 5.5.29 I have referred to the emerging Core Strategy above in the specific context of employment land and I now deal with it in more general terms. Whilst it remains at draft stage, with much of the work ongoing, due to the fact that it has now been through a public consultation, and that Members have had an

opportunity to agree much of the background information, I consider it to be a material consideration in the determination of this planning application. This isn't to suggest that it carries as much weight as the existing policies within the Development Plan, nor the NPPF; but it does need to be given some weight when in the determination of the application.

5.5.30 Within the Core Strategy, Staplehurst is identified as a Rural Service Centre (herein referred to as RSC). Staplehurst is acknowledged as being the largest RSC within the Borough in terms of population and size, and has a number of key services and facilities. The specific policy (CS4) that relates to RSC sets out that there will be:

- A focus on new housing and employment development within or adjacent to village settlements, and to ensure that a mix of house types and tenures are provided;
- Support applications for local needs housing on appropriate sites;
- Retain and enhance existing employment sites and encourage new employment opportunities;
- Resist the loss of local shops and facilities, whilst supporting new retail development to meet local need;
- Ensure development assists with the creation of vibrant and sustainable communities;
- Ensure that development does not cause harm to natural assets and that development is not located in areas liable to flooding.

5.5.31 A report was given to the Cabinet to consider in July 2012, which set out the proposed consultation draft of the Core Strategy. Within this document, the housing projections for each rural service centre were provided as follows:

- Harrietsham 315 dwellings
- Headcorn 190 dwellings
- Lenham 110 dwellings
- Marden 320 dwellings
- Staplehurst 195 dwellings

(Those villages affected by this proposal are highlighted)

5.5.32 This report was agreed by Members, and as such the consultation draft was completed accordingly. I consider it important to acknowledge the proposed further growth of these villages – with Staplehurst, Marden and Headcorn all within the catchment area of this proposal. Whilst consultation is ongoing with this draft, it is unlikely that the numbers of units proposed will fall. As such, further expansion at these villages will clearly result in greater demand for convenience shopping to be provided within the locality.

#### **4) Sequential Sites Assessment**

- 5.5.33 The NPPF requires a sequential test to be applied to applications for retail uses which are not in an existing centre and not in accordance with an up to date Local Plan (paragraph 24). An impact assessment is required for such proposals (over a 2,500sqm threshold) to include:
- The impact of the proposal on existing, committed and planned public and private investment in a centre/centres in the catchment area of the proposal; and
  - The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to 5 years from when the application is made. (paragraph 26).
- 5.5.34 "Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused" (paragraph 27).
- 5.5.35 Although framed in the terms of PPS4, the Roger Tym & Partners retail report for the Council covers the points above.
- 5.5.36 The sequential test directs that retail uses should be located in town (or village) centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered (NPPF paragraph 24). The application site is an out of centre site according to the definition in Annex 2 of the NPPF.
- 5.5.37 According to the PPS4 Practice Guidance the area of search for alternative, sequentially preferable sites should be sites in existing centres within the catchment area of the proposal (paragraph 6.22). Staplehurst village centre is identified on the MBWLP Proposals Map and is subject to Policy R10. The applicants have not identified any alternative sites within the centre. It is the case that the centre is tightly defined, encompassing the existing retail units and associated service-type uses in the vicinity of The Parade. There is considered to be no reasonable prospect of this proposal being accommodated through the occupation or redevelopment of units in the village centre. There are also no known available and suitable sites at the edge of the centre.
- 5.5.38 This practice guide states that the sequential test should cover the whole catchment area that would be affected by the proposal. The application addresses all of the catchment area that would be affected by this proposal, which stretches from Cranbrook in the South to the Linton crossroads to the north, and also includes the villages of Marden and Staplehurst.

- 5.5.39 The applicant has submitted a sequential sites assessment with the application. This identifies that the applicants have considered other sites both within the village and also within the catchment area. Within the village there are no sites of any significant scale to provide a suitable alternative to this site. This is the same conclusion that the applicants of the similar application (ref: MA/12/0232). The question is therefore whether the site being brought forward as part of this alternative application is a preferable site to this one in sequential terms.
- 5.5.40 This site is clearly an 'out-of-centre' location, although it is relatively well connected by means of public transport, but both a bus service that runs to the front of the site, and the railway station to the north of the site (although in excess of 300m from the entrance of the store). I am therefore of the opinion that neither store would offer the opportunity for linked trips. The Sainsbury's supermarket would be slightly closer to the existing housing stock, and the village centre, whilst the Tesco store would be closer to the train station. To my mind, there is little to choose between the sites in terms of the sequential test and their accessibility by foot from the town centre & main residential areas, bus stops and train station.
- 5.5.41 Outside of the village, again, I consider that there are no other alternative sites that would provide for a retail provision of this scale, without significant impact either upon the character of the locality, or with such good transport links as this application site. Whilst initial concerns were raised by the Council's retail consultant, these have been addressed by the information that has now been submitted, which officers are satisfied are acceptable.
- 5.5.42 I therefore consider that the applicants have fully considered alternative sites to this, and that the sequential test has now been met.

## **5.6 Impacts on Character and Appearance of the Area**

- 5.6.1 The character of the area is already a developed character on which there is urban activity but visually there would be a change in that the proposed store would bring development to the front of the application site with the car park provision on its southern side. However, the visual change would not be a retrograde step or detrimental to the streetscene. The existing buildings are unremarkable and to my mind the replacement building would be an enhancement to the character and appearance of the locality.
- 5.6.2 The mass of the building is considered acceptable, and this creates a more attractive entrance into the village, with the additional planting along the road frontage a positive feature.

- 5.6.3 The car parking would be located away from medium to long distance views from the public domain, and whilst lighting will be provided, which will have an impact upon the character of the area, this would be seen within a context of existing built form, and would be designed in such a way as to not result in significant glare.
- 5.6.4 I am therefore satisfied that the visual impact of this proposal would be acceptable, subject to the detailed design of the building being of the required high standard.

## **5.7 Design**

- 5.7.1 The proposal would see the introduction of built form much closer to the highway than at present. The building would also effectively turn its back on the highway, with the main point of entry from the car park side (to the south of the store). As the building would be of a substantial scale, this would significantly alter the appearance of the locality. Through pre-application discussions, the matter of the design of the building has been addressed, with changes made to the fenestration that provides greater articulation, and increase the level of fenestration within the building.
- 5.7.2 Perhaps the key elevation of the building is that facing onto the junction of Station Road and Station Approach. This is a prominent junction and would act as very much a gateway into the village from over the railway bridge, when approaching along the A229 from the north. On this corner of the building, it is proposed to provide (vertical) timber cladding at ground floor level with glazing at first floor level, and (horizontal) timber louvres covering part of this glazing, providing an element of layering, and shadowing. A flat roof is proposed which would project from the wall by approximately 400mm, which would provide a suitable 'top' to the building.
- 5.7.3 The timber boarding is proposed to be continued along the A229 frontage with the building reducing in scale southwards. At its southernmost point the building would be single storey, with a projecting canopy, which follows the splay of the building.
- 5.7.4 The building would have a very functional form, however, that is not to say that it would appear as out of keeping, or to the detriment of the appearance of the locality. The materials used within the proposed building would be timber cladding, metal cladding, with an element of brickwork. Much of the elevation facing on to the car park would be provided with glazing, which would provide a lighter appearance.



5.7.5 I consider this to be a building that has been designed for its surroundings, rather than a standard design that could be replicated elsewhere and this is a factor in its favour in my view. Clearly some elements of the proposal are standard – the materials for example, but the design has been fully considered in order to address the corner of Station Approach and the A229.

5.7.6 The scale and form of the building are considered to be acceptable; it would not dominate the surroundings, nor would it be of a scale that would appear as squat or overtly horizontal. The detailing is also considered to be of an acceptable level, responding to the orientation of the site. I therefore raise no objections to the proposal on the grounds of design and consider that it would positively enhance the appearance of the streetscene and this particular gateway into and out of the village.

## **5.8 Overview of Retail Provision in Locality**

5.8.1 *Staplehurst* – Within the defined retail centre of Staplehurst is a Spar convenience store which has approximately 250 sqm of retail floor space, an off-licence (Murcatto), a greengrocer (Spuds and Buds), a newsagents (Martins). In addition to this, there are service outlets including a pharmacy, a post office, a bank, an estate agency, a hair salon, and a turf accountant.

5.8.2 Outside of the defined area there are additional retail outlets including an opticians, solicitors, public houses, and a butchers. I therefore consider that Staplehurst currently has a broad offer for local residents. However, it is noted that there is very little convenience floor space within the village itself – particularly for a village with a population of in excess of 4,000.

5.8.3 *Headcorn* – The village of Headcorn falls within the catchment area of the proposed store. This village is again well served by a variety of shops, however, there is limited convenience floorspace; the largest offer being within the Sainsbury's Local which is approximately 275 sqm.

5.8.4 *Cranbrook* – Located approximately 8.5km from the centre of Staplehurst, Cranbrook contains a co-operative supermarket of approximately 1,600 sqm. This is the largest retail store within the catchment area.

5.8.5 *Hawkhurst* – Located approximately 14.5km from the centre of Staplehurst Hawkhurst contains a Tesco supermarket of approximately 850 sqm and a Budgens store of approximately 830 sqm (net sales).

5.8.6 *Tenterden* – The small town of Tenterden is 20km away from Staplehurst, and so would fall outside of the catchment area of the proposed supermarkets. However, due to the fact that there are two existing supermarkets – a Tesco

(1,700sqm) and Waitrose (1,300 sqm) does draw in existing trade from the catchment area.

- 5.8.7 *Maidstone* – It is noted that the majority of residents within the Staplehurst area, and the catchment area of this store would currently undertake their convenience shopping within Maidstone, which lies 15km to the north of Staplehurst. The closest supermarket within Maidstone to Staplehurst is the Morrison’s on the Sutton Road. This has a sales area of 3,456 sqm, and has an extensive food offer, together with some non-food retail. There are a number of other stores within the town, including a Sainsbury’s, Tesco’s, and an Aldi store.

## **5.9 Retail Impact**

- 5.9.1 The proposal would see the creation of a new food store within an area where there is currently no significant provision of this nature. However, the village of Staplehurst does currently contain a relatively small retail area that is designated as a district/local centre by Policy R10 (xix) of the Maidstone Borough Wide Local Plan (2000). This policy seeks to maintain these existing centres for retail purposes, and to resist development that would harm their vitality and viability. The policy then states that proposals for further Class A1 retail development will be permitted in, or immediately adjacent to existing district or local centres.
- 5.9.2 Policy R10 also allows for the provision of new district centres anchored by a convenience store or supermarket, particularly in areas deficient of such facilities, subject to the criteria set out within policies R1, R2, R11 and R15.
- 5.9.3 Policy R1 states that retail development will be permitted within defined urban and village area provided that the following criteria are met:
- That arrangements for road access, parking and servicing of the land and buildings are adequate and that there are no highway objections;
  - That the development site is both easily and safely accessible by a reasonable choice of modes of transport and by people with disabilities;
  - That there is no significant detrimental impact upon neighbouring land uses or likely adverse effect on local living conditions.
- 5.9.4 Policy R2 is concerned with major retail proposals, which are defined as exceeding 500sqm of gross floorspace, and states that they will be permitted in accordance with Policy R1, providing that the additional criteria are met:
- That the proposed development meets the requirements and the trade potential of appropriate convenience, comparison or bulky goods sectors;

- That a sequential approach to siting has been followed (i.e. that preference is given to town centre, district or local centres and the edge of centre sites before out-of-centre sites are proposed); and
- That out-of-centre locations are chosen adjacent to existing out-of-centre and free standing retail development.

5.9.5 The Local Plan acknowledges the importance of local retail centres in meeting the essential day-to-day needs of local people, within easy walking distance of their homes. The district centre within Staplehurst currently contains a small convenience store (a 'Spar') as well as a bank, off licence, butchers, bakers, and hairdressers. This centre, known as 'The Parade' provides a strong local function, which enables top-up shops, and for a limited amount of services to be undertaken without the need to travel to larger nearby towns and villages. However, it is acknowledged that the provision within the village does not cater for the majority of the population of the village (and outlying areas) to undertake their weekly shop. As such, the majority of inhabitants – some 98% of respondents – claim to travel to either Maidstone, or one of the surrounding towns/larger villages to undertake this shop.

5.9.6 Whilst a deficiency in convenience trading has been identified the village and the surrounding area, it is considered that this would be met by this proposal. It is clear that the retention rate within the catchment area is very low. The proposal would result in a greater retention of spend within the catchment area; which would impact greatest upon the existing stores within Maidstone (and surrounding area).

5.9.7 The Council has employed independent retail analysts who have appraised the retail impact assessment submitted with the application. The conclusion of this report is that the impact upon the village centre, and to the villages within the catchment area would be acceptable, and that the proposal would not lead to the failing of these areas. There would undoubtedly be some impact, however, this would be mitigated by the proposed public realm improvements, and enhancements to highways as proposed. It is suggested that the impact upon the stores within Staplehurst would be a reduction in approximately 5-7% of trade, which is not (according to appeal decisions) considered to cause significant harm to merit a refusal. Whilst this is not a defined benchmark, with each application judged on its own merits, there is no evidence that shops would close post impact. Consideration has been given to restricting the sale of certain goods within the store itself – for example restricting pharmaceutical sales. However, as the report indicates that the proposal would not result in a significant impact post opening on the centre, I do not consider it necessary in this instance.

- 5.9.8 The information submitted with the application identifies the catchment area for the proposal which extends to include the identified centres at Headcorn, Marden and Coxheath and, outside the borough, Cranbrook. It also identifies the impact of the proposal upon Maidstone itself, not just in terms of convenience shopping, but comparison shopping, and the linked trips that this may generate. Whilst the proposal would clearly result in less linked trips, and a reduction in both comparison and convenience sales within the town, there is no evidence to suggest that this 'shift' would result in the closure of any existing stores, but rather the proposal would simply result in more sustainable shopping patterns.
- 5.9.9 It is the case that the boundaries of centres within the borough, as for Staplehurst, are tightly drawn and there are no known available sites within or at the edge of these centres which could accommodate the proposal. To the best of my knowledge, there are no sequentially preferable sites which are suitable and available (NPPF paragraph 24) for the proposed development.
- 5.9.10 The technical aspects of the impact assessment are considered in the RTP report. RTP conclude that there is both a qualitative and a quantitative need for the floorspace proposed (paragraphs 3.49 and 3.50).
- 5.9.11 RTP report that the majority of the new store's trade will be drawn from other large convenience stores outside the proposed store's catchment area (paragraph 4.8). These are the stores where the majority of residents in the catchment area are currently doing their supermarket shopping.
- 5.9.12 The assessed percentage reductions to these store's turnover is set out in the table below:

<b>Stores Outside Catchment Area</b>	<b>Location</b>	<b>% impact on turnover @ 2016</b>
Morrisons Maidstone	Out of centre	10%
Sainburys Maidstone	In centre	10%
Tesco, Grove Green	In centre	9%
Tesco Tovil	Out of centre	9%
Tesco Tenterden	Edge of centre	9%
Waitrose,	In centre	5%

Paddock Wood		
--------------	--	--

Table 3 (impact of turnover)

5.9.13 RTP is unable to assess the significance of these changes to these stores' turnover in the absence of information on benchmark turnovers. RTP do conclude "we are not aware of any evidence, however, that any of these stores will close post impact." (paragraph 4.15).

5.9.14 In terms of the stores within the catchment area, these are smaller, convenience-type shops. The applicants propose that only 6% of the proposed Sainsbury's turnover will be diverted from stores within the catchment area.

5.9.15 The assessed percentage reductions are set out below:

<b>Stores Inside Catchment Area</b>	<b>% impact on turnover @ 2013</b>	<b>% impact on turnover @ 2016</b>
Co op Cranbrook	6.7%	6.13%
Sainsbury's Local Headcorn	7.28%	6.72%
Staplehurst centre	5.76%	5.2%

Table 4 (impact upon turnover) [taken from WYG Table 8]

5.9.16 RTP notes that "both the Sainsbury's Local and the Co-op are currently under-trading and this will be exacerbated by 2016 if the new store opens" (paragraph 4.16). RTP states that impacts of 5 – 7% are 'fairly high for small stores' (paragraph 4.30).

5.9.17 The key test in the NPPF is the second of those listed above; the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to 5 years from when the application is made.

5.9.18 It is clear that the proposal will have an impact on town centre trade, specifically on the identified stores in Staplehurst, Headcorn and Cranbrook centres as well as on the larger stores beyond the catchment. RTP conclude that there will be an impact on Headcorn and Cranbrook centres because of the

reduced foodstore turnover and the reduced potential for linked trips, although there is no evidence that these store will close as a consequence of the proposed Sainsbury's store opening (paragraph 4.22).

- 5.9.19 The NPPF test refers to impact on trade in the town centre *and wider area*. RTP's critique highlights impact on a number of larger stores, some of which are in centre and some edge or out of centre. There is no available evidence at this point that stores will close as a result.
- 5.9.20 With respect to Staplehurst centre, RTP conclude "in our opinion, the proposal will reduce the vitality and viability of Staplehurst [town] centre slightly. The shops will still be trading at around benchmark levels however and there is currently a low vacancy rate, indicating that the centre is not fragile or vulnerable. The proposal will improve consumer choice and the range and quality of the convenience offer" (paragraph 4.23).
- 5.9.21 The provision of a new foodstore at this location is acknowledged to be likely to result in more sustainable shopping patterns, and will also provide greater choice for the existing residents. It will however, be likely to result in less linked trips to Maidstone, which is unfortunate. There is also the possibility that some residents of southern Maidstone (i.e. the Coxheath/Linton/Loose Road areas) may consider the offer more desirable in Staplehurst by virtue of less traffic congestion. I consider it to be unlikely that the draw in this respect will be significant – as the car park is not of an excessive scale, and the offer in the store, due to its size would be significantly more limited than the existing stores within Maidstone. Nonetheless, I consider the benefits of providing a store at this location to outweigh any potential harm of less linked trips.
- 5.9.22 The applicants were also asked to complete a cumulative impact assessment of the proposals, should both this application, and application MA/12/0232 be permitted. This work demonstrated that whilst there would be a slightly larger impact of two stores being provided, these would effectively take trade from one another rather than from alternative stores, or the existing village centre. This 'cannibalisation' of trade would occur as the two stores would provide a similar offer, rather than an offer that a store twice the size would provide – so it is likely that shoppers would use one or the other for their weekly shop. The size of the proposed individual stores would dictate the draw that they had – not the overall size of the offer. Both applicants demonstrated a similar impact should both proposals be built.
- 5.9.23 I am therefore satisfied that this proposal could be provided without any significant adverse impact upon the existing retail centres within the catchment area. Whilst there would be some impact upon the existing stores outside of the catchment area, the overall benefits of this proposal, which include more

sustainable patterns of shopping, and the jobs created would outweigh any harm that might occur to these existing facilities. There is no indication that any existing retailers would close post impact in any event. Neither is there any evidence to suggest that there will be any significant adverse impact on any existing, committed or planned investment in any centre. I therefore conclude that this proposal is acceptable in terms of the NPPF and the existing retail policies within the Development Plan.

## **5.10 Residential Amenity**

- 5.10.1 The proposed building would be located approximately 40metres from the nearest residential properties, which would be further than the existing buildings within the application site. However, clearly the use of the car park would be significantly more intense than the existing use, and would be for a longer period of time during each day.
- 5.10.2 It is proposed that the hours of opening of the store would be between 8am and 10pm Monday to Fridays, 8am to 10pm on Saturdays, and either 10am to 4pm or 11am to 5pm on Sundays.
- 5.10.3 I am satisfied that these hours of opening, whilst relatively extensive would not give rise to any significant impact in terms of residential amenity – through noise and disturbance and light impact. It has been requested that the applicants close the car park off outside of the opening hours to ensure that unsociable behaviour does not occur within the site to the detriment of the residential amenities of the neighbouring occupiers.
- 5.10.4 I consider that the proposal would give rise to an increase of noise and disturbance to the occupants of these properties, however, this would not be to a level that would be considered unacceptable. I am also mindful that the existing buildings have few restrictions on hours of operation and could be used in a more intensive manner.
- 5.10.5 With regards to the loading yard, this would be located away from residential properties, and as such would have little impact, despite the longer operational hours permitted. Due to its orientation away from these residential properties, the physical barriers proposed and the distance (some 100metres) I consider there to be no significant impact upon these properties.
- 5.10.6 I am therefore satisfied that this proposal would not give rise to an unacceptable impact upon the amenities of the neighbouring occupiers.

## **5.11 Highways**

- 5.11.1 The proposed development would see the creation of a new access point, served from the A229, into the application site by means of a new roundabout. Significant concern has been raised with regards to this access point, in particular with regards to increased congestion and the potential for conflict with residents entering and leaving their property.
- 5.11.2 The application is supported with a Transport Assessment (TA) which has been assessed by Kent Highway Services (herein referred to as KCC Highways). In addition to this, a cumulative impact assessment has been submitted (July 2012) that demonstrates the impact of both supermarkets being constructed.
- 5.11.3 In terms of the access into the site, whilst concern has been raised within a number of letters about the provision of a small roundabout, this has been fully assessed by Kent Highway Services, who concur with the applicant's statement that the roundabout would not give rise to any highway safety concerns, or significant congestion. Modelling has been undertaken, and the correct safety audits compiled. The reports demonstrate that whilst the roundabout would slow traffic at this point, and there may be some slight delays should a bus be stationary at the nearby bus stop, this would not cause a highway safety concern, and on this basis no objections are raised. The applicants did assess whether it would be more appropriate to provide traffic signals at the access, but due to the lack of space, and the need to provide a filter lane, this was not possible to provide. This access was also assessed should both applications be approved and constructed, and again, was considered to be safe.
- 5.11.4 The supermarket would be serviced from an access within Station Approach – the point of access being approximately 100metres from the junction with the A229. This is considered a safe distance from this junction. Internally, the applicant has provided reassurance to KCC Highways that the geometry of the service yard is sufficient to accommodate the likely turning and parking requirements for the store. A condition is recommended requiring the areas shown for the turning and parking of vehicles to be kept available for this purpose at all times.
- 5.11.5 In terms of parking numbers within the customer car park, during pre-application discussions a balance was sought between the need to provide a sufficient number, but also to ensure that the car park was not of a scale that would see the proposal become an 'easy alternative' to shopping within Maidstone, particularly for those who reside in areas such as Linton, Coxheath or Loose – as this would effectively undermine the sustainability argument put forward as part justification for this development. It was therefore agreed that



the numbers put forward at this point in time demonstrated the 'correct balance' between providing a suitable number, but also, not over-providing.

- 5.11.6 The applicant has agreed to provide a car parking management plan, should planning permission be granted. Due to the proximity of the site to Staplehurst Station, there would be an obvious concern that commuters would otherwise utilise the car park during the day, resulting in an under-provision of car parking spaces for shoppers.
- 5.11.7 The Transport Assessment that accompanies the planning application has been modelled as per the scoping discussions which took place between the applicant's highway engineer and KCC Highways. A draft travel plan has also been submitted to encourage staff and customer travel to the store by more sustainable means wherever possible. The travel plan would form part of the planning obligation, and would be monitored by KCC Highways.
- 5.11.8 To promote other modes of transport, as an alternative to the private motor car, the applicants are proposing a series of highway improvements and financial contributions which would include:
- The provision of new bus stops and seating, together with the provision of 'real time' bus information;
  - A new pedestrian crossing across the A229 to the south of the store;
  - Cycle stands at the store;
  - A travel plan, and a contribution towards its monitoring;
  - The provision of a free bus to and from the application site to the surrounding rural area.
- 5.11.9 I consider these proposed enhancements to contribute significantly to the development, and would encourage those using the store to travel by other, more sustainable means. The majority of weekly shops are still likely to be undertaken by car (by the nature of the volume of products bought), however, for those without access to a car, or for those who would visit the store more frequently, there would be suitable alternatives, enhanced by this proposal, should they wish to use them.
- 5.11.10 I am therefore satisfied that the proposal would not result in any risk to highway safety, should either the proposal be brought forward by itself, or whether a further supermarket was provided. I therefore see no reason to object on these grounds.

## **5.12 Landscaping**

- 5.12.1 The applicants have submitted a full landscaping scheme with the proposal.

- 5.12.2 The landscaping proposed within the development would not significantly soften the proposed building, due to its location on the corner of the highway. However, it is proposed that tree planting be provided on either side of the access which would frame the entrance, and also soften the impact upon the neighbouring properties.
- 5.12.3 Within the site tree planting is proposed along the western boundary of the application site, and I would also suggest it appropriate to incorporate a hedge along this boundary to further soften the impact of the proposal, and to enhance the appearance, and opportunities for biodiversity.
- 5.12.4 Whilst the application site is limited in terms of space around the car parking area, the applicant has demonstrated that clusters of tree planting can be provided along the south-western boundary which would soften the proposal in relation to the residents of these neighbouring dwellings.
- 5.12.5 Along the western boundary of the application site trees and hedges are proposed to again retain the soft character that the existing residential properties currently enjoy.
- 5.12.6 The applicants have not indicated the species proposed within the site, however, I consider it important that indigenous species be included within the planting, particularly with regards to the tree planting. I have therefore worded a suggested condition accordingly. I am satisfied that the landscaping proposed would be of a sufficient level to enhance the current situation, and also to respond positively to the new development. I therefore raise no objections on these grounds.

### **5.13 S106 Contributions**

- 5.13.1 The applicant has submitted a draft S106 agreement following discussions with the Authority. Any request for contributions needs to be scrutinised, in accordance with Regulation 122 of Community Infrastructure Regulations 2010. These stipulate that an obligation can only be a reason for granting planning permission if it meets the following requirements: -

It is:

- (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.

5.13.2 The applicant is proposing the following items as part of an overarching package that would be provided to mitigate against the impact to the village centre (and surrounding area). The proposals are:

- The completion of the factory building prior to the occupation of the supermarket.
- The provision of a community bus that would serve the local area (a copy of the proposed route is attached to the draft S106 agreement). This bus would serve the villages of Staplehurst, Marden, and surrounding area and would be provided for a minimum of 5 years.
- A contribution of £50,000 for enhancements to the village centre of Staplehurst. These enhancements are proposed to be the provision of new paving, benches, and signage which will be agreed with the existing landowners, Parish Council and the Local Planning Authority should permission be granted.
- A contribution towards the County Council's costs in monitoring compliance with the Travel Plan (£5,000).

5.13.3 In terms of whether these proposals meet the test as set out above, I consider the provision of a community bus to be of significant benefit. Part of the overriding justification for this development is the lack of facilities within the locality, and the provision of a bus of this nature would further improve accessibility to both the store, and the village centre itself. I therefore consider that this proposal is part of a number of measures required to make this proposal acceptable in planning terms, is clearly directly related to the development, and is fair and reasonable in kind. This element of the proposal is therefore in accordance with the CIL regulations as set out above.

5.13.4 With regards to the provision of a contribution of £50,000 towards the enhancement of the village centre. It has been agreed that in order to make the existing offer more attractive, and to therefore mitigate this proposal to a certain extent, it is necessary to see such a provision. It is noted that 'The Parade' is privately owned land, however, the applicants have agreed to work with both the Parish Council and the owners (if possible) to provide suitable enhancements to the public realm within the vicinity of this shopping area. An appraisal of the site, and the possible opportunities has been provided to the Authority which highlight improvements to pavements, signage and seating that could be undertaken, as well as enhancements to soft landscaping. I consider that the sum proposed is reasonable, and I also consider that the enhancements proposed to relate to the provision of extra retail floorspace within the locality. I therefore consider this element of the proposal to be in accordance with the CIL regulations as set out above.

- 5.13.5 It is noted that the applicants for application MA/12/0232 have now submitted their proposed Heads of Terms which suggests the provision of £100,000 towards village improvements. Whilst this is clearly a larger amount, with more work therefore able to be undertaken, I remain of the opinion that the contribution of £50,000 is adequate to enhance the village centre and to mitigate the impact of the proposal.
- 5.13.6 With regards to the erection of the factory building prior to the occupation of the supermarket – due to the allocation of the land within the Local Plan, the local planning authority is required to be satisfied that this existing facility would be maintained (or enhanced) should permission be granted. Clearly the retention of these jobs is of significance, and as such I consider this requirement of the S106 agreement to be necessary, and related to the development. I consider this requirement meets the tests of the CIL regulations.

## **5.14 Sustainability**

- 5.14.1 The applicant has submitted information with regards to the sustainable elements of the construction of the new supermarket. As an overall 'headline' the store would achieve a 'very good' BREEAM rating, but in order to achieve this, the following features are to be incorporated:
- Rainwater harvesting will be incorporated to flush public and staff toilets;
  - Cold air is to be removed from the chiller aisles and utilised to cool the glazed areas of the store. There would be doors on the cabinets and freezers;
  - A heat transfer system would cool office areas with air from the chiller aisle;
  - Natural ventilation within the building would be utilised where feasibly;
  - The use of natural light would also be utilised where feasible.
- 5.14.2 I am satisfied that the proposal would represent a good standard of design, and the suitable sustainable construction techniques, and future management would be utilised within the building. I therefore consider that the proposal would comply with the requirement of the NPPF in this respect.

## **5.15 Other Matters**

- 5.15.1 Consideration has been given to the proposal in relation to light nuisance. The car park is set behind existing residential properties, and as such, it is important to ensure that there is no significant nuisance caused to these occupiers by the lighting.

5.15.2 In terms of ecology the application site is previously developed land, with the majority of the site either containing existing built form or hardstanding. I do not consider that the proposal would provide any habitat for any significant ecology as a result. Nevertheless, the applicants have submitted an appraisal of the existing buildings which again shows limited potential for bats, or breeding birds (due to the activity within the buildings) and as such I see no reason to object to this proposal on this basis.

## **5.16 Public Representations on the Application**

5.16.1 As indicated within the 'Representation' section above, a significant number of representations have been submitted, with the majority indicating support for the proposal. Responses to consultation need to be taken into account in reaching a decision on the application.

5.16.2 It is noted that the similar application MA/12/0232 has received more letters of support than this application, with a number of pro-forma responses received, as well as a petition.

5.16.3 Nonetheless, there is significant support for this proposal, as can be seen from the volume of responses received – although I am also minded that there are some letters of objection, particularly from neighbouring properties concerned about the impact upon their amenity.

## **5.17 Side-by-side analysis of main aspects of Tesco Scheme and Sainsbury's Scheme**

5.17.1 This analysis is intended to aid members in their understanding of the applications but reference to, at least, the full reports on each scheme is essential as this is not an exhaustive list. A knowledge by Members of the elements, layout, elevations, proposed landscaping and siting of each scheme is assumed as well as an appreciation of the suggested conditions, highway and public transport improvements and headings of a s.106 agreement.

5.17.2 The retail floor space of each scheme is broadly similar. Both schemes would provide a similar retail offer. The Council's retail consultants indicate that there is a quantitative and qualitative need for the type and floorspace of shopping to be provided by each scheme.

5.17.3 Both schemes are likely to lead to a more sustainable pattern of food shopping in terms of converting food shopping trips by Staplehurst residents from more distant supermarkets such as within Maidstone.

- 5.17.4 Both schemes are likely to provide a similar number of jobs and to provide an injection of investment into the economy, welcomed by the Government in its 2011 growth agenda.
- 5.17.5 Both schemes would have some impact on the stores in Staplehurst but both schemes are proposing highway-related enhancements and enhancements to the public realm which would to some extent mitigate those impacts.
- 5.17.6 Neither scheme would harm the vitality or viability of Staplehurst town centre or any other centre. If both schemes proceeded (which is unlikely) then they would be likely to take trade from one another rather than unduly harm the vitality or viability of Staplehurst town centre or another centre.
- 5.17.7 The Sainsbury scheme is wholly within the settlement boundary of Staplehurst as shown in the Local Plan. The Tesco scheme is substantially but not wholly outside that settlement boundary. The Tesco scheme involves development of land to the north of the railway line which is wholly outside the settlement boundary.
- 5.17.8 The Tesco scheme is in part on greenfield land and the Sainsbury scheme is wholly on previously developed land.
- 5.17.9 The Tesco scheme is physically closer to the railway station than the Sainsbury scheme.
- 5.17.10 The Sainsbury scheme is physically closer to the town centre of Staplehurst than the Tesco scheme.
- 5.17.11 The Sainsbury scheme is physically closer to the majority of housing within the Staplehurst settlement.
- 5.17.12 The Tesco scheme includes a petrol filling station and the Sainsbury's scheme does not. Each scheme has a cafe.
- 5.17.13 Sainsburys scheme includes parking for 171 cars, cycle parking, new bus stops, a taxi pick up point, new pedestrian crossing and a small roundabout.
- 5.17.14 The Tesco scheme includes cycle parking, parking for 235 customer cars at the foodstore and 660 cars at the new station car park to the north of the railway line. It also proposes a station car park to the south of the railway line with a new station drop off arrangement with some short and long stay parking adjacent to it, and the drop off arrangement would include a bus and taxi pick up area. The scheme would provide a puffin crossing and other pedestrian crossing facilities. The Tesco scheme would include traffic signals controlling

flows into and out of Station Approach. The Tesco scheme would provide improvements that are sought for Staplehurst that are in the draft Integrated Transport Strategy.

- 5.17.15 The Tesco scheme would provide real time bus information, turning areas, enhanced/widened pavement areas and the new bus arrangement would be situated close to the station building entrance.
- 5.17.16 The Officer Reports in relation to each scheme consider that the Tesco scheme is in conflict with Local Plan policy ENV 28 (development in the countryside) and that the Sainsbury scheme is in conflict with Local Plan policy ED2 (land in employment use). The full reports must be referred to.
- 5.17.17 Sainsburys scheme would involve the demolition of two DK Holdings buildings and a GMS building (B8). The GMS business is coming to an end and the operator is closing down the company irrespective of the Sainsbury scheme. A purpose built factory for DK Holdings on an adjacent site has planning permission and would be erected prior to the operation of a Sainsbury supermarket.
- 5.17.18 The Sainsbury scheme would involve the loss of about 3360 sqm of class B floor space in a location which the Local Plan identifies as an existing area of economic activity/ an area with planning consent for economic development.
- 5.17.19 Sainsburys scheme will enable DK Holdings to operate from modern purpose built premises enabling them to consolidate their operations to become more efficient and expand.
- 5.17.20 The Tesco scheme involves the loss of ecological habitat. The Sainsbury scheme does not. The Tesco scheme offers ecological mitigation.
- 5.17.21 As to matters which would be secured by s.106 agreement or by highway agreement, the full reports must be referred to. Of particular note are:
- Tesco scheme offering £70,000 towards village improvements.
  - Sainsbury's scheme offering £50,000 towards village improvements.
  - Sainsbury's scheme would provide a free shuttle bus service for customers for a minimum of five years serving the local area.
  - Tesco scheme proposing to operate community bus.
  - Sainsbury scheme providing new bus stops and real time information and a new pedestrian crossing.

## **6. Balance of Considerations**

- 6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the determination of the application is to be made in accordance with the Development Plan insofar as it is material to the application unless other material considerations indicate otherwise.
- 6.2 In considering the main planning issues relating to the proposed development it has been demonstrated that the design, highways and environmental matters have been satisfactorily resolved, subject to the mitigation measures proposed and secured through the S106 legal agreement and conditions. Therefore the principal issues for consideration by Members relates to the land designation, and whether it is acceptable to depart from the Development Plan, and the impact that the proposal would have on the village and outlying areas (including neighbouring towns/villages).
- 6.3 On the first of these two issues, the proposed supermarket would be constructed on a site that is allocated for employment development by the adopted Maidstone Borough Wide Local Plan. As such, the development would represent a departure from the provisions of Local Plan Policy ED2. It is not by itself considered that the application is of a scale however that would be required to be referred to the Secretary of State, but the amount of floorspace aggregated with that proposed under application (MA/12/0232) does require the referral of both applications under the Town and Country Planning Act (Consultation) (England) Direction 2009. Furthermore, there are existing business uses on this application site that would have to be relocated should this proposal receive the benefit of planning permission (the B8 use is understood to be closing down in any event). However, an application has been submitted alongside this proposal that would see a new premise for this company (and indeed an enhancement upon their existing premises) delivered prior to the delivery of the supermarket, and this application has now been approved. This new industrial unit would be built on allocated, but undeveloped land adjacent to their existing site. The question that needs full consideration is therefore - is there overriding justification to allow for this employment land to be lost at this point in time?
- 6.4 I have explained in the section of the report dealing with the employment allocation that I consider there to be persuasive grounds to see the release of this land for an alternative use, within this sustainable location. There would also be a significant number of jobs created should this proposal be permitted, and the proposal would have other benefits in terms of more choice for the residents, and a more sustainable pattern of shopping taking place.



- 6.5 The delivery of prosperity and economic development is a key Council objective and I am of the opinion that this proposal would accord with this aim within the short to medium term. However, the impact upon the existing businesses within the village and surrounding area needs to be considered with some caution. Businesses begin and cease trading for many reasons and competition should not be restricted through the planning system unless there are very good policy based reasons to do so. The provision of a supermarket of this scale will significantly alter Staplehurst's retail offer, drawing in shoppers from a wider area. The applicants have demonstrated that the development would not have a significant impact upon the existing retail offer, either within the existing settlement, or within the wider catchment area.
- 6.6 Any impacts arising from the proposed development would be further mitigated via the completion of a suitable legal agreement and the use of appropriate planning conditions.
- 6.7 It is necessary therefore to accord weight to the benefits and dis-benefits of the scheme and to assess whether or not the balance is in favour of the grant of planning permission or the refusal of planning permission. In particular, I consider the loss of the B1/B2 employment land to be acceptable. My reasons are referred to in the sections dealing with the allocation and policy ED2 above. I am also mindful of the benefits that are likely to flow from DK Holdings having a purpose-built factory, which are referred to by Maidstone's Economic Development team. I also take the view that the new building would enhance the appearance of the streetscene at this gateway into and out of the village. I also consider that the provision of a new foodstore at this location is acknowledged to be likely to result in more sustainable shopping patterns, and will also provide greater choice for the existing residents. I acknowledge that there is an application on the adjacent land to the north (MA/12/0232) which would be likely to also bring greater retail choice for existing residents and would result in more sustainable food shopping patterns in this part of Kent. In my view, neither scheme is likely to bring overall retail harm and so I view each scheme as resulting in an absence of harm in relation to this factor. Overall therefore, the dis-benefits of the current scheme are clearly outweighed by the benefits it would bring and I consider that planning permission should be granted. Accordingly, having due regard to the provisions of the Development Plan, and to all other material considerations, insofar as they are applicable to the proposals, the application is recommended for approval, subject to the receipt of a suitable S106 legal agreement and the imposition of suitable safeguarding conditions.

## **7. RECOMMENDATION**

7.1 The Head of Planning be given delegated powers to approved subject to the receipt of a suitable S016 legal agreement that provides the following:

- 1) The factory building for DK Holdings as permitted under MA/11/1943 shall be constructed prior to the occupation of the supermarket;
- 2) A contribution of £50,000 for the enhancement of the village centre of Staplehurst;
- 3) The provision of a community bus that would serve the locality (including nearby villages);
- 4) A contribution towards the County Council's costs in monitoring compliance with the Travel Plan (£5,000).

And 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 (which shall include, timber cladding and metal cladding) to be used in the construction of the external surfaces of the building 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 the National Planning Policy Framework 2012.

3. The net floorspace of the store hereby permitted shall not exceed 1,784sq metres net of which no more than 1,400 sq metres net shall be used for the sale of convenience goods and no more than 500 sq metres shall be used for the sale of comparison goods.

Reason: To define the permission and to ensure that any impact upon the village centre and surrounding villages is controlled in line with the National Planning Policy Framework (2012).

4. The use hereby permitted shall only open to customers within the following times:

8am to 10pm Monday to Saturday and either 10am to 4pm or 11am to 5pm on Sunday.

Reason: To protect the amenities of the neighbouring occupiers, in accordance with the National Planning Policy Framework (2012).

5. No deliveries or loading/unloading shall take place at the superstore between the hours of 00.00 and 05.00 hours.

Reason: In the interests of the amenities of the neighbouring occupiers in accordance with the National Planning Policy Framework (2012).

6. No plant or equipment shall be erected on the roofs of any of the buildings hereby permitted.

Reason: In the interests of visual amenity and good design in accordance with the National Planning Policy Framework (2012).

7. Details of all external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of the development. This information shall include a layout plan with beam orientation and a scheme of equipment in the design (luminaire, type, mounting height, aiming angle and luminaire profiles). This scheme shall include a schedule of proposed hours of use for the different components of the submitted light scheme. The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to any variation.

Reason: To protect the appearance of the area, the environment and local residents from light pollution, in accordance with Policy ENV49 of the Maidstone Borough Wide Local Plan 2000.

8. 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 pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

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

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety pursuant to policy T13 of the Maidstone Borough-wide Local Plan 2000.

10. Prior to the first occupation of any part of the development hereby permitted, a Business Travel Plan which shall include measures for its implementation, monitoring, review and subsequent enforcement, shall be submitted to and approved by the local planning authority in consultation with the highway authority and shall thereafter implemented in accordance with the details of the plan upon first occupation of any part of the development.

Reason: In the interests of sustainability pursuant to policy T5 of the South East Plan 2009.

11. The development shall not commence until a detailed car park management plan has been submitted to and approved by the local planning authority. The subsequently approved plan shall be implemented prior to the first occupation of any part of the development and shall be maintained thereafter unless otherwise agreed in writing by the local planning authority;

Reason: In the interests of highway and pedestrian safety and to prevent parking inconsiderate to other road users pursuant to policy T13 of the Maidstone Borough-Wide Local Plan 2000.

12. Prior to the first occupation of any part of the development hereby permitted, details of a maintenance programme for maintaining the external appearance of the buildings shall be submitted to and approved by the Local Planning Authority. The programme shall thereafter be implemented in accordance with the subsequently approved details.

Reason; To maintain and preserve the character and appearance of the buildings in the interests of the visual amenities and character of the area pursuant to policies CC1 and CC6 of the South East Plan 2009.

13. The development shall not commence until:

1. Approved remediation works for contamination previously identified on the site have been carried out in full on site under a Quality Assurance scheme to demonstrate compliance with details of the previously approved methodology for undertaking the works. If during any works, contamination is identified which has not previously been identified, additional Contamination Proposals shall be submitted to and approved by, the local planning authority.

2. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved methodology. The closure report shall include details of any post remediation sampling and analysis together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Reason: To prevent harm to human health and pollution of the environment pursuant to PPS23.

14. 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 development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To ensure a satisfactory means of drainage to the site pursuant to policies NRM2 and NRM4 of the South East Plan 2009.

15. The retail unit shall achieve at least a Very Good BREEAM Retail rating. The unit shall not be occupied until a final certificate has been issued for it certifying that at least a Very Good BREEAM Retail rating has been achieved.

Reason: to ensure a sustainable and energy efficient form of development in accordance with Kent Design and the National Planning Policy Framework and policy CC4 of the South East Plan 2009.

16. Notwithstanding the details shown on the submitted plans, the development shall not commence until a detailed landscaping scheme has been submitted to and approved by the local planning authority. The submitted details shall include:-

- (i) The planting of indigenous species within the car park wherever possible;
- (ii) The provision of knee railings adjacent to the parking bays adjacent to the

landscaped beds;

(iii) The provision of a native hedge and tree planting along the western boundary of the application site.

Reason: In the interest of visual amenity and to ensure a satisfactory setting and external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

17. No occupation of the development hereby permitted shall take place until improved bus stops (including 'real time' bus information) have been provided on both the north bound and south bound sections of the A229. Precise details of these bus stops shall be submitted to the Local Planning Authority and approved in writing prior to works being undertaken.

Reason: In the interests of sustainable modes of transport in accordance with the NPPF.

18. No development shall take place until details of the cycle storage facilities have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable travel in accordance with the National Planning Policy Framework (2012).

19. No development shall take place until the applicant has secured and had implemented a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority;

Reason: To enable the recording of any items of historical or archaeological interest in accordance with the National Planning Policy Framework (2012).

20. The proposed development shall include the provision of heavy duty curtains to the loading bays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that noise from the store is minimised, in the interests of residential amenity in accordance with the National Planning Policy Framework (2012).

21. Details of how the car park will be closed to the general public outside of store opening hours shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the residential amenity of neighbouring occupiers is maintained in accordance with National Planning Policy Framework (2012).

22. The development shall not commence until, details of all fencing, walling and other boundary treatments (which shall include a ragstone wall) 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 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 the National Planning Policy Framework (2012).

23. The development shall not commence until, details of the proposed slab levels of the building and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site in accordance with the National Planning Policy Framework (2012).

24. No development shall take place until details of how the management of the supermarket trolleys will be undertaken to ensure that they are not removed from the application site have been submitted to, and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity within the village, in accordance with the National Planning Policy Framework (2012).

25. There shall be no external amplified sound within the car park or service yard of the development hereby permitted;

Reason: in the interests of protecting the amenities of nearby residential property, in accordance with the National Planning Policy Framework 2012.

### **Informatives set out below**

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](http://www.considerateconstructorsscheme.org.uk)

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 Street James House, 39A Southgate Street, Winchester, SO23 9EH.

Where it is proposed to store more than 200 litres (45 gallon drum = 205litres) of any type of oil on site it must be stored in accordance with the Control of Pollution (oil storage) (England) Regulations 2001. Drums and barrels can be kept in drip trays if the drip tray is capable of retaining 25% of the total capacity of all oil stored.

Care should be taken during and after construction to ensure that all fuels, oils and any other potentially contaminating materials should be stored (for example in bunded areas secured from public access) so as to prevent accidental/unauthorised discharge to ground. The areas for storage should not drain to any surface water system.

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.

No construction 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.

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.

As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by, the local planning authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

You are advised that if during the course of development protected species are found on site, all works should cease until appropriate mitigation works have been agreed and any necessary licenses obtained in accordance with the requirements of The Wildlife and Countryside Act 1981 (as amended), The Natural Environment and Rural Communities Act 2006 (NERC Act) and The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010).



If site clearance works take place during the bird breeding season (March to August), such work should be undertaken in consultation with and under the supervision of a trained ecologist as it is an offence to disturb active nests and nesting birds.

### **Reason for Approval**

The proposed development does not conform with policy ED2 of the Development Plan however departure from that policy would be likely to result in only minor harm and it has been demonstrated that both Staplehurst and the wider area would see significant benefits, both in terms of sustainability through a reduction on the private motor car to make significant journeys for convenience shopping, and in terms of the provision of additional jobs within the village, I consider that there are overriding benefits to this proposal that allows for a departure from the Development Plan and outweighs any other perceived harm.

### **Appendix A**

#### **Suggested ground for refusal (should Members be minded to refuse the application).**

- a. The proposed development would see the loss of existing, occupied employment land, without any demonstration that the land is not required for such a purpose, thereby proving contrary to Policy ED2 of the Maidstone Borough Wide Local Plan (2000) and to the objectives of the National Planning Policy Framework (2012).

75



14. 11. 2012



76

14. 11. 2012





77

14. 11. 2012



78



14. 11. 2012

79



14. 11. 2012



08



14. 11. 2012





81

14. 11. 2012



82



14. 11. 2012



83

14. 11. 2012

# THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/2169

GRID REF: TQ7551

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



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 100019636, 2013. Scale 1:1250



**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: 10th January 2013

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 AND BACKGROUND**

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

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

- 2.1 Members may recall that this application was to be reported to Planning Committee on the 1 November 2012 but was withdrawn from the agenda following a request from the applicant in order to give further consideration to the Heads of Terms. This has been undertaken and is discussed in section 5.8 below.

### **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 50m<sup>2</sup>. 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 £22,050 being £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 The scheme does not meet the 15 unit threshold for the provision of affordable housing. However, the applicant is a registered social landlord and is one of the main providers of affordable housing in the Borough. The scheme is likely to provide a minimum of 8 units of affordable housing secured with the help of HCA funding that the Council would have nomination rights for. However, in order not to prejudice the value of the site in terms of securing future borrowing against the value of the site the applicant would not wish to enter a Section 106 agreement for a significant level of affordable housing on a site that does not meet the threshold of 15 units.
- 5.8.5 The applicant has submitted an appraisal undertaken by Page and Wells to RICS Red Book standards. The appraisal compares the difference between the full market rent and 80% market rent using a 6% discount rate (representing typical cost of finance). The conclusion of the appraisal is that the value of an affordable house (i.e. the difference between the value of a market rent property and an affordable rent property) is between £25,000 and £30,000. The Council's Housing and Communities Funding Manager has considered the appraisal and agrees with the findings. A copy of the appraisal is attached as an exempt appendix to this report.
- 5.8.6 The requested contributions from consultees total £40,605.41. There is justification submitted by these consultees for the requested contributions for all parties. However, the applicant has indicated that despite the fact that the scheme falls below the threshold for affordable housing they would be willing to secure a level of affordable housing as an alternative to the other contributions. The appraisal indicates that the comparable value of an affordable house is between £25,000 and £30,000 and this is accepted by the Council. As a result the proposal is to secure 2 dwellings as affordable through a Section 106 (a value of between £50,000 and £60,000) as an alternative to the total requested contributions of £40,605.41.
- 5.8.7 The joint number one priority (along with public open space provision) for securing through Section 106 agreements is affordable housing. It should also be noted that the site previously contained 24 bedsits, which would have generated need for healthcare facilities, open space and other community facilities. There has been a very limited level of provision of affordable units in within Loose village and this part of the Borough generally. As a result of these factors I consider that in this case it would be appropriate to secure 2 dwellings as affordable units through a Section 106 agreement in lieu of a request for other 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 2 units of 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) including a revised parking layout in proximity to the retained Oak tree adjacent to Holmesdale Close, which shall include details of all trees to be retained, any facilitation pruning required 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](http://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](http://www.southernwater.co.uk).

#### Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed.

The applicant/agent was provided with formal pre-application advice.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

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 no. 15**

**Page no. 69**

**Address: George Marsham House,  
Holmesdale Close, Loose**

**Reference no. MA/11/2169**

I would like to make an alteration in relation to paragraph 6.5 on page 83 of the agenda. This should not relate to the provision of 100% affordable housing but should relate to the fact that the Section 106 would secure two units of affordable housing in lieu of other contributions in accordance with the discussion in Section 5 'Heads of Terms'.

My recommendation remains unchanged.



106

14.08.2012

107

14.08.2012

108

14.08.2012





109

14.08.2012

110

14.08.2012

111

14.08.2012



112



14.08.2012

113

14.08.2012



114

14.08.2012

115

14.08.2012

116

14.08.2012

117

14.08.2012



118

14.08.2012

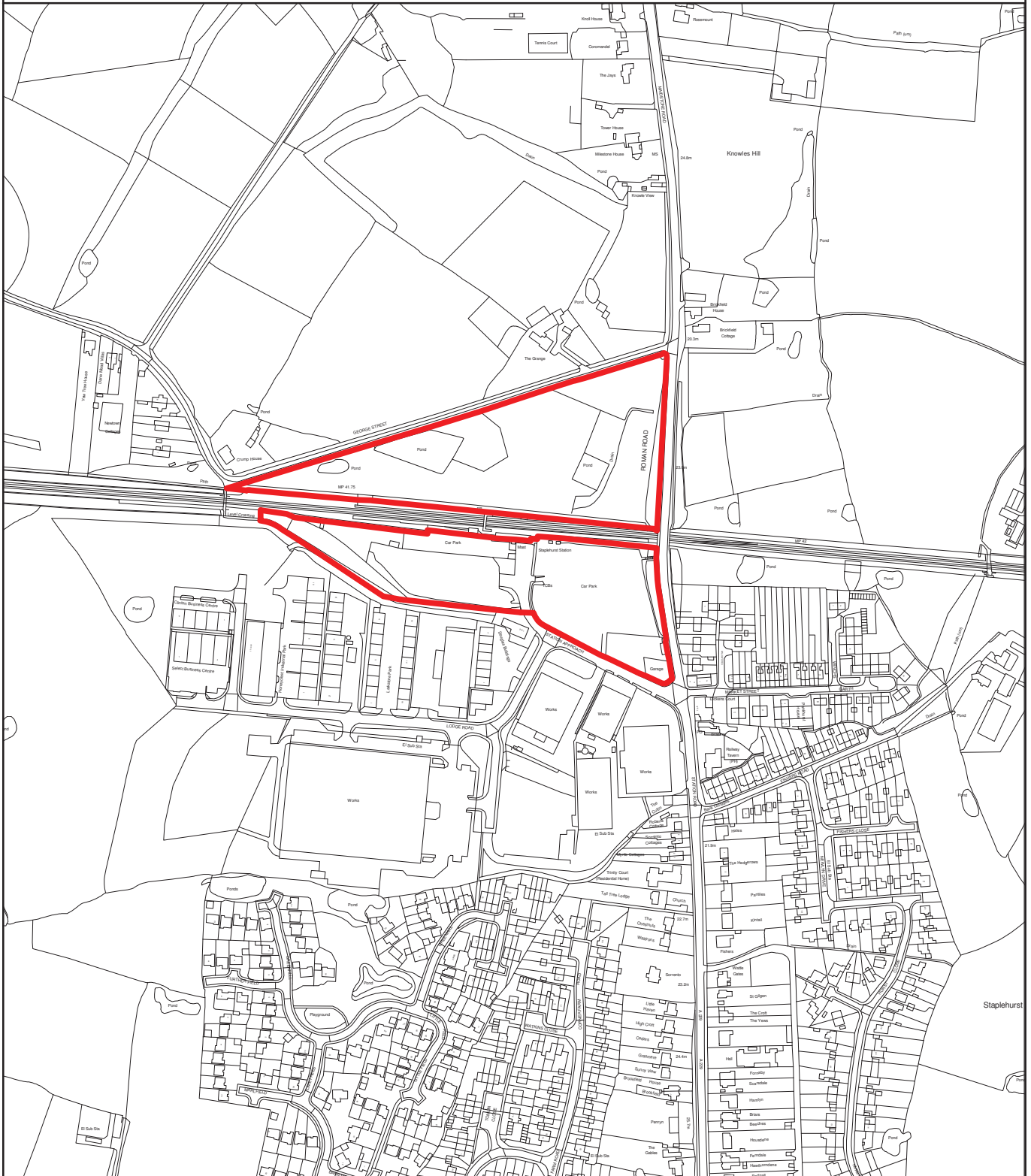
# Agenda Item 16

## THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/0232

GRID REF: TQ7844

LAND AT STATION APPROACH AND,  
GEORGE STREET, STAPLEHURST.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 100019636, 2013. Scale 1:5000



**Rob Jarman**  
Head of Planning

APPLICATION: MA/12/0232 Date: 10 February 2012 Received: 14 February 2012

APPLICANT: Tesco Stores Ltd

LOCATION: LAND AT STATION APPROACH AND, GEORGE STREET,  
STAPLEHURST, KENT

PARISH: Staplehurst

PROPOSAL: Erection of a class A1 retail store, associated parking and petrol filling station; transport interchange comprising bus and taxi drop-off/pick up facilities, 39 short stay railway station car parking spaces, and covered walkway to existing railway station building; and 660-space commuter car park and nature area the Phase 1 desk Study Environmental Assessment; Transport Assessment; Community Consultation Statement; Planning and Retail Statement; Flood Risk Assessment; Ecological Assessment; Interim Travel Plan; Landscape Supporting Statement; Design and Access Statement; site location plan; plan number 1674/P/09 A; 1674/P10 A; as received on 13 February 2012, plan number 1674/P/01 J; 1674/P/07 B; AA TPP 04; 1674/P/02 F; 1674/P/10 B; 1674/P/08 E; as received on 17 May 2012; Cumulative Impact Assessment (retail); Cumulative Impact Assessment (highways) as received on 7 September 2012, additional landscape and visual information submitted on the 13 December 2012, and draft Heads of Terms submitted on 17 December 2012.

AGENDA DATE: 10th January 2013

CASE OFFICER: Chris Hawkins

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

- Staplehurst Parish Council wish to see the application reported to Committee.
- If approved, it would be a departure from Policy ENV28 of the Development Plan.

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: T7, T13, ENV6, ENV28, ENV49
- South East Plan 2009: BE4, RE3
- Draft Core Strategy 2011: CS1, CS4, CS5, CS6, CS7, CS8
- Draft Integrated Transport Strategy (2012)

- National Planning Policy Framework 2012 (NPPF); Ministerial Planning for Growth Letter; Planning for Town Centres: Practice guidance on need, impact and the sequential approach (December 2009).

## 2. **HISTORY**

### **'Site A' – the eastern section of 'land to the north of the railway line'**

MA/97/1102	Application to vary condition 01 of MA/94/0960 to allow a further 3 years for the submission of detailed design and landscaping for the erection of a health centre (incorporating 6 squash courts, ponds and landscaping). Approved.
MA/97/0457	Variation of condition 01 attached to MA/94/0341 to allow a further period in which to commence the development originally permitted under MA/90/1627E. Approved.
MA/94/0960	Application under S73 of the Town & Country Planning Act 1990 to develop land without complying with conditions 1b & 2 of Outline Permission MA/91/0419E.
MA/94/0341	An application to carry out development permitted under MA/90/1627 E without compliance with condition 1 to allow a further time period in which to commence the development. Approved.
MA/91/0419	Outline Application for 2 storey squash and health club with car parking. Approved.
MA/90/1627	Change of use to open air recreation, tennis courts with landscaping. Refused. Allowed on Appeal.

### **'Site B' – the western section of 'land to the north of the railway line'**

MA/92/1374	Erection of stable block (portable building) for five horses. Approved.
MA/98/0443	Variation of condition 01 of planning permission reference MA/92/1374s to allow a further time period in which to commence the development of a stable block. Approved.

### **Site A and Site B – land to the north of the railway line**



MA/03/1232            Relocation of existing station user car park to provide 600 station user car park spaces, ticket machine, taxi office, waiting shelter, new platform access, enhanced landscaping, security lighting and associated highway improvements. Withdrawn.

Prior to being withdrawn the application was recommended for refusal on the following grounds:

- 1) *The proposal would involve development in the open countryside outside the extent of any settlement defined in the development plan and contrary to policies ENV1, RS1 & RS5 of the Kent Structure Plan 1996 and ENV28 of the Maidstone Borough-Wide Local Plan 2000.*
- 1) *The proposal would have a detrimental impact on the character and visual amenities of the area contrary to policies S2 & ENV1 of the Kent Structure Plan 1996 and ENV28 & ENV49 of the Maidstone Borough-Wide Local Plan 2000.*
- 2) *It is not considered that the full impact of the proposed development on nature conservation interests has been assessed. As such the development may have a detrimental impact on nature conservation interests contrary to policy ENV2 of the Kent Structure Plan 1996.*
- 3) *The design of the access road to the car park is detrimental to road safety and prejudicial to the free flow of traffic on George Street.*
- 4) *The proposal would be likely to have a detrimental impact on the amenity of nearby residential property by reason of noise and would therefore be contrary to policies ENV4 and ENV28 of the Maidstone Borough-Wide Local Plan 2000.*

#### **'Site C' – Existing Station Car Park**

MA/03/1282            Redevelopment of land to provide a foodstore with associated parking, transport interchange and highway improvements with means of access, siting and landscaping for consideration now, with external appearance and design reserved for future consideration. Withdrawn.

Prior to being withdrawn the application was recommended for refusal on the following grounds:

- 1) *The proposal would result in a large new convenience store for which it is not accepted that there is a demonstrated need and is likely to lead to adverse impact on the vitality and viability of nearby centres contrary to policies R1, R2, R10 and R15 of the Maidstone Borough Wide Local Plan and policies R1 and R2 of the Kent Structure Plan 1996.*
- 2) *The proposal would result in the loss of car parking facilities for the railway station requiring the provision of new facilities in the countryside detrimental to the character and appearance of the area and contrary to policies ENV28 of the Maidstone Borough-Wide Local Plan 2000 and ENV1, RS1 and RS5 of the Kent Structure Plan 1996;*
- 3) *The proposed layout is considered to be unsatisfactory and detrimental to the character and appearance of the area contrary to policy ENV2 of the Maidstone Borough-Wide Local Plan 2000 and policy ENV15 of the Kent Structure Plan 1996;*

\*It should be noted that the policy 'landscape' has altered since these applications were previously considered (although not determined). As such, any recommendation on this current application should be determined in accordance with the most recent government guidance and existing policy.

MA/96/1304            Outline application for demolition of existing garage and erection of new supermarket with means of access and siting to be determined. Approved.

MA/96/0694            Change of use of car park to open market on Sundays only between the hours of 0700 and 1500. Approved.

**'Site D' – Land to the West of the Station Car Park**

MA/08/0895            Stationing of portable office building for use as taxi booking office (Renewal of MA/03/0717). Approved.

MA/05/0836            An application for the prior approval of the local planning authority for the installation of a 15m high telecommunications mast, 6 No panel antennae, 1 No 600mm dish antenna, 1 No 300mm dish antenna, 3 No outdoor Vodafone equipment cabinets, a 2.1m high compound fence and other development ancillary there. Approved.

MA/03/0717            Stationing of portable office building for use as taxi booking office. Approved.

MA/96/0266	Stationing of portable office building. Approved.
MA/92/0035	Change of use from storage and distribution (B8) to retail (market use). Approved.
MA/86/2034	Change of use for siting of tarmac production plant. Approved.
MA/82/0680	Outline application for erection of small industrial units. Approved.
MA/76/1452	Outline application for residential development. Refused.

## **2.1 Planning History Considerations**

2.1.1 Whilst both the application for the car park and the foodstore were proposed to be refused, the applicants withdrew the applications prior to determination. Neither application was formally presented to Members, and as such are considered as an officer view (at that point in time). These proposed reasons for refusal therefore carry no weight in the determination of this application – they are included for background information only. Nonetheless, the similarities between the previous submissions and this application are noted.

## **3. CONSULTATIONS**

**3.1 Staplehurst Parish Council** were consulted and made the following comments on 14<sup>th</sup> March 2012:

3.1.1 'Having heard verbal submissions by members of the public over the previous two hours, Councillors then considered their recommendations to Maidstone Borough Council. The first proposal to approve the application in principle was not supported by a majority (4 voted to approve, 8 against, 1 abstention and 1 non-voter). It was considered that more work needed doing on the application, so would be safer to refuse it at present. A second proposal was then put by Councillor John Kelly, seconded by Councillor Sam Lain to recommend REFUSAL of the application. This proposal was carried by 10 voting for refusal of the application and 4 voted against the proposal. Councillors requested that this application be reported to MBC Planning Committee. The reasons for refusal were agreed as follows:-

- The proposal would result in a supermarket on land which would be a 'departure' from the development plan and the proposal in itself does not mitigate for that departure. The draft Core Strategy and the former

Borough-wide Local Plan do not show any development on this greenfield site, the railway boundary of which is a defined northern boundary to Staplehurst. Major development north of this boundary would encourage other development north of the village.

- The proposal would result in the loss of car parking facilities for the railway station requiring the provision of new facilities in the countryside detrimental to the character and appearance of the area.
- The proposal would result in substantial development taking place for the net gain of 10 formal car parking places but ignores additional informal car parking spaces currently available; this is deemed inadequate for future growth. It is considered that at least 800 spaces are required and feasible either south of the railway (by better use of space or on the proposed site by the applicant). Insufficient commuter parking would cause increased displacement parking in neighbouring roads and residential areas.
- The proposed layout is considered to be unsatisfactory and detrimental to the character and appearance of the area. There is insufficient detail of landscaping and screening. Removal of existing landscaping beside the London-bound platform near the proposed transport interchange is not welcome. No detail of the style and design of the proposed covered walkway from the transport interchange to the existing station.
- The scale of the store is considered to more than adequately serve the area and whilst many people want a supermarket; this proposal is considered to be too large for the needs of the area and is not sustainable with the current infrastructure. This assumes customers coming from other locations. This would have a detrimental impact on the feel and well-being of this rural location. The proposal would lead Staplehurst into becoming a transport and retail hub for the weald. The proposed scale of the development does not adequately promote a thriving, inclusive and locally distinctive rural community whilst continuing to protect the open countryside for the benefit of all (PPS4 EC15.1).
- The proposed new highway arrangements for Station Approach and George Street give great cause for concern. Egress from George Street southwards is considered difficult, unsafe and needs to be reconsidered. Paragraph CS7 of the draft Core Strategy states that development proposals must show how they do not create an increased risk to road safety. Insufficient detail is given for the siting and phasing of the traffic-light junction on the A229 with Station Approach, Market Street and nearby factory. The relationship of this junction with existing bus stops in Station Road is not made clear and the retention of bus stops on the A229 Station Road is considered

necessary. There are real concerns regarding highway safety and congestion that the proposals would create for A229 traffic through-put, commuters, shoppers, residents, commercial and delivery vehicles to/from the industrial estate. A major concern is the highway aspect, due to the agreed further expansion of the Lodge Road Industrial Estate (Ref: MA/09/0455 Drawing No DHA/6962/02). This will create a further 93,625 sq/ft (8,698sq/mtr). The proposed Tesco development is approx. 36,414 sq/f of retail unit only. (Tesco Montague Evans; Ref ED2 Page 6) This does not include the Petrol Station on Station approach. The new industrial units would be of a mixed usage scheme due to sizes, thus creating a large amount of movement from cars and lorries, in and out on a regular basis along a shared piece of common road. Station Approach will not be able to accommodate such volumes in the near future if the Tesco development takes place, even with the proposed traffic light system in place. PPS4 EC6.2/D refers. In addition traffic from the proposed North/commuter car park trying to access the Store and petrol station throughout the day, which will be exacerbated at peak times. This in turn could precipitate the industrial units not being let or sold therefore potentially hindering the expansion of job creation in the local community.

- The proposed new car park would be on a greenfield site north of the railway line which is of great concern for reasons of flooding and drainage. There is insufficient detail in the proposals and particularly the Pinnacle survey, was considered superficial for the drainage needs of the area which is low-lying. The water run-off into local ditches that feed into the river Beult (that has a history of flash flooding) will cause back up flooding of the site and along the path of the ditch as it flows as a tertiary river into the river Beult. No geological survey of the site was apparent.
- The Ecological solution for the newts is unacceptable – To be sited so close to the road bridge embankment and the car park itself, it was considered that road salt run off could cause problems for the newts. It would be better if the newts were moved elsewhere and additional commuter car parking provided (with suitable landscaping/screening). Relocation of the newts would make it possible to plant a dense tree belt between the car park and the top of the embankment.
- There was no pre-application meeting with the Parish or Maidstone Borough Councils which is a requirement as mentioned in the documentation.

3.1.2 Some Councillors were not opposed in principle to a retail development on Network Rail land south of the railway and noted that a number of members of the public favoured such a development. However, a majority of Councillors considered that the application as submitted did not adequately address the

serious concerns listed above. Nevertheless, if Maidstone Borough Council decided to approve the application, the following conditions and further research be carried out to mitigate the impact of the development:

- That the petrol station would not sell newspapers (to safeguard the viability of the existing local newsagents).
- Negotiations with Arriva take place with a view to improving the overall bus service and addressing the 1½ hour gap in service between 0800 & 0930 whilst extending the weekend service provision.
- Before the replacement station car park north of the railway is brought into use, Network Rail and/or the rail franchise operator shall provide rail and car park ticketing facilities on the north side of the railway/Ashford-bound platform.
- To research potential demand and future-proof the development by looking at the long-term impact of the proposal in all areas but mainly the traffic issues.
- In case the applicant's view (that there will not be any flooding problems in the commuter car park) proves to be wrong or miscalculated, there would need to be a mitigation provision that remedial works would be undertaken to deal with it, so that local residents wouldn't pay the price.
- Off-site improvement works to upgrade the existing footpaths and traffic-light crossroads (Marden and Headcorn Road – with motion sensors) to enable disabled people from Sobell Lodge to reach the Tesco store by themselves.
- No mezzanine floors to be added within the proposed building.
- Consult the local community on store and petrol filling station opening times.
- Signage should not project above the rooflines of any building.
- Improved landscaping or substantial shelter belt for the screening of both sites and bridge embankments, including details for the siting of acoustic fencing.
- Electric charging points in both car parks and at the store.
- That the new northern car park should be complete and fully open to users before any works are started on the existing three southern car parks.
- That consideration be given to the location of the bus stops in Station Road.
- Section 106 Agreement to be negotiated with the Parish Council with reference to its approved list (to be submitted with this response to MBC). Remove all references to S106 funding being spent on Network Rail Car park and Travel Plan.
- The store should sell primarily food with no pharmacy.
- Liaison with other businesses in Lodge Road should take place regarding delivery times to the store to reduce traffic conflicts and to minimise delays at the traffic lights caused by exiting Tesco customers.

- A free bus service to serve local villages such as Frittenden (that had no commercial bus service) would be appreciated.
- Light pollution concerns were expressed. It would be appreciated if the local impact of the commuter car park north of the railway in particular, could be checked and improved upon.
- Recycle Area to be re-sited to a place where it does not impact on traffic flows at entrance/exits to car park or petrol station and at a location where it can be suitably screened.
- Removal of the proposed Lorry Lay-By as there is no perceived need.
- The inclusion of cycle ways adjacent to footpaths and link up to neighbouring communities.
- The inclusion of traffic light sites on all plans.
- Consultation with Network Rail as to the implementation of a Clustered rail services/ticketing provision for Headcorn, Staplehurst and Marden.
- Review traffic management at George Street junction to include temporary/full time traffic light system or substantial roundabout.'

3.1.3 Further comments were received by the Parish on 1 June 2012, following the receipt of amended plans:

3.1.4 'Thank you for your letter dated 17<sup>th</sup> May with enclosures. Councillors have now considered the amended plans and made the following recommendation:

3.1.5 To recommend *refusal*, observing that the amended application did not materially change the first application and therefore all the original objections recorded by the Council remained. Please refer to this Council's letter dated 13<sup>th</sup> March 2012 for full details. Councillors requested that this application be reported to MBC Planning Committee.'

3.1.6 As Members are well aware, these are purely the comments of the Parish Council, which have not been influenced by the case officer. It is acknowledged that their views on this application may differ from that of the adjacent application (ref MA/11/1944). Whilst there are similarities between the two applications, the Parish Council are clearly entitled to come to a different conclusion on each should they wish.

**3.2 Maidstone Borough Council Landscape Officer** was consulted and made the following comments upon the application:

3.2.1 'There are no arboricultural constraints on this site in relation to Tree Preservation Orders, veteran trees or designated ancient woodland.

- 3.2.2 The three hedgerows (H1 to H3) identified within the applicant's ecological assessment are considered not to qualify as 'important' under the current criteria of the Hedgerows Regulations 1997.
- 3.2.3 The arboricultural assessment statement appended to the Landscape Supporting Statement produced by aspect landscape planning, January 2012, indicates that all trees on the site, with the exception of T70, fall into category C (trees of low quality and value). It is therefore very important that sufficient new structural planting is included in the landscape scheme to succeed these trees which generally would have a relatively short lifespan.
- 3.2.4 Whilst tree protection fencing is denoted on plan AA TPP 03 there is some inconsistency in terms of which trees are to be retained and removed, particularly in the area where bunding is proposed around the pond to the north of the site. A revised plan showing the location of tree protection is therefore required.
- 3.2.5 The detailing of the hard landscaping in conjunction with the new tree planting is very important, specifically to ensure trees are not damaged within areas of parking. I would suggest a strong form of vertical delineation, whether in the form of raised kerb edging or knee rails.
- 3.2.6 In my view the principles of the proposed landscaping are generally acceptable but a fully detailed hard and soft landscaping scheme should be required by condition to ensure the long term success of the scheme. The details should also include the provision of a maintenance specification and a long term management plan, specifically addressing the tree succession issues.
- 3.2.7 In conclusion, I **RAISE NO OBJECTION** to this application on landscape detail or arboricultural grounds and recommend pre-commencement conditions as detailed above.'

**3.3 Maidstone Borough Council Spatial Policy Team** were consulted and raised no objections to the proposal in so far as the impact upon the existing retail centres, but acknowledged the position of the site, being one within the open countryside. The details of their comments are provided within the main body of the report.

3.3.1 The comments identify the following matters are being of the principal planning policy issues:

- A. The application site lies substantially outside the limits of Staplehurst as defined in the Maidstone borough-wide Local Plan



- A. The availability of sequentially preferable alternative sites for the proposed supermarket
- B. The impact of the proposed supermarket on Staplehurst village centre and other identified retail centres

3.3.2 With regards to the first matter, the following comments were made:

3.3.3 'Apart from the showroom site at the corner of Station Approach and Station Road, the application site lies outside the limits of Staplehurst village as defined on the Local Plan proposals map. Outside these built limits, restrictive countryside policies apply with development generally limited to that requiring a countryside location (Policy ENV28).

3.3.4 To the south of the railway line the proposal is to redevelop the existing site to provide the store, store parking, station drop off facilities and short stay station parking. This part of the proposal is therefore a redevelopment of previously developed land and the NPPF directs that planning decisions should encourage the effective use of such land (paragraph 111). To this extent the proposal could deliver the more efficient use of a PDL site, which, whilst clearly outside the boundary in the MBWLP is immediately related to the built up area of the village.

3.3.5 The development to the south of the railway line would result in the loss of the existing car parking area for users of the station. To address this loss, the creation of a substantial commuter parking area to the fields to the north of the railway line is proposed. The proposed commuter car park would constitute a substantial incursion of built development into a greenfield site in the countryside into an area with known ecological value. The railway line defines a clear change in character with the land to the north of it comprising open rural landscape with only sporadic development. This development would cause harm the rural character of this locality and would be contrary to Policy ENV28 which states that planning permission will not be granted for development which harms the character and appearance of the area. In addition to not causing harm (which it is considered this proposal would), the policy lists the specific categories of development into which a proposal must fall to be acceptable. Criterion (4) states 'the provision of a public or institutional use for which a rural location is justified'. In this case it could be argued that the commuter car park is a public use however a rural location is not justified because this facility is already in existence in a more suitable location on the south of the railway line.

3.3.6 In addition, ponds are present on the site to the north of the railway line and Policy ENV41 affords specific policy protection to ponds on the grounds of their

visual or ecological value. Mitigation should be sought if development would result in their loss.

- 3.3.7 MBWLP Policy T7 applies to the station building and parking areas and seeks to prevent redevelopment when a station closes. The railway station is not closing as part of this proposal so the policy is not directly relevant in this case.'
- 3.3.8 The points regarding the sequential approach, and the impact upon the town centre are addressed within the main body of the report.
- 3.4 Maidstone Borough Council Environmental Health** were consulted on the application and raised no objection subject to the imposition of suitable conditions.
- 3.5 Maidstone Borough Council Economic Development** were consulted and support this application in so far as the provision of extra jobs is encouraged.
- 3.6 Kent Highway Services** were consulted and made the following comments:
- 3.6.1 'I refer to the above named planning application for a Tesco foodstore and petrol filling station on land at Station Approach and a new station car park on land at George Street in Staplehurst.
- 3.6.2 Access to the foodstore would be made via the existing A229 Station Road / Station Approach / Market Street junction, which would be widened and signalled to increase its operational capacity and upgraded to current highway standards. Access to the new station car park would be made via the existing A229 Station Road / George Street junction, which would also be upgraded to current highway standards.
- 3.6.3 The trip rates and traffic generation methodology have been accepted. Capacity assessments and Road Safety Audits have been carried out on the upgraded A229 Station Road / Station Approach / Market Street and A229 Station Road / George Street junctions. The results indicate that the proposal would not be detrimental to highway capacity and the Designer's Response to the Road Safety Audit has been accepted.
- 3.6.4 Additional highway works are proposed and these include the provision of pedestrian crossing facilities at the A229 Station Road / Station Approach / Market Street junction, a transport interchange at Staplehurst Station incorporating bus and taxi drop-off/pick-up facilities, and a puffin crossing facility on Marden Road. The applicant is required to provide these works as

part of a Section 278 Agreement, with details to be agreed with Kent County Council (KCC) Highways and Transportation.

- 3.6.5 A Draft Travel Plan has been prepared and a monitoring fee of £5,000 is required. Details of the final Travel Plan shall be approved by KCC prior to any beneficial occupation of the development.
- 3.6.6 Parking is proposed for 235 cars at the foodstore and 660 cars at the new station car park, including disabled spaces. A Car Park Management Plan is to be implemented at the foodstore car park to discourage long stay parking and 30 cycle stands are to be provided, which is acceptable.
- 3.6.7 I can confirm that subject to the above, I do not wish to raise objection to this application. I would recommend that the following conditions be attached to any consent granted:-
1. Before any work is commenced a Method Statement showing the phasing of the development shall be submitted to and approved in writing by the Local Planning Authority and the development shall not proceed other than in accordance with the approved programme.
  2. During construction provision shall be made on the site, to the satisfaction of the Local Planning Authority, to accommodate operatives' and construction vehicles loading, off-loading or turning on the site.
  3. Prior to the works commencing on site details of parking for site personnel / operatives / visitors shall be submitted to and approved by the Local Planning Authority and thereafter shall be provided and retained throughout the construction of the development. The approved parking shall be provided prior to the commencement of the development.
  4. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority.
  5. As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

6. 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.

7. No dwelling/building shall be occupied or the approved use commenced until space has been laid out within the site in accordance with the details shown on the application plan(s) for cycles to be parked.

8. The area shown on the approved plan as vehicle loading, off-loading and turning space, shall be paved 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 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 or in such a position as to preclude its use.

9. The access details shown on the approved plans shall be completed to the satisfaction of the Local Planning Authority prior to the commencement of any other works authorised by this permission, the occupation of any buildings hereby approved, the use of the site being commenced, and the access shall thereafter be maintained.'

3.6.8 Following the submission of a cumulative transport assessment, the following comments have been received:

3.6.9 'I have reviewed the Cumulative Transport Assessment submitted by Waterman Boreham on behalf of Tesco. The assessment reaches similar conclusions to those reported in the Sainsbury's Cumulative Transport Assessment, in that the proposed Sainsbury's access roundabout is forecast to operate close to its design capacity in the opening year (2014). It is accepted, however, that the junction will still allow for daily variations in traffic flow.

3.6.10 The proposed Station Road / Station Approach / Market Street signalised junction would operate within its design capacity with both foodstores in place in the opening year. Indeed, there would be a slight improvement in its operation in comparison to the 'Tesco only' scenario, as the majority of foodstore traffic would be distributed to the south.

3.6.11 On this basis, I can confirm that I am satisfied with the revised information provided.'

**3.7 Kent County Archaeology** were consulted and raised no objections subject to the imposition of a suitable condition requiring a watching brief to be undertaken.

**3.8 Kent County Council Ecology** were consulted and made the following comments:

3.8.1 'The Ecological Assessment report has been submitted in support of this application. The format lacks clarity in places so our response attempts to summarise the ecological interest of the site and the impacts identified before advising on the adequacy of the survey and the appropriateness of the proposed mitigation.

3.8.2 Of the habitats identified on the site, the following were assessed as having some interest, or as having potential to support protected species:

- Hedgerows – assessed as of low ecological value in themselves, but likely to provide habitat for bats (foraging and commuting) and birds (foraging and nesting).
- Scrub – assessed as of low ecological value in itself, but provides structural diversity to the site and nesting and foraging habitat for birds. Although not stated in the evaluation (section 4.5.3), this resource also provides opportunities for great crested newts (GCN) and reptiles;
- Trees – most are immature specimens through there is a mature English oak and a line of semi mature English oaks present, overall the trees are assessed as of low/moderate ecological value that adds to the structural diversity of the site and provides good nesting and foraging habitat for birds;
- Grassland – the grassland is close-grazed and assessed of low species diversity. In the north east and the south west of the northern half of the site (north of the railway line), there are areas of greater potential interest and there are 'several large anthills' present. Overall the grassland is assessed as of low ecological value, although it is acknowledged that a botanical survey at the correct time of year may have identified increased botanical interest in some areas. It is not acknowledged that the grassland is likely to provide a commuting route for great crested newts and reptiles.
- Tall ruderal – assessed as of largely low ecological value with some areas of greater species richness. It is not explicitly acknowledged that these areas add to the structural diversity of the site of that they provide opportunities for GCN or reptiles.

- Ponds – four ponds are present on the site, all of which are assessed as species poor. Pond 1 is assessed as of limited wildlife value. Ponds 2 and 3 are assessed as of low wildlife value and pond 4 is of low/moderate value as it provides habitat for species associated with dense reeds.
- Wet ditch – the northern section of the wet ditch is assessed as species poor, but no value is assigned. No evaluation is provided for the southern section of the wet ditch, although '*aquatic/emergent species are more abundant along the length*'. No ditch is shown on the *Habitats and Ecological Features* drawing 1272/ECO3B.

3.8.3 The report provides an evaluation of the potential for protected species impacts, with some specific surveys undertaken. The following were assessed as potentially (or confirmed as) using the site:

- Bats – the site contains no suitable structures (buildings or trees) that are considered suitable for roosting bats. It is concluded that the ponds and the boundaries of the site provide the greatest opportunities for bat use of the site. No activity survey was undertaken and trees with the potential for roosting bats present adjacent to the site (reported as 'south-east of the site – but we assume this is meant to read 'south-west') were not assessed.
- Badgers – a specific survey was undertaken that found no evidence of badger use of the site, though it is acknowledged that there are suitable habitats present.
- Hedgehogs – suitable habitats and hibernation sites were recorded on the site. The habitats of value to hedgehogs are not detailed within the evaluation.
- Amphibians – the most recent surveys during 2009 recorded GCN breeding in two of the four ponds within the site, with the previous population assessment indicating a medium population (peak count 22). Previous GCN surveys in 2007 and 2003 have recorded peak counts of 79 and 39 respectively (also indicating medium populations). It is suggested that the ponds are deteriorating in their quality and suitability for GCN. The 'detailed investigation' of the status of GCN within the site is provided in a separate section of the report. The habitat proposed to be lost to the development provides opportunities for GCN, primarily as a commuting route (the grassland) but also as foraging and sheltered habitat (scrub and hedgerow). As such, the development works will require a European protected species licence to derogate from offences.
- Reptiles – suitable reptile habitat was identified on the site, primarily outside of the grazed grassland areas. No reptile survey has been undertaken, despite numerous biological records in the area and the incidental sightings of grass snake and slow worm during 2009.

- Birds – the evaluation concludes that the site is unlikely to be of special ornithological interest, although there are habitats present on the site which provide suitable nesting and foraging habitats for common bird species.
- Invertebrates – the site is assessed as containing ‘a number of habitat niches for invertebrates’, although it is not expected that these would include any rare or notable invertebrate assemblages.

#### 3.8.4 Evaluation of the submitted reports:

3.8.5 With regards to Botanical Interest – section 4.17.5 states that ‘it may be desirable to undertake further botanical survey prior to the clearance of vegetation’ and that any found should be trans-located to retained areas of natural habitat on the site. Whilst KCC Ecology would often require further information prior to the determination of the application, in this instance they have enough information, both provided by the applicant, and provided from field surveys that updated the Kent Habitat Survey 2011 to agree with the recommendations within the report.

3.8.6 With regards to Bats - The ponds and the boundaries of the site have been assessed as of the greatest areas of value to foraging bats on the site. The ponds are being retained and the report considers that the proposed habitat improvement works will result in increased opportunities for foraging bats. As such, the primary source of potential impacts to bats is from lighting of the proposed development.

3.8.7 No lighting proposals have been submitted with the application and as such we consider that the opportunity to ensure that the lighting is designed to have a limited impact on bats must be secured. Some recommendations are provided in 6.1.3, however while “*reduced wattage*” and “*reduced number of lamps*” may help to limit the potential for impacts, there is no qualifier to indicate what these are ‘reduced’ from.

3.8.8 It is stated that close-board wooden fencing will be used to reduce light spill and that landscape planting (once mature) will also shelter the sensitive habitat areas from the lighting necessary to the development. All these factors must be included in the lighting proposals. We also advise that the Bat Conservation Trust’s *Bats and Lighting in the UK* guidance is adhered to in the lighting design (see end of this note for a summary of key requirements).

3.8.9 The implementation of the recommendation to erect bat boxes on the site (section 6.1.6) would serve as an ecological enhancement, providing opportunities for roosting bats that are not currently available on the site.

- 3.8.10 'Other mammals' were assessed, and the recommendations relating to badgers (section 6.1.7) and hedgehogs (section 6.1.8) must be implemented to reduce the potential for impacts to these species.
- 3.8.11 Great crested newts were also considered. Section 7 of the *Ecological assessment* considers the potential impacts to great crested newts (GCN) and proposed mitigation. No confirmed breeding ponds will be lost to the development. The development of the car park in the northern part of the site will present a barrier to dispersal between the on-site ponds. Section 7.3.10 concludes that "*good dispersal opportunities are available via the hedgerow and ditches*" but that the potential remains for a high scale of impact on GCN as a result of the loss of terrestrial habitat. We advise that the conclusion that the effect on connectivity is considered to be low requires further consideration in relation to on-site between-pond interactions, particularly given that the mitigation proposal includes the use of permanent exclusion fencing and the inclusion of culverts to facilitate GCN movement between the eastern and western retained habitat in the area north of the railway. There has been no attempt made to assess any of the 25 ponds that are present within 500m of the proposed development site for their suitability or use by GCN; clarification is required to ensure that consideration has been given to the potential for the site acting as a dispersal corridor for the population of GCN in the area as a whole.
- 3.8.12 Outside of our concern regarding the potential barrier effect of the car park in the area of the site north of the railway, we consider that the proposed enhancements to the ponds and to the retained terrestrial habitat should ensure that the site provides an improved environment for great crested newts post-development. The identified potential for post-development interference from pedestrians, litter and general disturbance are of some concern and we would expect these to be addressed through the ongoing management of the site. There will also be a need to ensure that checks of the permanent fencing are regularly carried out.
- 3.8.13 No reptile survey has been undertaken at the site and as such there is no assessment of the potential level of impact to reptiles that are present. Given that translocation of reptiles is proposed, we do not consider this to be acceptable as Maidstone BC need to be able to adequately address all material considerations in their determination of this application. With no understanding of the species and populations of species currently using the site, the impacts cannot adequately be assessed. We advise that a reptile survey is undertaken and the results made available to inform the determination of this application.
- 3.8.14 The nesting bird mitigation detailed in section 6.1.18 must be adhered to.



- 3.8.15 In addition to the ecological enhancements required to mitigate for impacts, additional enhancement measures are proposed in section 6.2. We advise the inclusion of these in the development proposals as they will support Maidstone BC in meeting the key principles of Planning Policy Statement 9; not only to avoid, mitigate or compensate for harm to biodiversity but also to incorporate ways to enhance and restore it. We advise that the ecological enhancement proposals are detailed in the landscape strategy as a condition of planning, if granted.
- 3.8.16 If you have any queries regarding our comments, please contact me.'
- 3.8.17 Further comments were received on the 18 December 2012:
- 3.8.18 'While we have not been provided with a reptile distribution map, it has been emphasised that the area of unsuitable reptile habitat within the proposed wildlife area is horse and rabbit grazed. Ecological enhancements would provide replacement habitat for some of that lost, and along with appropriate management the area does have potential to support the reptiles. We advise that the detailed specification for the mitigation, to ensure that the area's potential for wildlife is optimised, could be secured by condition.
- 3.8.19 We still query the need for the footpath within the wildlife area; the wildlife benefits are likely to be greater without it and will be more achievable.
- 3.8.20 The culvert specification must be required as a condition of planning. As an informative we advise that evidence of existing schemes that have incorporated such features should be provided by the applicant.
- 3.8.21 The maintenance (in perpetuity) of the permanent reptile and great crested newt exclusion fencing must be secured by planning condition/obligation.'
- 3.9 Kent Wildlife Trust** were consulted and object to the proposal in its current form. It is stated that there is no objection in principle to the development of a retail store and a new car park to serve the station, subject to suitable mitigation and measures to enhance local biodiversity, however it is not considered that the measures suggested at present are sufficient to maintain, let alone enhance local biodiversity.
- 3.10 Natural England** were consulted and acknowledge that Great Crested Newts are present within the application site.
- 3.10.1 They state that Great Crested Newts (GCN) are protected under Schedule 5 of the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations. This protection covers both the species themselves and

the places that they use for breeding and shelter (including ponds and associated terrestrial habitat). These species can only be disturbed, or their places of shelter interfered with under a licence issued by Natural England. In order to obtain a licence, the following tests must be met:

- The consented operation must be for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment';
- There must be 'no satisfactory alternative'; and
- The action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'.

3.10.2 'The survey information provided by the applicants indicates that great crested newts (GCN) are present within the application site and utilising ponds or terrestrial habitat that are likely to be affected by the proposals. The proposals set out in the application, however, appear sufficient in principle, to mitigate any potential impacts on GCN populations. This is based on; the survey findings that the potential terrestrial habitat to be occupied by the proposed car park on the northern part of the site, adjacent to the retained and improved ponds, is currently of limited value as GCN habitat, and; that habitat connectivity between the ponds can be maintained through mitigation measures.

3.10.3 In the circumstances, and subject to an appropriately worded condition to secure the details of the GCN mitigation measures as set out in the Aspect Ecology's Ecological Assessment, January 2012 at Section 7, Natural England is now satisfied that these proposals should not be detrimental to the maintenance of the population of GCN at a favourable conservation status in their natural range (as defined in Regulation 53 of the Conservation of Habitats and Species Regulations 2010).'

**3.11 The Environment Agency** were consulted raised no objections subject to conditions.

**3.12 Southern Water** were consulted and raised no objection to this proposal subject to the imposition of suitable conditions.

**3.13 EDF Energy** were consulted and raised no objection to this proposal.

**3.14 Network Rail** were consulted and raised no objections to this proposal.

#### **4. REPRESENTATIONS**

4.1 Neighbouring occupiers were notified of the application, and to date 173 letters of representation have been received. Of these letters, 149 are in favour of the development and 24 object to the proposal. The points raised within the letters of support are summarised below:

- These proposals are the best plans for a supermarket for the village;
  - The proposal would result in more job opportunities within the village;
  - Residents would be able to walk to the store, rather than rely on the private motor car or public transport;
  - The village needs more shops;
  - The proposal would allow for a cheaper weekly 'shop' for those on a budget;
  - The proposal is better for those without a car;
  - The proposal would support an expanding village;
  - The proposal would save petrol and be more sustainable for those within the village;
  - The supermarket would be beneficial to those with disabilities;
  - The proposal would enhance the entrance of the village.
- It should also be noted that a further **175 representations of support** have been received. These are pre-prepared slips created by the applicants, and have been returned by households within the vicinity to the Council. Whilst supporting the application, they give no specific grounds.
- A petition containing **501 signatures** was submitted in favour of the planning application. The petition encouraged the provision of jobs and greater convenience for the residents of Staplehurst and the surrounding area.

4.2 The main points of concern within the objections are summarised below:

- The site is inappropriate for the location;
- Previous development within the site was dismissed on appeal – these grounds remain relevant;
- Traffic generation, and highway safety are a concern;
- The proposal would have an adverse impact upon ecology;
- The proposal would have an adverse impact upon the rural character of the area;
- There are concerns about drainage from the site;
- There are concerns flooding within the proposed car park site;
- The impact of the lighting would be detrimental to the character of the area;
- The impact upon the rural community would be detrimental;

- The store is too large, and would impact upon the existing shops and services within the area;
- The monopolisation of the Borough by the applicants is a concern;
- The proposal would result in more rubbish within the streets;
- The proposal would result in more noise within the locality;
- There is not enough parking proposed for the station;
- The retail impact assessment is not exhaustive;
- There would be a detrimental impact upon residential amenity.

## **5. CONSIDERATIONS**

### **5.1 Background**

5.1.1 This is a full application for planning permission for the erection of a new supermarket and provision of car parking, both for the store and the erection of a new station car park. The application was initially submitted to the Authority on the 13 February 2012, with amended plans reducing the size of the store subsequently received on the 17 May 2012.

5.1.2 This application was submitted shortly after the Authority received the application (MA/11/1944) for a new Sainsbury's supermarket on land to the south of this application site (on the existing DK Holdings site) – this application was received on 10 November 2011. The Sainsbury's application is for a supermarket of 1,784 sqm (net sales), and for the relocation of the existing factory building. A separate application (MA/11/1943) for the relocation of the factory building was approved on the 14 September 2012.

5.1.3 Maidstone Borough Council has sought a legal opinion on the merits of hearing the applications separately, or together, and it was concluded that it would be most appropriate for Members to be able to hear both applications at the same meeting. However, in order for a decision to be made on the evening, both applicants have been required to provide us with cumulative impact assessments, both in terms of highways impact, and retail impact. All information has now been submitted, and as such both applications are now able to be determined.

5.1.4 In terms of the applications, an officer recommendation is given on each proposal, and it is suggested that each application is presented and discussed prior to a determination of either application. As such, on each application conditions and reasons for refusal are appended, which could be used should Members disagree with the recommendations. These are for the purposes of Members being able to make a decision on the evening of Committee, not 'options' *per se* – the recommendations have been fully considered, with all material considerations balanced fully, and carefully. The applicants of the Tesco

scheme have requested a side-by-side analysis of each of the two schemes and within each report there is a description of the main aspects of the schemes. This should not be used as a substitute for reading the full reports.

## **5.2 Site Description**

- 5.2.1 The application site consists of two distinct parts – one upon which the new store, store car park, southern station car park and petrol filling station would sit, and one to the north where the new proposed car park for Staplehurst station would be located.
- 5.2.2 Firstly the land to the south of the railway line. This land falls substantially outside of the defined village boundary of Staplehurst, although is very much read as being within the settlement of Staplehurst. The land encompasses the existing station car park, the access road into the car park, and land to the west, which is, in part currently used as informal car parking for the station.
- 5.2.3 This land is considered to be, in part, previously developed. Part of the existing station car park is provided with a tarmac surface (the part nearest to the A229), and there is an element of lighting within. A low rail surrounds the parking area. There is little soft landscaping within the car park, and what has grown around the perimeter appears as self-seeded. The car park covers an area of approximately 1 hectare and is covered by policy TR7 of the Maidstone Borough Wide Local Plan 2000, which ensures that no development takes place upon the land that would preclude the use of the land as a transport 'hub'. To the north of this part of the site is the railway line, and station platforms, and to the south of the site are the buildings that form part of the DK Holdings factory. It should be noted that the DK Holdings site is the land that forms part of the application for the Sainsbury's supermarket, under application reference MA/11/1944. This application is discussed in more detail, later in the report.
- 5.5.4 The station building itself would not be repositioned as a result of this proposal, although small physical works are proposed to the station in the form of the access points of the station. The existing station building is a relatively nondescript, functional building that is constructed of brick with a plain tile roof. This single storey structure appears to have been constructed in the mid to late 20<sup>th</sup> Century. There is a single storey, pitched roof structure to the south of the station building which serves as a taxi office. The station itself contains a bridge which allows for disabled/pedestrian access across the railway line.
- 5.5.5 There is a single storey part pitched roof/part flat roof building on the corner of Station Approach and the A229 which currently houses 'Premier Domestic Appliances'. This building has a small service yard/car park to the side and the rear, which is bounded by a 1.8metre wire mesh fencing along the highway, and

backing on to the car park. Adjacent to this is an area utilised by a hand car wash facility. This land falls within the village confines.

- 5.5.6 The informal car parking area in the west of the application site does contain some trees and shrubs, although again, these appear to be self-seeded, and of little merit. This part of the site covers an area of approximately 0.5 hectares. This part of the site is bounded to the south by some two storey commercial buildings, and some of the commercial sheds that form part of the Lodge Road Trading Estate.
- 5.5.7 To the north of the railway line is the area in which the proposed main station car park would be relocated. This land is 'greenfield' with a large number of trees and shrubs within the centre, as well as a number of ponds. This part of the site covers approximately 3 hectares. This part of the application site is bound to the north by George Street, which contains one large residential property, and by the A229 to the east. The A229 rises as it heads southwards past this element of the site, rising at its highest point as the bridge crosses the railway line.
- 5.5.8 This part of the site has no specific designation upon it but it adjacent to the land covered by Policy T7 of the Borough Plan. The land appears unused at present, although does contain a telegraph pole in the south eastern corner, with a telecommunications mast in the south western corner (although the red line goes around this feature, so it is not actually within the application site).
- 5.5.9 In terms of its location, Staplehurst is approximately 15km from Maidstone, 5km from Marden, 6km to Headcorn, 9km to Cranbrook and 15km to Hawkhurst. In terms of public transport provision, buses run once an hour from Staplehurst to Maidstone (and to Cranbrook), and trains run to Ashford and London every 30 minutes during the day (with increased frequency during peak hours).

### **5.3 Proposal**

5.3.1 The proposal is a full planning application and is for the erection of a new supermarket of approximately 1795sqm (net sales), including café. The supermarket would have an overall footprint of 2817.78sqm (which would include the entrance lobby, café, and back of house/plant room. The net sales area of this proposal would be split up in the following ways:

- Convenience: 1,513sqm
- Comparison: 227sqm
- Flexible (seasonal): 55sqm
- Total: 1,795sqm

- 5.3.2 The applicants have indicated that they would be happy for this split to be conditioned should planning permission be granted.
- 5.3.3 The proposal would bring a significant number of jobs should the store be constructed. Whilst no specific numbers have been submitted as part of submission made by the applicants (the application form suggests approximately 150 jobs), it is understood that this would result in a variety of jobs, including managerial, team leader and 'shop floor' employees. This would also result in both full time and part time opportunities. The matter of the employment generated is discussed in full later within the report.
- 5.3.4 The proposed building would have a large section of glazing to the front of the store, with a projecting café on the northern side of this elevation. This elevation would have a maximum width of 48.8metres (although the canopy width would be 53metres). The café would project by approximately 7.5metres. The entrance lobby would project by approximately 4.5metres.
- 5.3.5 The southern elevation of the building would be constructed of grey panels and larch timber cladding. There would be high level windows along part of this elevation. Again, the roof would overhang this elevation, providing an element of interest. This elevation would have a length of approximately 61metres, although this would be splayed for the 'final' ten metres of the building.
- 5.3.6 To the western end of the building would be the loading bay, which would be provided with a 3.5metre high boundary treatment, and large gates. The 'rear' elevation would be functional in form, but would not be highly visible from the public domain. This elevation would be finished with a grey metal cladding.
- 5.3.7 The remaining elevation (north) would face onto the station platform, and would consists of a number of individual elements. Firstly the café would be a single storey element, with a gently sloping mono-pitched roof. The main body of the building would then run alongside the platform, with the applicants proposing some artwork along this elevation, as well as high level glazing (as on the southern side). The canopy of the roof would run along the length of the main store itself. To the rear of this, the flat roof element of the building, and the internal loading area. This elevation would have an overall length of approximately 87metres.
- 5.3.8 Passive ventilators are proposed upon the roof of the building, as are rooflights. Some signage is also proposed upon the roof (although this would be subject to a separate application for advertisement consent should permission be granted).
- 5.3.9 The car park for the supermarket would contain 203 parking spaces, and these would be set out within three main aisles. These parking spaces would consist of

13 disabled bays, 8 parent and child bays, and 182 standard size bays. There would be an element of tree planting through the car park, with an element of tree planting (it is proposed that 27 trees be planted within the car park area). The access roads would be constructed of tarmac and the spaces would be constructed of porous block paving.

- 5.3.10 The proposed filling station (PFS) would be located within the south-eastern corner of the application site. This would contain a small kiosk – which would have a footprint of 86.8 square metres, and a height of 3.45metres. This kiosk would contain services tills for the petrol station, as well as a small area for some retail sales. Due to the restricted scale of this proposal, these sales would be likely to be limited to newspapers, drinks and snacks and other smaller items that one associates with PFS sales. The kiosk would be clad in timber larch panels, and would have a flat roof.
- 5.3.11 The garage would be provided with 16 pumps, within four clusters (four on each cluster). These would be set under a large canopy that would measure 21.8metres by 14.8metres, and would have an overall height of 5.1metres. It is proposed that this be in Tesco's livery, with the plans showing an advertisement above (although this would be subject to a separate advertisement consent application should permission be granted). The PFS would absorb approximately 500sqm of the application site, and would be served from an internal roundabout that would also serve the store car park.
- 5.3.12 It is proposed that a strip of landscaping be provided along the eastern edge of the site, adjacent to the PFS, as well as trees on either side of the kiosk, along the southern boundary of the site.
- 5.3.13 The applicants are proposing enhancements to the junction of Station Approach and the A229 (Station Road). These enhancements consist of providing traffic signals that would control traffic flows into and out of Station Approach. This is to address the significant increase in traffic flows out of this junction, which at present has no controls. It is also proposed that a pedestrian crossing be provided at this point, in order that those on foot are able to cross this well used road in a safe manner.
- 5.3.14 Access into the site would be 50metres west from the junction, which would be provided with brick paving. This would be provided with a pavement on either side, and a central traffic island.
- 5.3.15 The applicants are proposing a service access road to be provided along the southern boundary of the site. This would be a two-way road, with an area of staff parking along its northern side, a lorry waiting area, and access to the service area for the supermarket, and also the network road compound retained



at the western end of the application site. It is proposed that a zebra crossing be provided close to the junction with Lodge Road.

5.3.16 Within the northern part of the car park is a proposed 'transport interchange' and enhancements to the existing station area. This consists of both long and short term parking, taxi waiting area, bus stops, a covered walkway to the station, and a bicycle shelter. This element of the proposal would cover an area of approximately 6750sqm.

5.3.17 Due to the development being proposed within the existing station car park, it this application also includes the provision of a new car park serving passengers to the north of the railway line. The existing car parks hold approximately 550 cars (although some of these are set out within a relatively informal manner. This proposal would see the creation of 660 parking spaces (which includes 30 disabled parking bays). This would be an increase of 20% on the existing provision. The car park would be constructed solely of tarmac albeit of a permeable form.

5.3.18 It is proposed that the access to this car park be provided from George Street, which itself would need to be upgraded at the junction with the A229 (Maidstone Road). This would include a right hand filter lane on the A229 into George Street as well as changes to the bell mouth to improve visibility.

5.3.19 To the east of the proposed car park is an area set aside for ecological 'enhancements'. This area would be approximately 14,000sqm and would contain two ponds and a watercourse, together with a meandering footpath (for public access) and a significant level of landscaping. Much of the landscaping proposed would be positioned so as to soften the appearance of the car park beyond from views from the A229. It is proposed that this land be managed in conjunction with the Parish Council or Kent Wildlife Trust should permission be granted.

## **5.4 Supporting Documents**

5.4.1 In addition to the submitted plans and drawings the application is accompanied by (not exclusively) the following documents:

- Design and Access Statement
- Planning and Retail Statement
- Transport Assessment and Travel Plan
- Renewable Energy and Efficiency Statement
- Flood Risk Assessment
- Statement of Community Involvement
- Tree Survey

- Phase 1 Desk Study Environmental Assessment

5.4.2 These documents can be viewed via the planning pages on the Council website.

5.4.3 Following the initial submission, the applicants have now submitted a response to the release of the National Planning Policy Framework, cumulative impact assessment relating to both the retail impact and the highway impact of two stores of a comparable size being provided adjacent to one another within the village.

## **5.5 Principle of Development/Planning Policy**

### **5.1 Planning for Growth**

5.5.1 On 23 March 2011 when the Chancellor of the Exchequer announced the Budget, the Minister for Decentralisation, Greg Clark, delivered a written statement. This statement sets out the steps the Government expects all local planning authorities to take (with immediate effect) in order to rebuild Britain's economy. Relevant extracts from the statement are given below as they are material to the consideration of this application.

*'The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should, wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.'*

*The Chancellor has today set out further detail on our commitment to introduce a strong presumption in favour of sustainable development in the forthcoming (now released) National Planning Policy Framework, which will expect local planning authorities to plan positively for new development; to deal promptly and favourably with applications that comply with up-to-date plans and national planning policies; and wherever possible to approve applications where plans are absent, out-of-date, silent or indeterminate.'*

5.5.2 The statement goes on to advise that:

*'When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. Where relevant – and consistent with their statutory obligations – they should therefore:*

- (i) *Consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust*

*growth and employment, given the need to ensure a return to robust growth after the recent recession;*

- (ii) Take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;*
- (iii) Consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);*
- (iv) Be sensitive to the fact that local economies are subject to change and so take a positive approach to development where new economic data suggest that prior assessments of needs are no longer up-to-date;*
- (v) Ensure that they do not impose unnecessary burdens on development.*

*In determining planning applications, local planning authorities are obliged to have regard to all relevant considerations. They should ensure that they give appropriate weight to the need to support economic recovery, that applications that secure sustainable growth are treated favourably, and that they can give clear reasons for their decisions.'*

5.5.3 Finally, the statement concludes by saying:

*'Benefits to the economy should, where relevant, be an important consideration when other development-related consents are being determined, including heritage, environmental, energy, and transport consents. The Secretary of State for Culture, Olympics, Media and Sport, the Secretary of State for the Environment, Food and Rural Affairs, the Secretary of State for Energy and Climate Change and the Secretary of State for Transport have consequently agreed that to the extent it accords with the relevant statutory provisions and national policies, decisions on these other consents should place particular weight on the potential economic benefits offered by an application. They will reflect in principle in relevant decisions that come before them and encourage their agencies and non departmental bodies to adopt the same approach for the consents for which those other bodies are directly responsible.'*

## **2) National Planning Policy Framework (NPPF)**

5.5.4 The National Planning Policy Framework, which was published by the Government on 27 March 2012 (after the application was submitted) and now constitutes national planning policy. This policy seeks to promote sustainable development, both within town centre locations, and rural areas. The Framework sets out the three 'dimensions' to sustainable development, which sets out the roles that 'planning' should perform:

- *An economic role – with development contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation.*
- *A social role – with development supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of the present and future generations, and by creating a high quality built environment with accessible local services that reflect the communities need.*
- *An environmental role – with development contributing to protecting and enhancing our natural, built and historic environment; and as part of this helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and adapt to climate change.*

5.5.5 Whilst the NPPF sets out that the Government expects local authorities to support the delivery of sustainable development, it does highlight that this requirement does not simply override the existing policies within the Development Plan. The Maidstone Borough Wide Local Plan was adopted in 2000, however, the policies were 'saved' (and thus revisited) in 2007. The South East Plan was adopted in 2009 – however, the fact that the Government intends to revoke this document is a strong material consideration. It is on this basis that I consider the aims of the NPPF to carry significant weight in the determination of this planning application.

5.5.6 The NPPF states that:

*The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meet the twin challenges of global competition and of a low carbon future.*

*The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.*

5.5.7 Whilst 'significant weight' should be given to delivering economic growth, the NPPF does not state that this should override existing planning policy, but that it should be a strong material consideration.

5.5.8 In order to address the matter of the rural economy, the NPPF requires for planning policies to support economic growth in rural areas in order to create

new jobs and prosperity by taking a positive approach to sustainable new development. In order to promote a strong rural economy local plans are (relevant to this application):

- *Support sustainable growth and the expansion of all types of businesses and enterprise in rural areas, both through the conversion of existing buildings, and well designed new buildings;*
- *Promote the retention and development of local services and community facilities in villages such as local shops, meeting places, sports venues cultural buildings, public houses and places of worship.*

5.5.9 The NPPF also requires that a sequential test be carried out for out of town uses that are not in an existing centre and not in accordance with an up-to-date Development Plan. This requirement is the same as set out in the now superseded Planning Policy Statement 4 (PPS4) – the practice guidance remains extant. This states that local planning authorities should require planning applications for main town centre uses to be located in town centres, then edge of town centres, and only if not suitable sites are available out of centre sites should be considered. In addition, the NPPF states that when considering edge of centre and out of centre sites preference should be given to accessible sites that are well connected to the town centre, and that flexibility should be given on issues such as format and scale.

5.5.10 It should be noted that the NPPF does re-iterate the Governments requirement for the impacts of development upon the open countryside to be carefully considered, with protection for undeveloped land where there is no overriding need. It also stresses the importance of protecting ecology and supporting biodiversity – within the three ‘golden threads’.

5.5.11 In order to interpret the NPPF, it is necessary to understand what is meant by ‘sustainable development’. Sustainable development encompasses a number of elements, including (not exhaustive) the land upon which it would be built, its proximity to settlements, the manner in which it is constructed, the methods by which people can travel to the site. This matter is fully considered within the remainder of the report.

### **Development Plan Policies**

5.5.12 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. The current Development Plan comprises the saved policies of the Maidstone Borough Wide Local Plan 2000 (saved in 2007) and the South East Plan 2009.

The Government has indicated however that it intends to abolish the South East Plan and this Statement of intent should be regarded as a material consideration.

- 5.5.13 The application site lies substantially outside of the settlement boundary, and is therefore considered as 'open countryside' for the purposes of planning policy. The specific policy that refers to development within the countryside is ENV28 of the Maidstone Borough Wide Local Plan (2000). This policy sets out that development within the rural area will not be permitted if it causes harm to the character and appearance of the area, and if it does not fall within 5 categories (retail/car parking does not fall within these categories). One category refers to a public use being allowed in the countryside if a rural location is justified. I do not consider that the station car park requires a rural location – indeed the existing station car park is not in a rural area and car parking does not have to be sited in a rural area. I am aware that a requirement for additional capacity of about 100 car parking spaces at Staplehurst station has been identified (and is included in the draft Integrated Transport Strategy referred to below). However, whether this additional car parking proceeds into an adopted document is not yet known and where it might be provided has not yet been fully explored. The Tesco scheme would potentially provide one option but I do not consider that a rural location for the proposed car park has been justified in terms of policy ENV28.. The policy also requires that habitat restoration and creation should be provided to ensure that there is no net loss of wildlife resources.
- 5.5.14 Whilst almost the whole site falls outside of the defined village confines, part of it is previously developed land and part of it is undeveloped virgin land.
- 5.5.15 Part of the site also falls within an area designated under policy T7 of the Local Plan. This policy relates to the closure of train stations, and so is not applicable in this instance.
- 5.5.16 In terms of retail provision, Policy R1 of the Local Plan states that retail provision will be permitted within the defined urban or village areas providing that a certain criteria are met. This requires that the proposed development does not threaten the overall vitality and viability of established retail centres; that access arrangements are satisfactory; that the site is accessible from a mode of transports; and that there is no significant detrimental impact upon neighbouring land uses.
- 5.5.17 Policy R2 of the Local Plan refers to major retail proposals (exceeding 500 sqm) and states that they will be approved if in accordance with the criteria of Policy R1 subject to the following criteria being met:

- That the proposed development meets the requirements and the trade potential of the appropriate convenience, comparison or bulky goods sector;
- That a sequential approach to siting has been followed;
- That out-of-centre locations are chosen adjacent to existing out-of-centre and free standing retail development.

5.5.18 Policy R10 of the Local Plan refers to the designated local centres, (Staplehurst High Street is categorised as one) and the requirement for planning applications to ensure the long term vitality and viability.

5.5.19 The site is adjacent to land allocated as employment land through policy ED2 of the Local Plan. This proposal has no impact upon these designations.

### **Emerging Core Strategy Policies**

5.5.20 Whilst the Core Strategy remains at the draft stage, with much of the work that is ongoing, due to the fact that it has now been through a public consultation, and that Members have had an opportunity to agree much of the background information, I consider it to be a material consideration in the determination of this application. This isn't to suggest that it carries as much weight as the existing policies or the NPPF; but it does need to form part of the consideration prior to determination.

5.5.21 Within the Core Strategy, Staplehurst is identified as a Rural Service Centre (herein referred to as RSC). Staplehurst is acknowledged as the largest RSC within the Borough in terms of population and size, and has a number of key services and facilities. The specific policy (CS4) that relates to RSC sets out that there will be:

- A focus on new housing and employment development within or adjacent to village settlements, and to ensure that a mix of house types and tenures are provided;
- Support applications for local needs housing on appropriate sites;
- Retain and enhance existing employment sites and encourage new employment opportunities;
- Resist the loss of local shops and facilities, whilst supporting new retail development to meet local need;
- Ensure development assists with the creation of vibrant and sustainable communities;
- Ensure that development does not cause harm to natural assets and that development is not located in areas liable to flooding.

5.5.22 A report was given to the Cabinet to consider in July 2012, which set out the proposed consultation draft of the Core Strategy. Within this document, the housing projections for each rural service centre were provided as follows:

- Harrietsham 315 dwellings
- Headcorn 190 dwellings
- Lenham 110 dwellings
- Marden 320 dwellings
- Staplehurst 195 dwellings

(Those villages affected by this proposal are highlighted)

5.5.23 This report was agreed by Members, and as such the consultation draft was completed accordingly. I consider it important to acknowledge the proposed further growth of these villages – with Staplehurst, Marden and Headcorn all within the catchment area of this proposal. Whilst consultation is ongoing with this draft, it is unlikely that the numbers of units proposed will fall. As such, further expansion at these villages will clearly result in greater demand for convenience shopping to be provided within the locality.

### **Draft Integrated Transport Strategy**

5.5.24 The draft integrated transport strategy (herein referred to as the ITS) was released for public consultation on the 17 August 2012. This consultation period closed on 1 October 2012. The ITS covers the whole Borough, and addresses the measures to be undertaken to enable additional development to be accommodated within the Borough, including the RSCs.

5.5.25 The ITS remains a consultation draft and its contents may change, but it does have some weight when borne in mind against current planning applications. It does not however, override existing policy within the Development Plan.

5.5.26 The ITS indicates the improvements that are requested within Staplehurst to address the proposed growth within the village (as a RSC). These improvements include the following:

- An increase of approximately 100 car parking spaces at Staplehurst Railway Station to accommodate the additional movements expected as a result of new development in the village;
- A new pedestrian and cycle link between the railway station and the residential area to the south of the Lodge Road Industrial Estate;
- Improvements to the ease and quality of bus/rail interchange within the vicinity of the railway station;



- Construction of a new pedestrian crossing of Marden Road in the vicinity of its junction with Limetrees.

5.5.27 A number of representations have been received with regards to the ITS, however, there has not been a significant response to these particular matters.

5.5.28 Clearly this proposal would bring forward these objectives in advance of the adoption of this strategy. This is a material consideration in the determination of this planning application to which I have attached weight.

### **Sequential Sites Assessment**

5.5.29 The NPPF requires a sequential test to be applied to applications for retail uses which are not in an existing centre and not in accordance with an up to date Local Plan (paragraph 24).

5.5.30 The sequential test directs that retail uses should be located in town (or village) centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered (NPPF paragraph 24). MBWLP Policy R1 specifically directs retail development to sites within existing town and village boundaries. Policy R2 states that a sequential approach to siting should be followed.

5.5.31 The application site is an out of centre site according to the definition in Annex 2 of the NPPF.

5.5.32 According to the PPS4 Practice Guidance the area of search for alternative, sequentially preferable sites should be sites in existing centres within the catchment area of the proposal (paragraph 6.22). The applicants sequential assessment does not identify any alternative sites within or at the edge of Staplehurst centre as defined on the MBWLP proposals map. It is the case that the centre is tightly defined, encompassing the existing retail units and associated service-type uses in the vicinity of The Parade. The applicant's conclusion that there are no known available and suitable sites within or at the edge of the centre is accepted.

5.5.33 The identified catchment area for the proposal extends to include the identified centres at Headcorn, Marden and Coxheath and, outside the borough, Cranbrook. The applicant undertook a sequential assessment of sites within and edge of Headcorn, Marden and Cranbrook centres, as well as Harrietsham which does not have a defined centre in the MBWLP, and found that there were not any suitable alternative sites available (NPPF paragraph 24). The assessment did not extend to Coxheath which also falls within the proposals

potential catchment area, however, I do not consider that this materially impacts upon validity of the work undertaken.

- 5.5.34 This work has identified that there are no alternative viable sites within the area that are available to accommodate this retail provision. Firstly within the village of Staplehurst there are no sites within the village centre, or adjacent to the village centre that could accommodate such a development. As such, there are no suitable sites, therefore failing the first test (sites should be suitable, available and viable). Likewise, within the villages of Marden and Headcorn, there are not sites within the village centres, or on the edge of the village centres that could accommodate a proposal of this nature.
- 5.5.35 Due to the level of existing built form within these villages, there is a lack of available land to accommodate a development of this scale, so any development would need to take place away from the village centre in each case. I am mindful that the adjacent site (subject to application MA/11/1944) is suitable (although the allocation for employment purposes needs to be borne in mind), and viable (as an alternative occupier has submitted an application) however, it is clearly not available for this occupier due to the land ownership/options on the land.
- 5.5.36 In terms of pedestrian access, the proposal would be a significant distance from the village centre, which would not encourage linked pedestrian trips. Nonetheless, the site is located within a short walk of residential areas, although due to the location, this would be further than the proposal on the adjacent land, which would be marginally closer to the bulk of residential properties. Whilst it is noted that the proximity of a retail use to residential properties is not a specific test as set out within the *Practice Guide on Need, Impact and the Sequential Approach (2009)*, it does have a clear bearing on its sustainability.
- 5.5.37 This site is the one available closest to a transport hub (and a transport hub that is proposed to be enhanced), within the villages identified, which carries some weight when looking at a site sequentially. However, that said, it is (slightly) further from the village, and from the main thoroughfare (the A229) than the proposal on the adjacent site. Sequentially therefore, I do not consider that this site is unacceptable in broad terms and to my mind there is little to choose between the two sites when considering overall accessibility by foot from the town centre or main residential areas, by bus and by train..

## **5.6 Impact on Character and Appearance of the Area**

- 5.6.1 The application site falls substantially within the open countryside, however, the position of the proposed supermarket is upon previously developed land

and is not read as '*open countryside*', irrespective of its designation as such. However, the land to the north of the railway line is undeveloped, and is seen as being open rural countryside – with ponds, grass land and trees/shrubs within.

- 5.6.2 To my mind therefore, there are two distinct parts to this site which would be affected differently by the proposal.
- 5.6.3 Firstly, I would assess the impact of the supermarket on the character and appearance of the area. The store would be located within open countryside according to the local plan, however, on site the land is not read as having such a designation. The land is developed, with a station building on its northern part (outside the application site), and much of the area used informally as a station car park. The area currently has no distinct character, and does not contribute positively to the locality. The introduction of a store, and a formalisation of the area would not therefore have a detrimental impact upon the character of this area, and would certainly not erode any sense of openness normally associated with countryside designations.
- 5.6.4 Whilst the supermarket building is of a significant scale – being 6.8metres to the ridge, and 59metres in width, from the public domain it would be predominantly glazed which would lighten its appearance. Nonetheless, it would still be visible from longer distance views to the north, and to the west, but would again be seen against the backdrop of existing built form – and built form of a similar (and larger) scale. It is on this basis that I raise no serious concern about the visual impact that the store would have upon the wider area.
- 5.6.5 The proposed store car park, and petrol filling station (PFS) would be located in the area where there is an existing large surface car park, and a rather functional building (at the junction of Station Approach and the A229). The loss of this building, and its replacement with a PFS would not, in my opinion have a detrimental impact upon the character of the area. A PFS would not appear as an incongruous feature, being to the front of a supermarket, near to a main thoroughfare is an expected location for such a facility. Likewise, a car park, with more soft landscaping than at present, and enhanced public realm would be welcomed in the location – enhancing the character of the area from the present situation.
- 5.6.6 I therefore consider that the development proposed to the south of the railway line would have no detrimental impact upon the character and appearance of the locality.

- 5.6.7 The loss of the field to the north of the railway line following the provision of a new station car park would see both the loss of existing habitat and the loss of the soft character at this key entry point into Staplehurst both by car (from the north) and by rail (east and west). The key question is therefore whether this change is acceptable, and if not, whether the benefits of the scheme as a whole are sufficient to warrant an approval.
- 5.6.8 The railway line provides at present a very obvious boundary to the village (notwithstanding the designation within the Local Plan) with only sporadic development – as one would expect within the countryside – beyond. The land is currently overgrown with a significant number of small trees and shrubs growing within. There are also a number of water bodies within the site – although some of these do not contain water at all times. The land is read very much as ‘open countryside’ and has a distinctly rural character. There is little activity upon it and although it is adjacent to railway lines, it is generally tranquil.
- 5.6.9 The car park proposed would provide 660 spaces (including 30 disabled spaces), be constructed of tarmac (permeable where necessary), and would include lighting, barriers, and a barrier controlled entry point. There is no significant landscaping proposed within the car park itself. Pedestrian access to the site would be from within the station itself – there is both a pedestrian bridge and a bridge for disabled passengers. A further pedestrian access is proposed to the north-east of the car park – however due to the proposed use of the site, I don’t consider that this would be particularly well used. It is noted that there would be a landscaped buffer to the east of the car park, some of which would consist of existing vegetation, – which would provide an element of screening from the A229. However, irrespective of this proposed (albeit not detailed – species etc have not been indicated) landscaping, I consider that the proposed car park, by virtue of the level of hardstanding, the loss of a significant level of existing open space, and the proposed lighting, would still be visible through this landscaped buffer, and as such, the character of the locality would clearly be significantly altered. What is now a relatively tranquil rural space would be permanently altered by the introduction of activity and noise-generating vehicles. It should be noted that the applicant has suggested that the lighting could be controlled by condition, in terms of hours of use, however, by their very nature these would have to be on until late into the evening, thereby altering the character of the area. This is not to say that lighting on its own would unacceptably harm character and visual amenity but cumulatively the change from rural character and change from countryside views from public vantage points would be marked.
- 5.6.10 This change in character would result in the village being effectively extended some 150metres to the north, to the junction with George Street. The railway

line does present a very robust, definitive boundary to the village. The levelling of the site, with the provision of such a wide expanse of tarmac would result in the loss of countryside that contributes significantly to the setting of the village of Staplehurst. The loss of this 'soft buffer' and the provision of a car park in its place would have a significant and detrimental impact upon the character and visual amenity of the area, from both short and medium distance views. These views would be from the north and west from George Street, and from the east from the A229. Public footpath KM290 also runs to the west of this part of the application site, although views are limited due to the level of existing screening along this footpath.

- 5.6.11 This impact would be significant, with a very noticeable change in character from the existing. I consider that the railway line acts as a very clear division between the open countryside and the built up more urban area. The open field can be viewed from both short and medium distance views from the east, and from, in parts, the footpath to the west. Whilst it is not highly visible from long distance views at the moment, to my mind this is in part because it blends in with the surrounding countryside. Should lighting and other paraphernalia be provided within the site, the impact upon long distance views may well be detrimentally impacted to a greater extent.
- 5.6.12 I am therefore of the view that the proposal would not fall within any category as set out within Policy ENV28, and would cause significant harm to the character and appearance of the area. I therefore consider this proposal to fail to comply with this policy.

## **5.7 Architectural Quality**

- 5.7.1 The buildings that surround the southern section of the application site are, by the nature of their use, functional in their design. There is little architectural quality within the immediate vicinity of the application site. However, it is important that the proposal within this site, responds to both the height, and massing of these building, so as to not appear as out of keeping – i.e. overly dominant, or of alien form.
- 5.7.2 The building proposed, like those around it, would essentially be a large box that would be clad in timber, with metal panelling, and provided with fenestration on key elevations to provide interest. I would suggest that the building has two key elevations – the elevation facing the car park, and the elevation facing onto the railway station – as these will be those that would be most visible to the public.
- 5.7.3 The front elevation of the building would have a large section of glazing, with the remainder of the wall finished in timber cladding. The elevation would have

projecting elements, including the entrance lobby, and the café, which would break up the frontage, and provide layering to the building.

- 5.7.4 The side elevations of the proposed store would be blank, although it is proposed that artwork be provided along the station platform elevation in order to provide some visual interest.
- 5.7.5 This is effectively a box with an element of detailing on the 'public' elevations. However, due to the proposed use, and the surrounding development, I do not consider that this would appear at odds with the surrounding development. Whilst falling outside of the village confines, it is read in association with the Lodge Road industrial estate, which is characterised by large functional buildings. The erection of a building of this form and design would not therefore appear as out of character with the locality. I therefore raise no objection to the design of the proposed building.

## **5.8 Overview of Retail Provision in Locality**

- 5.8.1 *Staplehurst* – Within the defined retail centre of Staplehurst is a Spar convenience store which has approximately 250 sqm of retail floor space, an off-licence (Murcatto), a greengrocer (Spuds and Buds), a newsagents (Martins). In addition to this, there are service outlets including a pharmacy, a post office, a bank, an estate agency, a hair salon, and a turf accountant.
- 5.8.2 Outside of the defined area there are additional retail outlets including an opticians, solicitors, public houses, and a butchers. I therefore consider that Staplehurst currently has a broad offer for local residents. However, it is noted that there is very little convenience floor space within the village itself – particularly for a village with a population of in excess of 4,000.
- 5.8.3 *Headcorn* – The village of Headcorn falls within the catchment area of the proposed store. This village is again well served by a variety of shops, however, there is limited convenience floorspace; the largest offer being within the Sainsbury's Local which is approximately 275 sqm.
- 5.8.4 *Cranbrook* – Located approximately 8.5km from the centre of Staplehurst, Cranbrook contains a co-operative supermarket of approximately 1,600 sqm. This is the largest retail store within the catchment area.
- 5.8.5 *Hawkhurst* – Located approximately 14.5km from the centre of Staplehurst Hawkhurst contains a Tesco supermarket of approximately 850 sqm and a Budgens store of approximately 830 sqm (net sales).

- 5.8.6 *Tenterden* – The small town of Tenterden is 20km away from Staplehurst, and so would fall outside of the catchment area of the proposed supermarkets. However, due to the fact that there are two existing supermarkets – a Tesco (1,700sqm) and Waitrose (1,300 sqm) does draw in existing trade from the catchment area.
- 5.8.7 *Maidstone* – It is noted that the majority of residents within the Staplehurst area, and the catchment area of this store would currently undertake their convenience shopping within Maidstone, which lies 15km to the north of Staplehurst. The closest supermarket within Maidstone to Staplehurst is the Morrison’s on the Sutton Road. This has a sales area of 3,456 sqm, and has an extensive food offer, together with some non-food retail. There are a number of other stores within the town, including a Sainsbury’s, Tescos, and an Aldi store.

## **5.9 Retail Impact**

- 5.9.1 The proposal would see the creation of a new food store within a village, and area in which there is no current provision of this nature. National planning policy aims to ensure that the vitality and the viability of the town/village centre is not threatened by any edge, or out of centre proposal. The village of Staplehurst does currently contain a relatively small retail area that is designated within the Local Plan as a district/local centre by Policy R1 (xix). This policy seeks to maintain these existing centres for retail purposes, and to resist development that would harm their vitality and viability. The policy then states that proposals for further Class A1 retail development will be permitted in, or immediately adjacent to existing district or local centres.
- 5.9.2 Policy R10 also allows for the provision of new district centres anchored by a convenience store or supermarket, particularly in areas deficient of such facilities, subject to the criteria set out within policies R1, R2, R11 and R15.
- 5.9.3 In assessing this proposal with regards to the impact upon the existing retail provision within the Borough, the Council are satisfied that there is at present a significant level of ‘leakage’ from this area, with the majority of ‘weekly shops’ taking place outside of the locality; either in Maidstone, Tenterden or Cranbrook. This leads to a significant number of journeys away from the village, and also restricts choice for those with greater difficulty travelling longer distances. This provision would clearly assist in reducing the number of miles travelled by car, and would also be more accessible for those that are less mobile. It is therefore understood that there are clear benefits for providing such a facility within the village – not just for the village itself, but for the residents of surrounding villages such as Headcorn and Marden.

- 5.9.4 It is important however, to assess the applications in terms of the impact upon the existing retail provision within the immediate catchment area. To this effect a retail impact assessment has been submitted, and has been fully considered in the determination of this application.
- 5.9.5 This report sets out its methodology which included 1,000 interviews being undertaken within the six identified catchment areas (a minimum of 100 interviews in each). The responses from these interviews identified that 21.8% undertook their weekly shop in the Morrisons store on Sutton Road, 10% at the Co-operative in Cranbrook, 9.3% in the Tescos in Tovil, 6.4% in the Tesco and Grove Green, and 6.3% in the Sainsbury's in Maidstone town centre. It was also identified that 8.4% of respondents undertook their shopping via the internet.
- 5.9.6 Within zone 1 of the identified areas (which covers Staplehurst and the immediate vicinity) only 6.4% of respondents indicated that they undertook their main shop within the centre of Staplehurst. Clearly this indicates that the majority are shopping either in Maidstone, or further a field closer to their places of work/travel etc.
- 5.9.7 A number of other questions were asked within the survey that identified the shopping patterns of both the residents within zone 1, and also those within all other zones identified. These results identified that the role of Staplehurst's retail centre was to provide both a 'top-up shop' and also to provide a wider range of comparison goods, and services.
- 5.9.8 This sets out that whilst trade will be diverted to a certain extent from the existing village centres, the majority will be diverted from large supermarkets from outside of the catchment area. Weight has been given to the fact that the villages are generally trading well at present, with a diverse offer within each (particularly Staplehurst and Headcorn) that allows for both 'top-up' shopping to take place, and also more diverse products and services to be provided (that would not be available within a convenience supermarket).
- 5.9.9 It is not considered that there is any evidence that shops within the existing centres would close should this planning permission be granted and the supermarket built.
- 5.9.10 It is on this basis that I consider the retail impact of this supermarket on its own to have no materially detrimental impact upon the existing retail provision both within the village itself, and within the surrounding area.
- 5.9.11 The proposal would draw the majority of its trade from outside the catchment area, with most shoppers travelling to Maidstone. This would inevitably result



in a loss of trade from these stores, both in terms of convenience and comparison shopping. However, there is no evidence that this change in shopping patterns would result in the closure of any existing retail provision within Maidstone. There is the possibility that the draw of a more convenient store – i.e. less congestion and adequate parking might draw trade from south Maidstone (Coxheath/Linton or Loose Road) however, I consider that this draw is unlikely to be significant due to the scale of the provision, and the distance to travel.

- 5.9.12 As there is a very similar proposal for a supermarket adjacent to the application site, which is also to be heard at this planning meeting, I consider it essential to understand the cumulative retail impact should both applications be approved. In order to fully consider this matter, the applicants have submitted a cumulative retail impact assessment. This identifies the impact that the provision of two stores, with a cumulative size of 3,579sqm would have upon the surrounding area.
- 5.9.13 For the purposes of clarity this report does not suggest that doubling the amount of floor space, would double the impact of the proposal, as due to the size of the sales areas of the representative stores (approx 1,700 sqm each) there would still be a relatively limited offer – i.e. most convenience shopping, with only ancillary comparison – rather than the wider offer that one might expect from a supermarket of 3,400sqm which may for example sell more clothes, electrical goods etc. Nonetheless, the provision of two supermarkets of this scale, together with an increase in parking provision may make these stores slightly more desirable to shoppers, and as such, a small uplift has been assumed.
- 5.9.14 Even with this uplift in sales, I consider this would be likely to draw trade from areas further a field rather than drawing additional trade from the immediate vicinity – as those who live locally would presumably use a new supermarket if only one were permitted. It might be more desirable for residents of say Linton to travel to Staplehurst if they consider that parking would be more straightforward/there would be less congestion. This uplift however, has been identified as small.
- 5.9.15 I am therefore satisfied that should both supermarkets be constructed (which is unlikely), this would in effect lead to a cannibalism of trade between the two stores, as they offer a specific product, rather than a significant impact upon the existing retail offer within the catchment area.

## **5.10 Residential Amenity**

- 5.10.1 Due to the location of the site, being relatively detached from residential properties, there is little impact upon residential amenity that arises from the proposal to build the supermarket. Indeed, the nearest residential property is over 300metres from the proposed supermarket building. I am therefore satisfied that the proposed store, in relation to noise and disturbance, and overshadowing, creation of a sense of enclosure and overlooking, would not have a detrimental impact upon residential amenity within the vicinity.
- 5.10.2 The location of the proposed station car park would however be relatively close to a residential property to the north of George Street; 'The Grange'. This building would be impacted by additional noise and disturbance by this development, as at present the site is effectively an empty, and unfarmed piece of land. The separation distance between this property and the proposed car park would be approximately 40metres, and there would be a public highway that would separate the two uses. This together with the existing and proposed landscaping along both boundaries (north and south of the highway) would ensure that this noise and disturbance, whilst regrettable, would not be so significant as to warrant a refusal of this planning application on this ground.
- 5.10.3 In terms of the impact of the additional lighting within the application site, I am again satisfied that whilst the proposal would change the character of the area through the introduction of illumination, this would not be to the detriment of the residential amenity of this neighbouring property, nor any other within the immediate vicinity. Again, I see no reason to therefore object to this proposal on this basis.

## **5.11 Highways and Transport**

- 5.11.1 The proposed access to the store car park would be served from Station Approach Road, close to the junction with the A229. This junction is proposed to be altered with the provision of traffic signals, that would control the flow of traffic from Station Approach Road, to the A229, and vice versa. This would also require the widening of the junction (following the removal of the existing building to the north of the junction), and would allow for pedestrian access to be made to the store more readily from the south – as refuges would be provided within the roadway itself.
- 5.11.2 The proposed junction improvements would see the installation of traffic light controls that would allow for improved access into and out of Station Approach on to the A229. This proposal has been fully assessed (stage one safety audit) by Kent Highways Services, and is not considered to give rise to any highway

safety concerns, and in fact may give rise to some improvements to the safety of this part of the A229.

- 5.11.3 In terms of the parking provision proposed within the development, it is considered that there would be sufficient parking to ensure that there would be no overspill to the local highway network, to the detriment of highway safety. It should be noted that Network Rail have indicated that they may seek to formalise the car parking arrangements within the existing car parks should this application fail, with a tariff introduced.
- 5.11.4 With regards to deliveries to the site, these would be made to the rear, served through a new access road formed along the southern side of the supermarket. There would be sufficient space within the proposed service yard for lorries to enter and leave in a forward gear, therefore not detrimentally impacting upon highway safety.
- 5.11.5 As with the retail assessment, cumulative work has been undertaken (that is intrinsically linked to the cumulative retail analysis) which indicates that this proposal could take place, alongside the neighbouring proposal without any detrimental impact upon highway safety. It is acknowledged that there would be some increase in traffic flows should both stores be permitted, however, this would not result in an unacceptable level of congestion, nor increased risk of accidents. I am therefore satisfied that whether the proposal came forward in isolation, or whether it was provided alongside the neighbouring proposal, there would be no detrimental impact upon highway safety.
- 5.11.6 The applicants are proposing significant enhancements to the station car park, and to create a 'transport interchange' between rail and bus travel. I do consider these to be significant benefits, as at present the majority of buses are not able to run up to the station. This interchange would see the provision of real time bus information, turning areas, enhanced/widened pavement areas and would make the opportunities for public transport connections to be enhanced. Furthermore, the provision of a larger car park is considered to be of some benefit to the passengers that currently use the station. As set out previously many of the enhancements proposed form part of the Council's draft ITS and it should be noted that from comments received from both the applicants and Network Rail, there would appear to be little prospect of these enhancements being brought forward in the short term should this permission not be granted.
- 5.11.7 I am therefore of the opinion that this element of the proposal would be of some significant benefit to the village, insofar as it would see enhancements to both public transport, and to the car parking at the station brought forward at an early stage.

- 5.11.8 If not brought forward as part of a package with this application, it is likely that it would not be until the introduction of the Council's Community Infrastructure Levy that these measures would be provided.
- 5.11.9 The enhancements to the station itself are also to be welcomed, with a shelter provided, and new public realm proposed. This public realm enhancement would see the provision of wider pavements constructed of block paving. This would be a significant enhancement to the existing situation.
- 5.11.10 Collectively, these proposals would lead to a welcome enhancement to the current public transport provision, both for public transport users and motor car users. They would also improve pedestrian convenience and safety.

## **5.12 Landscaping and Ecology**

- 5.12.1 The proposed northern car park area for the station would see the development of the field and the loss of a significant number of trees and shrubs within the site. This site also contains a number of ponds – although not all of these contain water at all times and the replacement proposals would contain ponds. More than 60% of the land would be 'lost' as a result of this proposal, which would see the removal of a significant amount of habitat, and also soft landscaping.
- 5.12.2 The majority of the landscaping within the site is self seeded, but nonetheless it gives a verdant and rural character to the area and contributes to the visual amenity particularly when viewed from the A229. Whilst the applicants acknowledge the loss of the landscaping would have an impact upon the character and appearance of the locality, they propose mitigation in the form of an area of open land that would become publicly available once complete. This would contain two ponds, and a stretch of waterway that would run north to south through the site, and then run westwards towards the parking area.
- 5.12.3 No specific details have been submitted in terms of the qualitative landscaping enhancements to this area, rather illustrative plans. Nonetheless, from this plan, an understanding of the impact that this planting would have can be fully assessed. At its widest point the landscaped area would be 90metres deep, and at its narrowest point 30metres. This landscaping would soften the development to the west, although as stated, I am of the opinion it would remain visible. It would not in any event alter the fundamental change in character of the land that would be caused by the introduction and creation of a large car park.

- 5.12.4 Due to the changes in levels, it would not be possible to have a significant level of substantial planting close to the highway, however, it is proposed to incorporate this into the central area of the proposed public open space. Whilst qualitative enhancements could be made within this area, the loss of such a substantial area would undoubtedly have a detrimental impact upon the character and appearance of the locality.
- 5.12.5 In terms of the ecology within this part of the application site, it is clear that the loss of the land itself would result in the loss of significant habitat. There are Great Crested Newts (GCN) within the ponds, and suitable reptile habitat is identified within the application site.
- 5.12.6 An ecological report was submitted with the planning application, which has been assessed by Kent County Council Ecology (their comments are recorded at paragraph 3.8 of this report). This report acknowledges that the following habitats are to be found on the site:
- Hedgerows – assessed of low ecological value, but likely to provide habitat for bats and birds;
  - Scrub – assessed of low ecological value but providing some structural diversity to the site, and nest and foraging habitat for birds. The areas of scrub would also provide opportunities for GCN and reptiles;
  - Trees – most are immature specimens although there is a mature oak within the site and a line of semi-mature oaks also. Overall, the trees are assessed as low/moderate ecological value;
  - Grassland – this is assessed as being of low species diversity , although within the north east and south west of the south west of the northern half there are areas of greater potential interest – including several larger anthills. It is not considered that the grassland would be likely to be used by GCN.
  - Tall ruderal – again, assessed as being of low ecological value, although again, there would be some areas which have greater species richness.
  - Ponds – four ponds are present within the application site, all of which are assessed as species poor, although GCN are acknowledged to be within these ponds.
  - Wet Ditch – the northern section of this ditch is recorded as having low ecological value and the southern section has not been fully assessed, although it is acknowledged that aquatic/emergent species are more abundant along this length.
- 5.12.7 As can be seen, KCC Ecology have assessed the submission, and raise some concerns over the proposal, and the impact that it would have upon the existing ecology. In addition, Kent Wildlife Trust were consulted and have raised objections to the proposal on the basis that they do not consider the

mitigation proposed to be of a sufficient standard to maintain biodiversity within the site, let alone enhance it. Likewise, Natural England raises concern that the proposal, in its current form would not meet the three specific tests that would allow a licence to be granted under their regulations. Concern is raised in particular with regards to the impact that the separation of the ponds would have upon the population of GCN.

- 5.12.8 Whilst it is proposed that long grasslands and hedgerows be created in the retained area, this would clearly be a much smaller area than the existing site. It is also proposed that hibernacula and refugia be created within the application site, to further enhance the remaining land. The applicants argue that this would actually lead to an enhancement of the ecology within the locality (not just within the application site). Whilst there is clearly a loss of habitat as a result of this proposal, I consider that the qualitative mitigation can be provided to ensure that there would be negligible harm to ecology (it may be that the qualitative enhancements may be of overall benefit, but I do not consider the information submitted clearly indicates this, at this point in time).
- 5.12.9 Further work has now been undertaken by the applicants, which have addressed the concerns of Natural England, Kent Wildlife Trust and Kent County Council Ecology, subject to the imposition of suitable safeguarding conditions. Kent County Council Ecology do however retain concerns that the footpath would lead to the possibility of harm to the ecology within the future, and as such this would need to be carefully managed should permission be granted, to ensure that any users of this area do not stray from the paths. The applicants are currently engaged with Kent Wildlife Trust in order to ensure suitable management should the proposal be brought forward.

### **5.13 S106 Contributions**

- 5.13.1 The applicant has submitted draft Heads of Terms following discussions with the Authority. 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: -

It is:

- (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.

5.13.2 The applicant is proposing the following items as part of an overarching package that would be provided to mitigate against the impact to the village centre (and surrounding area). The proposals are:

- The provision of a community bus for a period of five years to serve the outlying areas;
- A contribution of £70,000 for enhancements to the village centre of Staplehurst.
- The provision of a new puffin crossing;
- The provision of a contribution of £50,000 towards the long term maintenance of the nature conservation area which would be spent in partnership with the Kent Wildlife Trust.

5.13.3 In terms of whether these proposals meet the test as set out above, the applicant initially proposed a contribution of £50,000 towards a community bus that would link the supermarket to the town centre (or village centre). The applicants have been advised that the Council would not be prepared to operate such a facility, and that the onus would be on the applicant to provide it. As such, the applicant has now agreed to provide a community bus for a minimum period of 5 years, which the Council consider to be reasonable, and also to ensure that the supermarket is accessible to those within the outlying areas.

5.13.4 With regards to the provision of a contribution of £70,000 towards the enhancement of the village centre. It has been agreed that in order to make the existing offer more attractive, and to therefore mitigate this proposal to a certain extent, it is necessary to see such a provision. It is noted that 'The Parade' is privately owned land, however, the applicants have agreed to work with both the Parish Council and the owners (if possible) to provide suitable enhancements to the public realm within the vicinity of this shopping area. The applicants have submitted a proposed plan which indicates that the following enhancements would be made:

- Replacement lighting;
- Provision of additional planters;
- Replacement tree grills;
- New hard surfacing to enhance the public realm;
- Additional tree planting;
- High quality seating to replace the existing
- Replacement litter bins to be provided.

The enhancements proposed here are significant, and would result in significant improvement to the village centre, mitigating the impact of the proposed supermarket. I also consider that the enhancements proposed to

relate to the provision of extra retail floorspace within the locality. I therefore consider this element of the proposal to be in accordance with the CIL regulations as set out above.

- 5.13.5 With regards to the provision of a contribution towards the maintenance of the nature area adjacent to the car park; again the applicant has been advised that the authority would not be willing to take ownership of this land. The applicants have identified a partner who they would work alongside (Kent Wildlife Trust) to manage this land, although no management strategy has yet been forthcoming. I am also unsure as to the length of time that a contribution of this nature would enable the management of the land. Whilst the provision of contributions is welcomed, in order to meet the specific CIL regulations, I consider that greater clarity is required.
- 5.13.6 With regards to the provision of a 'puffin crossing', whilst this has been suggested as part of a package within the S106 agreement, I have suggested to the applicant that this could well be provided through a S278 agreement with the Highways Authority. I consider that the provision of such a crossing, on the Marden Road would enable safer pedestrian access to the store, and would be reasonable to be provided. The applicant agrees to this, and as such, whilst it would still be provided, it would not form part of the 'S106 package' as such, but would still be provided, by condition, prior to the occupation of the store.
- 5.13.7 The proposed 'package' that has been submitted as mitigation for the proposed supermarket is a material consideration in the determination of the planning application. Significant enhancements to the village centre are proposed, and the provision of a puffin crossing would also be of significant benefit. However, there are concerns about how the provision of contributions towards the nature reserve would be spent. Nonetheless, to my mind the enhancement to the village, and the package of enhancements to the highways (including the provision of a community bus) would be likely to have the greatest impact upon the continued vitality, and viability of the village centre should the supermarket be permitted and constructed.

## **5.14 Sustainability**

- 5.14.1 The applicant has submitted information with regards to the sustainable elements of the construction of the new supermarket. They have not however, identified whether the proposal would reach a certain level within the BREEAM standards. However, they have identified the following features that would be incorporated should planning permission be granted:



- Enhanced building envelope – this would reduce the thermal movement through walls, roofs and floors, helping the store to stay warm in winter and cooler in the summer – reducing the demands upon mechanical heating and cooling.
- The design of the lobby would help with heat loss/gain by creating a delay time lock – minimising the amount of heat loss through the front of the store.
- The use of natural light through the provision of roof lights and clerestory glazing. The roof lights would be organised in a checker board fashion across the roof, maximising natural light.
- Natural ventilation would be incorporated within the store.
- Cold aisle retrieval which would allow other areas of the store to be cooled, would be utilised.

5.14.2 Whilst the applicants have not indicated that the store would achieve a BREEAM 'very good' standard, and whilst this Authority does seek to achieve the highest standard of sustainable construction on all new buildings, I do not consider this in itself to represent a reason to refuse planning permission.

## **5.15 Employment**

5.15.1 The proposed supermarket would be likely to generate approximately 150 jobs, which would be a mixture of part time and full time. There would be a significant number of managerial positions, team leaders, and 'shop floor' staff. To my mind, this is a significant benefit that this proposal would bring and as this scheme is deliverable these jobs are likely to come forward should planning permission be granted. Furthermore, the development would be economic development in terms of the NPPF which is proactively encouraged and is at the heart of Central Government's Plan for Growth. The provision of this number of jobs, particularly at present, within this period of limited economic growth is a weighty material consideration in the determination of this planning application.

## **5.16 Other Matters**

5.16.1 Consideration has been given to the impact of light pollution that could occur as a result of this proposal. This has been touched upon previously, with regards to the visual impact of the proposed car park to the north of the railway line and the change in character of that area, however it also needs to be considered in relation to the supermarket, and the car park that serves it. To my mind the introduction of lighting within this area would not have a significantly detrimental impact upon the character and appearance of the area. It is noted that there is no significant lighting within the existing car parking areas, however, it is in an area that is well developed (albeit

designated within the open countryside in policy terms), with significant street lighting etc. I do not see the provision of lighting within this area to be detrimental to either the character and appearance of the area, nor residential amenity (due to the separation distances previously discussed).

## **5.17 Public Representations on the Application**

- 5.17.1 As indicated within the 'Representation' section above, over 350 individual representations have been submitted, with the majority indicating support for the proposal. Responses to consultation need to be taken into account in reaching a decision on the application.
- 5.17.2 Many of the responses are identical letters, and many are submitted on flyers provided by the applicant. The substance of these letters is set out in Section 4 of this report.
- 5.17.3 It is considered that the expression of public support for the application – which such a significant demonstration of support – does weigh in favour of the application. It should also be noted that the proposal has seen more positive responses received than for the similar application, MA/11/1944, however this has to be seen in the context that many of these letters are identical, or give no reason for supporting the proposal. Whilst the level of support is a consideration, this does not necessarily override any material harm that the proposal may cause.

## **5.18 Side-by-side analysis of main aspects of Tesco Scheme and Sainsbury's Scheme**

- 5.18.1 This analysis is intended to aid members in their understanding of the applications but reference to, at least, the full reports on each scheme is essential as this is not an exhaustive list. A knowledge by Members of the elements, layout, elevations, proposed landscaping and siting of each scheme is assumed as well as an appreciation of the suggested conditions, highway and public transport improvements and headings of a s.106 agreement.
- 5.18.2 The retail floor space of each scheme is broadly similar. Both schemes would provide a similar retail offer. The Council's retail consultants indicate that there is a quantitative and qualitative need for the type and floorspace of shopping to be provided by each scheme.
- 5.18.3 Both schemes are likely to lead to a more sustainable pattern of food shopping in terms of converting food shopping trips by Staplehurst residents from more distant supermarkets such as within Maidstone.

- 5.18.4 Both schemes are likely to provide a similar number of jobs and to provide an injection of investment into the economy, welcomed by the Government in its 2011 growth agenda.
- 5.18.5 Both schemes would have some impact on the stores in Staplehurst but both schemes are proposing highway-related enhancements and enhancements to the public realm which would to some extent mitigate those impacts.
- 5.18.6 Neither scheme would harm the vitality or viability of Staplehurst town centre or any other centre. If both schemes proceeded (which is unlikely) then they would be likely to take trade from one another rather than unduly harm the vitality or viability of Staplehurst town centre or another centre.
- 5.18.7 The Sainsbury scheme is wholly within the settlement boundary of Staplehurst as shown in the Local Plan. The Tesco scheme is substantially but not wholly outside that settlement boundary. The Tesco scheme involves development of land to the north of the railway line which is wholly outside the settlement boundary.
- 5.18.8 The Tesco scheme is in part on greenfield land and the Sainsbury scheme is wholly on previously developed land.
- 5.18.9 The Tesco scheme is physically closer to the railway station than the Sainsbury scheme.
- 5.18.10 The Sainsbury scheme is physically closer to the town centre of Staplehurst than the Tesco scheme.
- 5.18.11 The Sainsbury scheme is physically closer to the majority of housing within the Staplehurst settlement.
- 5.18.12 The Tesco scheme includes a petrol filling station and the Sainsbury's scheme does not. Each scheme has a cafe.
- 5.18.13 Sainsburys scheme includes parking for 171 cars, cycle parking, new bus stops, a taxi pick up point, new pedestrian crossing and a small roundabout.
- 5.18.14 The Tesco scheme includes cycle parking, parking for 235 customer cars at the foodstore and 660 cars at the new station car park to the north of the railway line. It also proposes a station car park to the south of the railway line with a new station drop off arrangement with some short and long stay parking adjacent to it, and the drop off arrangement would include a bus and taxi pick up area. The scheme would provide a puffin crossing and other pedestrian crossing facilities. The Tesco scheme would include traffic signals controlling

flows into and out of Station Approach. The Tesco scheme would provide improvements that are sought for Staplehurst that are in the draft Integrated Transport Strategy.

- 5.18.15 The Tesco scheme would provide real time bus information, turning areas, enhanced/widened pavement areas and the new bus arrangement would be situated close to the station building entrance.
- 5.18.16 The Officer Reports in relation to each scheme consider that the Tesco scheme is in conflict with Local Plan policy ENV 28 (development in the countryside) and that the Sainsbury scheme is in conflict with Local Plan policy ED2 (land in employment use). The full reports must be referred to.
- 5.18.17 Sainsburys scheme would involve the demolition of two DK Holdings buildings and a GMS building (B8). The GMS business is coming to an end and the operator is closing down the company irrespective of the Sainsbury scheme. A purpose built factory for DK Holdings on an adjacent site has planning permission and would be erected prior to the operation of a Sainsbury supermarket.
- 5.18.18 The Sainsbury scheme would involve the loss of about 3360 sqm of class B floor space in a location which the Local Plan identifies as an existing area of economic activity/ an area with planning consent for economic development.
- 5.18.19 Sainsburys scheme will enable DK Holdings to operate from modern purpose built premises enabling them to consolidate their operations to become more efficient and expand.
- 5.18.20 The Tesco scheme involves the loss of ecological habitat. The Sainsbury scheme does not. The Tesco scheme offers ecological mitigation.
- 5.18.21 As to matters which would be secured by s.106 agreement or by highway agreement, the full reports must be referred to. Of particular note are:
- Tesco scheme offering £70,000 towards village improvements.
  - Sainsbury's scheme offering £50,000 towards village improvements.
  - Sainsbury's scheme would provide a free shuttle bus service for customers for a minimum of five years serving the local area.
  - Tesco scheme proposing to operate community bus.
  - Sainsbury scheme providing new bus stops and real time information and a new pedestrian crossing.

## **6. Balance of Considerations**

- 6.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the determination of the application is to be made in accordance with the Development Plan insofar as it is material to the application unless other material considerations indicate otherwise.
- 6.2 The proposed supermarket would be constructed on previously developed land, albeit land that falls substantially outside of the village confines of Staplehurst. The main station car park is proposed upon greenfield land, north of the railway and outside of the village confines. This would harm the character and appearance of that area and would be in conflict with policy ENV28 of the Local Plan. As such, the development would represent a departure from the provisions of the Development Plan.
- 6.3 A number of matters are given full consideration within the report, in particular the impact upon the existing retail provision within the locality, and beyond, and the impact upon the character and appearance of the area.
- 6.4 From the information submitted it is apparent that a supermarket of this scale could be provided to serve the village of Staplehurst, and the surrounding area, without a significant detrimental impact upon the existing retail offer. It is also acknowledged that a similar size of store could also be provided in close proximity without a significant detrimental impact. That said, a single supermarket would provide a suitable provision for the catchment area.
- 6.5 Whilst the provision of the store itself, and the accompanying supermarket car parking would not have any significant visual harm, the car park to the north of the railway line would have a much more detrimental impact. As there would be considerable and significant visual harm and harm to the character of the area as a result of this proposal, through the erosion of the countryside and the introduction of an urban use into the rural area. The question has to be asked as to whether there is overriding justification for this proposal to be approved.
- 6.6 In addition to providing a quantitative and qualitative improvement to food retailing in Staplehurst, it is acknowledged that this scheme would bring forward a number of considerable benefits, including a new station car park to the north of the railway, a new station car park to the south, enhanced transport infrastructure at the station including bus facilities, and traffic controls on the Station Road/Station Approach junction (for which there has been public pressure to be provided for some time and a number of which are identified within the Council's draft ITS), a significant number of jobs, enhancements to the village centre and better accessibility, and I do not view it as harming retail interest in terms of the sequential test. However, I do not consider these factors

override the substantial harm that the proposal would have to the character and appearance of the countryside. To my mind, that harm, given its location and significance, is not outweighed by the benefits of the scheme. Even if there was no current application for a supermarket of a similar size on other land in Staplehurst, I would recommend refusal of this application. Furthermore, the uncertainty in relation to maintaining biodiversity in that northern area adds to my concern, but even without that uncertainty the scheme is unacceptably harmful.

6.7 As such, I consider that this application should fail, and planning permission refused for the reason set out below.

7. **RECOMMENDATION**

REFUSE planning permission.

1. The proposed station car park would result in the loss of a significant amount of open countryside through the provision of hardstanding, and other associated paraphernalia, to the detriment of the character and appearance of the site, located on a primary arterial route into Staplehurst. There is no overriding need for the provision of A1 retail at this location, and as such the proposal would be considered to conflict with Policy ENV28 of the Maidstone Borough Wide Local Plan (2000) and the aim of sustainable development as set out within the National Planning Policy Framework.

176

GEORGE STREET

14. 11. 2012



177

14. 11. 2012





178

14. 11. 2012



179

14. 11. 2012





180

14. 11. 2012





181

14. 11. 2012



182



14. 11. 2012



183



14. 11. 2012



184



14. 11. 2012





14. 11. 2012





186

14. 11. 2012

187



14. 11. 2012





188

14. 11. 2012



189

14. 11. 2012





190

14. 11. 2012







191

14. 11. 2012

# THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/0324

GRID REF: TQ7552

**RHENCULLEN, BRIDGE STREET,  
LOOSE.**



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 100019636, 2013. Scale 1:1250



**Rob Jarman  
Head of Planning**



APPLICATION: MA/12/0324 Date: 20 February 2012 Received: 21 February 2012

APPLICANT: Mr R Clements

LOCATION: RHENCULLEN, BRIDGE STREET, LOOSE, MAIDSTONE, KENT, ME15 0BY

PARISH: Loose

PROPOSAL: Retrospective application for hard landscaping works to rear garden (re-submission of MA/11/1872), as shown on drawing number P626/1 Rev A and site plan received 21 February 2012, and Heritage Statement and Design & Access Statement both dated 20 February 2012 received 21 February 2012.

AGENDA DATE: 10th January 2013

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
- it is a deferred item from a previous Committee (30/8/2012) that requires reporting back on the main papers following the amendments requested by Members being received and expiration of the re-consultation period

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV28, ENV35, H27
- South East Plan 2009: C1, CC4, CC6, BE1, BE6, C4, NRM4, NRM5
- Government Policy: NPPF

## **2. HISTORY & BACKGROUND**

This is outlined on the previous report to Committee attached at Appendix 1.

Members considered this application at Committee on 30 August 2012 and resolved to defer consideration for the following reasons:-

*1. That consideration of this application be 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.*

*2. That Councillors Collins, English and Harwood are to be involved in the discussions.*

The revised submitted scheme has been prepared by a structural engineer. Councillor Collins, English and Harwood were involved in discussions.

### **3. CONSULTATIONS received in response to re-consultation**

3.1 LOOSE PARISH COUNCIL: "There is still strong local opposition to proposals, and these views still carry weight within the Council as they align, to some extent, with our previously expressed concerns opposing acceptance of earlier proposals.

However, on balance, with a view to endeavouring to find a way forward and to address the issues for refusal that the Parish Council has raised in the past it would comment as follows.

The current proposals are such, that with some not unreasonable modifications, they would become acceptable to the Parish Council.

It is paramount that a "path" is formed along the stream edge to allow the migration of wildlife. This feature is currently shown as part of the proposals and is an important feature.

The use of gabions represents an improvement over the sleepers, however it is critical to our thinking that they should give rise to, and support vegetation. Consequently, it is considered that some form of filling of the interstices between the ragstone should be introduced to form a plant growing matrix. Similarly there should be a condition imposed for suitable seeding and planting.

The drawings show the gabions positioned vertically, one above another to form a retaining wall to one side of the steps, and a non-structural facing to the other. As such they will still present a hard face to the development when viewed from the north. It is felt that laying the gabions as a backward staggered terrace would help soften this and pick up something of the sloping profile of the stream bank to the side. A sloping face would also provide a better environment for the promotion of vegetation.

There is much to be gained by stepping the gabions back at horizontal joints, possibly in conjunction with laying them to a backward staggered terrace. There would not only be a visual benefit but it would also create ledges which would encourage vegetation and create wildlife habitats.

We do not feel that the proposals above are radical or impractical. They represent an extension to the current thinking as to how to achieve a solution to the problems this development has created.

As the previous application was passed to Members, it is requested that this amended application should proceed likewise, and taking in to account our additional proposals”.

- 3.2 KENT WILDLIFE TRUST – comment that they are not convinced that the benefits for wildlife are significant and that their objections still stand.
- 3.3 KCC ECOLOGY – “The river bank is included within the Loose Valley Local Wildlife Site.

The site was designated for a variety of reasons including:

-The combination of woodland and riverside shrubs and plants creates good conditions for a wide range of bird species throughout the year, including the unusual water rail in winter months. Species recorded include blackbird, mallard, goldfinch, kingfisher and green woodpecker

-The varying grassland conditions and abundant river marginal vegetation mean that a wide diversity of plant species is present.

-Several old crack willow and ash pollards along the river support a reasonable bryophyte and liverwort flora. Before the works were carried out the area of river bank may have met the above criteria. As an ecological survey was not carried out it is hard to establish exactly what the site was like prior to works starting.

From reviewing the 2003 aerial photos it appears that the area has been vegetated in the past and as a result could have acted as a corridor to wildlife along the river bank. As a result of the works the photos indicate that there is no or very minimal vegetation remaining and as a result it's suitability as a wildlife corridor has declined significantly.

From reviewing the information submitted with the planning we are aware of the reasoning behind the works however we question whether the works could have been carried out in a way that river bank and the vegetation could have been retained. This would have been the preferred option as it would have retained the connectivity of the river bank. The applicant is proposing to change the existing wooden railway sleepers to gabions and increase the planting within the area to minimise the visual impact. While this could slightly reduce the impact the works will have, it will not prevent the development having an impact on the

LWS and a loss of connectivity. As changes to the works are being carried out we, recommend that the connectivity of the LWS is recreated”.

- 3.4 MBC CONSERVATION OFFICER – No comments received in response to re-consultation.
- 3.5 MBC LANDSCAPE OFFICER – “The proposal to add gabions on a concrete foundation in front of the existing timber retaining wall immediately adjacent to the main stem of the protected tree will require excavation that will cause significant and unacceptable levels of root damage, likely to result in its death or destabilisation and subsequent failure. I therefore object to the proposal on arboricultural grounds”.
- 3.6 ENVIRONMENT AGENCY - No comments received in response to re-consultation.

#### **4. REPRESENTATIONS received in response to re-consultation**

- 4.1 Three letters of objection have been received, from local residents and the Loose Amenities Association. In summary, the grounds of objection are as follows:

- \* Poor and unnecessary standard of design, cheap solution
- \* Gabions will retain urban feel
- \* Loss of privacy through raising of existing garden levels
- \* Raised structure that is also closer to the stream under these revisions causes greater visual impact
- \* Risk of flooding
- \* Is Article 4 land
- \* No environmental assessment submitted
- \* Protected trees affected, particularly a Norway Spruce
- \* Contrary to planning policy and NPPF
- \* Detrimental effect on character of conservation area including from public vantage points, gabions are difficult to camouflage
- \* Does not conform to Landscape Character Assessment
- \* Inappropriate design and appearance
- \* Destroyed wildlife advantage of natural sloping bank
- \* Both original and revised scheme do not mitigate negative impacts of the development
- \* Proposed planting to soften would not be permanent whilst planting areas under revised scheme are actually smaller
- \* Increased size of gabions will intrude further into stream and cause unstable bank to collapse
- \* Loss of landscape feature and destruction of natural line of streambank
- \* The application does not include any documentation from a structural engineer

- \* Gabion wall structure in Old Loose Hill was required to be removed
- \* Changes to unauthorised structure are not significant
- \* The development has had a negative impact on habitats in the wider landscape by damaging the connectivity of the riverbank wildlife corridor
- \* The development may have had an adverse impact on protected species and / or their habitats, although this cannot be confirmed because no ecological survey work was undertaken prior to the construction of the development
- \* The adverse impacts on landscape and visual character may be exacerbated if the protected, but now damaged Norway Spruce tree suffers decline or dies
- \* The proposed alterations to the unlawful development as outlined in drawings P626/Rev A and Rev B in planning application MA/12/0324 do not resolve its negative landscape, visual, ecological and arboricultural impacts
- \* Alternative proposals for creating a stabilised garden space should be explored

## **5 CONSIDERATIONS**

### **5.1 Site Description**

5.1.1 The site description is in the previous report to Committee attached at Appendix 1.

### **5.2 Proposal**

5.2.1 The scheme in general is described in the previous report to Committee attached at Appendix 1.

5.2.2 This revised scheme does, however, offer a gabion wall structure to (i) replace the existing timber sleeper retaining walls on the east side of the development and (ii) be installed in front of the timber sleepers to be retained on the west side. Otherwise the development subject to this application is now "as built" and with the previously proposed extra terrace in the structure on the east side now eliminated.

5.2.3 The gabions will be comprised of a stainless steel cage containing local ragstone.

5.2.4 It is also still proposed to apply darker mortar with recessed joints the existing areas of ragstone walling and new brickwork.

5.2.5 This revised proposal is in line with Members requests.

### **5.3 Principle of Development**

5.3.1 This is addressed in the previous report to Committee attached at Appendix 1.

### **5.4 Visual Impact**

5.4.1 Again, this matter is addressed in the previous report to Committee attached at Appendix 1.

5.4.2 It is, however, considered that the revised scheme is a visual improvement on the previous proposed and the existing "as built" development, and therefore offers an improvement in terms of its relationship with the character of both the natural and historic environment.

5.4.3 Again, therefore, taking into account the apparent need for some sort of retaining structure at the property due to the historical subsidence problems, I do consider that on balance the proposed scheme is acceptable in visual terms.

### **5.5 Residential Amenity**

5.5.1 This is addressed in the previous report to Committee attached at Appendix, when it was considered that there was no overlooking of adjacent dwellings or their private areas.

5.5.2 Therefore, given that this revised scheme actually reduces the height of part of the structure to "as built", then once again I do not consider that there would be any adverse impact on residential amenity.

### **5.6 Landscaping**

5.6.1 No landscaping is now proposed with this revised scheme. The gaps between the stone in the gabion structures will allow indigenous flora and fauna to colonise the area and reduce any visual impact. I consider that this is acceptable. It is not appropriate to introduce seeds into these areas but instead allow the local species to colonise

5.6.2 An appropriate condition could also ensure that if the protected Norway Spruce tree on the lower terrace on the west side of the development was to die, then a suitable replacement would be required. It has already been suggested by the Council's Landscape Section that the roots of this tree at least are likely to have been damaged by the work that has already taken place. Indeed, MBC Landscape Section has also objected to this revised scheme on the grounds that the excavation works involved would damage this tree, however, as aforementioned, it is likely that damage has already occurred.

## **5.7 Ecology**

5.7.1 Although this development will have involved removal of vegetation along the corridor of the riverbank, leading to a significant decline in its suitability as a wildlife corridor, the gabion walling structure proposed would allow indigenous flora and fauna to colonise within the area to minimise the general impact of the development. KCC Ecology accept that this could reduce the impact. They do, however, also point out that it will not prevent the development having an impact on the Local Wildlife Site and a loss of connectivity.

## **5.8 Flooding**

5.8.1 This is addressed in the previous report to Committee attached at Appendix, where it was considered that any resultant flood risk is not to the extent that permission should be refused. This view does not alter as a result of this revised scheme.

## **5.9 Other Matters**

5.9.1 As in the previous committee report, it needs to be considered how best to secure implementation of the scheme subject to this application as opposed to the development constructed.

5.9.2 Enforcement action could be taken against the unauthorised development as constructed (prior to it achieving immunity which would be in at least another 3 years) should any planning permission granted for the scheme subject to this application not be implemented in the meantime. Whilst I could understand any demand for the proposed scheme to be implemented within a restrictive timescale, I do not therefore consider it necessary to impose a short time limit for implementation by way of condition on any permission granted for the proposed scheme, if this were indeed even possible. The applicants could also be advised by way of Informative that appropriate enforcement action will be taken by the LPA should the unauthorised development remain in place without any progress being made to implement the planning permission granted. Such action would not necessarily have to wait until near the time when immunity would be reached.

5.9.3 An appropriate condition requiring the protected Norway Spruce Tree to be suitably replaced if it dies or is removed would secure an important tree in this location.



- 5.9.4 A condition requiring submission within 2 months of the materials and details of the repointing of the ragstone will also provide focus in implementing any approval.
- 5.9.5 It has been suggested in comments from the Parish Council that the Council secured removal of a similar gabion wall structure elsewhere in Loose village. However, it needs to be considered that whether or not this was the case, each planning matter is required to be assessed and considered on its own individual merits.

## **6. CONCLUSION**

- 6.1 The proposed scheme would not have an unacceptable visual impact on the character of the natural and historic environment including the Conservation Area and designated ALLI.
- 6.2 The proposed scheme would not have an unacceptable impact on residential amenity.
- 6.3 The ecological impact of the development can be reduced through the gabion structures proposed.
- 6.4 It can be assured that the materials to be used and repointing of the ragstone are acceptable and appropriate by securing all for submission and implementation by condition.
- 6.5 A suitable replacement tree for the protected Norway Spruce if it dies or is removed can also be secured by condition.
- 6.6 Should the subject revised scheme not be implemented then enforcement action could still be taken against the unacceptable development as constructed before it achieves immunity.
- 6.7 I therefore consider the development to be acceptable and that planning permission should be granted subject to conditions.

## **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. Should the existing protected Norway Spruce tree die, be removed, or become seriously damaged or diseased then it shall be replaced with a suitable replacement to be agreed in writing with the Local Planning Authority;

Reason: in the interests of visual amenity, in accordance with policies ENV28, ENV35 and H27 of the Maidstone Borough-Wide Local Plan 2000 and policies CC1, CC6, C4, BE1 and BE6 of the South East Plan 2009.

3. Within 2 months written details and samples of the materials used and to be used in the development shall be submitted to and approved in writing by the local planning authority and the development shall thereafter be constructed using the approved materials within 2 months of the date of any subsequent approval of those details;

Reason: to ensure a satisfactory appearance to the development, in accordance with policies ENV28, ENV35 and H27 of the Maidstone Borough-Wide Local Plan 2000 and policies CC1, CC6, C4, BE1 and BE6 of the South East Plan 2009.

4. Within 2 months of the date of this decision written details and a sample of the proposed repointing of the existing ragstone walling included in the development shall be submitted to and approved in writing by the local planning authority and the approved details shall thereafter be implemented within 2 months of the date of any subsequent approval of those details;

Reason: to ensure a satisfactory appearance to the development, in accordance with policies ENV28, ENV35 and H27 of the Maidstone Borough-Wide Local Plan 2000 and policies CC1, CC6, C4, BE1 and BE6 of the South-East Plan 2009.

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

Drawing number P626/1 Rev A received 21 February 2012.

Reason: To ensure the quality of the development is maintained in accordance with policies ENV28, ENV35 and H27 of the Maidstone Borough-Wide Local Plan 2000 and policies CC1, CC4, CC6, C4, BE1, BE6 , NRM4 and NRM5 of the South East Plan 2009.

**Informatives set out below**

The applicant is advised that, for biodiversity reasons, the inclusion of species native to the riverbank should be included and incorporated in the landscaping scheme required to be submitted.

The applicant is reminded that the existing development as constructed is in breach of planning control and considered unacceptable, and that therefore appropriate formal enforcement can and will be pursued by the local planning authority should it remain without implementation of the scheme hereby approved.

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**

**MA/12/0324 - Rhencullen, Bridge Street, LOOSE**

Additional information

Attached is the officer report to Planning Committee of 30 August 2012 regarding this application. This should have been attached as an appendix to the current report on these papers. It is referred to in the current report as Appendix 1.

Further comments received

MBC Conservation Officer has commented that - *"These further amendments to the landscaping scheme will help to further reduce its impact on the conservation area and I now consider the proposals to be acceptable"*. They therefore also state that they **"RAISE NO OBJECTION to this application on heritage grounds"**.

Neighbour representations

Attached are the written comments submitted by a local resident in respect of both this application and the previous withdrawn application (MA/11/1872). Also attached are a copy of the historical photographs they submitted with the comments made in respect of the current subject application. They have requested that this is all included in the urgent updates as they were unable to speak at this committee due to the available slots already being taken up.

Informative

The recommended Informative that reads *"The applicant is advised that, for biodiversity reasons, the inclusion of species native to the riverbank should be included and incorporated in the landscaping scheme required to be submitted"* can be deleted as there is no longer a requirement to submit a landscaping scheme by condition.

Recommendation

My recommendation to GRANT PLANNING PERMISSION subject to conditions remains unchanged.

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, ENV35, H27
- South East Plan 2009: CC1, CC4, CC6, BE1, BE6, C4, NRM4, NRM5
- Government Policy: NPPF

## **2. HISTORY**

MA/11/1872 – Retrospective application for hard landscaping works to rear garden – Withdrawn 6/12/2011

MA/03/1650 - Conversion of existing garage, erection of front porch, rear conservatory and other alterations – Approved 16/10/2003

MA/02/1740 - Erection of side extension, front porch, rear conservatory and change of windows – Approved 17/1/2003

MA/97/0302 – Erection of new roof including two dormers in the front elevation and a two storey rear extension together with a front porch – Refused 21/5/1997

## **3. CONSULTATIONS**

- 3.1 LOOSE PARISH COUNCIL – “A meeting of the Loose Parish Council planning committee took place on the 19<sup>th</sup> March 2012 to discuss the above application. We understood from Mr Clements, the landowner, at the meeting that he has followed and acted upon the advice he received from yourself and Mr Mike Parkinson, Principal Conservation Officer following the previous application which was withdrawn. We appreciate the consideration Mr Clements has accorded towards the changes proposed to the structure and landscaping.

The application was evaluated against the comments in our previous letter dated 1<sup>st</sup> December 2011. The Committee looked objectively at the proposed changes to the existing garden but felt that they had not gone far enough to alleviate the impact it has on the conservation area and article 4 directive. This is an extremely sensitive site.

The Loose Parish Council wish to see this application refused and request it is reported to the planning committee.

The Parish Council reiterates the reasons for refusal as outlined in its letter dated 1<sup>st</sup> December 2011. It considers the application continues to fail on the objectives of PPS1 specifically:-

Clause 17. In essence this calls for protecting and enhancing the quality of natural rural environments in particular, valued landscapes etc. The existing structure(s), mainly retaining walls, do not enhance the natural rural setting with their hard faces of brick, stone and railway sleepers. This is particularly the case when viewed from the north on the footpath through the Loose Valley near

Kirkdale Cottages. The development creates a hard “face” from the stream edge to the roof ridge of the bungalow from this location.

The development is at odds with the trees, shrubs and grassland at the rear of adjacent properties. The terracing does not align with the gradient of the ground generally in that area. It stands out proud of it.

Clause 18 calls for designs to help mitigate effects of declining environmental quality. The design and construction do nothing to improve and detract from the natural environment in this location.

Clause 20 addresses the promotion of biodiversity of wildlife habitats etc. There is no evidence that a wildlife survey was made prior to the development. This is particularly relevant as there is a designated Site of Nature Conservation Interest (SNCI) in the north area of the adjacent property, “Westmount”, to the west. There may well have been rare species in the area. The development itself can be seen as a barrier to the migration of wildlife along the stream bank.

Clause 38 indicates the need for scale, density, massing, height of development etc. to be in relation to neighbouring buildings and the local area. Here the mass and height of the vertical walling to the terraces is excessive. In fact the wall faces present an area similar to the north elevation of “Rhencullen” bungalow itself. There is nothing similar in the area.

It is appreciated that although attempts have been made to soften the appearance with planting and modifications to the retaining walls, we ask you to consider the impact such a development has on an area rich in natural character and appearance. This garden neither enhances nor improves the conservation area or natural landscape features of the Loose Valley.

Loose Parish Councillors visited the site at the time of the original application, and recommend that Borough Councillors also do this, and take in the view from the public footpath to the north of Kirkdale Cottages”.

3.2 ENVIRONMENT AGENCY – “We maintain our **objection** to the application and recommend refusal of planning permission for the following reasons:

The site lies within Flood Zone 3a defined by Planning Policy Statement 25 as having a high probability of flooding, where the risk to life and / or property in upstream and /or downstream locations from fluvial inundation would be unacceptable if the development were to be allowed.

In particular:

1. The site lies within the flood plain and the proposed development will impede flood flow and/or reduce storage capacity thereby increasing the risk of flooding elsewhere.
2. The information provided suggests that the proposed development will cause an unacceptable risk of surface water flooding to people and property elsewhere.
3. There is no buffer zone to the Loose Stream.

Buffer zone

It may be possible to overcome this element of the objection if the development is moved back to provide an 8 metre buffer zone measured from the bank top (defined as the point at which the bank meets the level of the surrounding land) alongside the Loose Stream. The buffer zone should be free from all built development. Domestic gardens and formal landscaping should not be incorporated into the buffer zone. The buffer zone should be planted with locally native species of UK genetic provenance and appropriately managed under an agreed scheme. Any scheme to provide a buffer zone will need to include a working methods statement detailing how the buffer zone will be protected during construction”.

- 3.3 KENT WILDLIFE TRUST – “The site abuts the Loose Valley Local Wildlife Site (LWS, MA20). The LWS comprises a mosaic of rough, unmanaged grassland, semi-improved grazed pastures, drier horse-grazed meadows and damp marshy grassland along the valley floor beside the river. The LWS citation confirms that the combination of woodland and riverside shrubs and plants creates good conditions for a wide range of bird species throughout the year. The river is also likely to be used by bats foraging and commuting between resting and feeding areas. Abundant river marginal vegetation means that a wide diversity of plant species is present.

The application seeks permission for a large-scale engineering operation that has used significant amounts of ‘hard’ surfaces and finishes. These features are particularly insensitive to wildlife interests and represent a severe disruption to the wildlife corridor established by the river. I note that the applicant has made no effort to evaluate the impact of development on local biodiversity interests as required under the recently-adopted National Planning Policy Framework let alone local planning policies.

In the circumstances, I urge the Borough Council to refuse the application and work with the applicant to achieve a more ‘natural’ profile to this valued river bank”.

- 3.4 MBC CONSERVATION OFFICER – “Although described as retrospective, the proposals now put forward incorporate amendments to the works as currently constructed.

As they currently stand, the works carried out without planning permission are considered to be inappropriate and out of character, resulting in an urbanisation of this riverside site on the village edge. However, amendments are now proposed which will go some way towards softening the impact, particularly by reducing the sheer height of the timber baulk wall to one half of the width by the use of stepped terraces. The combination of this with the planting proposed, and remedial works to the existing ragstone walling to achieve a better standard of pointing, will, in my view, result in a more acceptable scheme. Given the history of subsidence at this property some sort of retaining structure here would appear to be inevitable and there is evidence of some sort of ragstone walling having been built in the past. On balance I am prepared to raise no objections to these latest proposals, but conditions will be needed to secure the implementation of the amendments now proposed within a specified timescale (3 months?) and to require approval of a sample of the repointing of the ragstone. I RAISE NO OBJECTION to this application on heritage grounds and recommend conditions as detailed above”.



- 3.5 NATURAL ENGLAND - (On previous withdrawn application MA/11/1872) they commented that "this proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development". On the basis that this revised scheme is considered an improvement they were not therefore consulted on this current application.
- 3.6 K.C.C. ECOLOGY – "The river bank is included within the Loose Valley Local Wildlife Site.

The site was designated for a variety of reasons including:

- The combination of woodland and riverside shrubs and plants creates good conditions for a wide range of bird species throughout the year, including the unusual water rail in winter months. Species recorded include blackbird, mallard, goldfinch, kingfisher and green woodpecker
- The varying grassland conditions and abundant river marginal vegetation mean that a wide diversity of plant species is present.
- Several old crack willow and ash pollards along the river support a reasonable bryophyte and liverwort flora.

Before the works were carried out the area of river bank may have met the above criteria.

As an ecological survey was not carried out it is hard to establish exactly what the site was like prior to works starting.

From reviewing the 2003 aerial photos it appears that the area has been vegetated in the past and as a result could have acted as a corridor to wildlife along the river bank. As a result of the works the photos indicate that there is no or very minimal vegetation remaining and as a result it's suitability as a wildlife corridor has declined significantly.

From reviewing the information submitted with the planning we are aware of the reasoning behind the works however we question whether the works could have been carried out in a way that river bank and the vegetation could have been retained. This would have been the preferred option as it would have retained the connectivity of the river bank.

The applicant is proposing to increase the planting within the area to minimise the visual impact. If planning permission is granted the landscaping scheme should be designed to incorporate native species which are already present within the river bank. Although not the ideal solution it will to some extent reduce the impact of the works. If planning permission is granted any native species planting which is carried out will improve the site for biodiversity compared to what it is now - for example it could provide suitable nesting habitat for birds using the river.

However I would like to stress that the connectivity will still be reduced - the hard standing of the terrace area could prevent wildlife from moving along the river bank".

- 3.7 MBC LANDSCAPE OFFICER – “The application is retrospective, so in terms of potential impact on the Norway Spruce, designated T1 of Tree Preservation Order No.1 of 2004, any root damage resulting from the implementation of the proposal would have already taken place. The submitted plans demonstrate that development and excavation within the root protection area of the tree has taken place in my opinion. There is no evidence to demonstrate whether this actually involved severing of tree roots, but I consider that it is likely. Such works could have significantly increased the risk of windthrow failure or lead to the premature decline or death of the tree and carrying out root pruning without consent is an offence under TPO legislation.

If this application was not retrospective, I would almost certainly object to the proposal on the basis that such damage would be likely. As it has already taken place, it cannot be undone. The tree is protected, so a replacement tree can be secured under TPO legislation if it does fail, but this can be additionally strengthened through the use of a landscaping condition requiring replacement of failures in an approved landscaping scheme. I do not consider that the submitted landscaping proposals are sufficiently detailed and recommend the use of a standard condition (modified to reflect the fact that the application is retrospective) requiring a detailed scheme to be submitted and approved and a standard landscape implementation condition”.

#### **4. REPRESENTATIONS**

- 4.1 Thirteen objections have been received. These include from Loose Amenities Association, the Valley Conservation Society and local residents. In summary, the grounds for objection are as follows:

- Breach of Article 4 Direction
- Prominent position, entrance to valley
- Visible from public footpaths and areas, spoils views
- Inappropriate, poor and unnecessary design
- Out of character – does not complement unspoilt rural nature of valley
- Detrimental impact on area, including Conservation Area
- Loss of landscape features
- Dominates surroundings, imposing
- Dangerous precedent for further development if approved
- Incongruent materials more in keeping with urban setting
- Works completed without planning permission
- Terracing does not align with steady gradient of ground
- Destruction of natural line of stream bank
- Ragstone of poor standard
- Affect on wildlife habitats and trees – both lost - SNCI nearby
- Sleepers could pollute water
- Planting not of appropriate type to soften impact – and shouldn’t be relied upon anyway
- Amendments do not overcome concerns over height, mass and materials
- Previous scheme preferable – latest scheme raises height and therefore increases visual impact
- Ragstone should be used to all vertical surfaces
- Balustrading could be removed, not necessary
- Loss of privacy through raised levels of garden
- Protected trees affected
- No environmental assessment

- Light pollution – compounds harm
- Doesn't preserve or enhance natural or historic environment, including Conservation Area
- Contrary to NPPF
- Formerly ALLI. Harms and alters natural landscape features
- Loss of natural drainage – water and flood concerns
- No ecological assessment
- Risk to irreplaceable beauty of village and valley

4.2 A local resident has also written in support, objecting to the removal of the development "as your plans will not enhance the walk through the valley and I believe that the structure is more in keeping with the woodland".

4.3 As part of the application submissions seven letters of support and a petition of seventy signatures in support have also been received. The reasons for support are summarised as follows:

- Rich diversity in architecture in Loose Village
- Limited development carried out in good faith
- Garden difficult to landscape due to steep slope
- Reflects style of bungalow with references to local vernacular
- Sympathetically constructed
- Improved amenity for use of property
- Stabilized an area prone to subsidence, raising integrity of bank
- Further land shift would have occurred harming steam and wildlife
- To remove the development would have no positive effect on Conservation Area
- Visually pleasing – bank was an eyesore
- Enhances appearance of property, not out of character or inappropriate
- Materials blend well with others in vicinity
- Established tree provides focus and height
- Greatly improved appearance when viewed from path leading to Loose Valley
- Soft landscaping will improve further

## **5. CONSIDERATIONS**

### **5.1 Site Description**

5.1.1 This application relates to a detached bungalow property in a discreet location just within the 'built' envelope of Loose village, at the lowest part. It is also within the Loose Valley Conservation Area, and within a designated Area of Local Landscape Importance. It is also on land previously designated as a Site of Nature Conservation Interest. An Article 4 Direction confirmed for the Loose Valley Conservation Area also covers this property, removing residential and other permitted development rights. A stream/brook runs along the rear of the property, which is within designated Flood Zones 2 and 3. A protected Norway Spruce tree is located near the stream/brook within the curtilage. There is also other planting and vegetation generally around the rear of the site. The land rises northwards in the field to the north on the opposite side of the stream/brook, within which there is also a handful of trees. Public footpath KM58 runs along the north side of this field, from KM52 just to the east. There are other residential properties south of the site including one adjacent to the south-east, and other residential properties to the north-east and north-west on the opposite side of the brook/stream.

5.1.2 The bungalow has been previously extended and altered with planning permission. This application seeks permission for hard landscaping works that have been carried out within the rear garden backing onto the stream at the rear of the property and foot of the garden. Amendments are also proposed under this application to the development "as built". At present the development consists of raised terraced areas with lawn and slab paving, lower terraced areas with gravel finish, timber sleeper retaining walls with timber handrails above, and elements of brick and ragstone retaining walling. Central brick and concrete steps lead down to the stream/brook. There is also a narrow concrete platform at the bottom by the stream/brook.

## **5.2 Proposal**

5.2.1 This application seeks permission for the hard landscaped terraced areas, but with proposed amendments. The principle amendment is the inclusion of an extra step/terrace on one side of the central steps between the ragstone wall and timber sleeper retaining wall. This also involves the reduction in height of the land levels on that side where nearest to the brook/stream, and the reduction in height of the timber sleeper wall retaining those present land levels. Further, it involves the inclusion of an additional sleeper retaining wall behind that and in front of the ragstone wall. It is also proposed to reposition the handrail currently positioned on top of the higher timber sleeper wall to the top of that existing ragstone wall.

5.2.2 Hanging and trailing vegetation/planting is also proposed, including to the existing and proposed terraced levels, and darker mortar with recessed joints to the existing areas of ragstone walling.

## **5.3 Principle of Development**

5.3.1 Although the application site lies within a designated Conservation Area and designated Area of Local Landscape Importance, it is also within the built up envelope of Loose Village. In principle, therefore, I am satisfied that this development is acceptable in line with development plan policies and government advice aimed at rural settlements.

5.3.1 However, strong regard must be had to development plan policies and government advice aimed at conserving and enhancing the natural and historic environment and protecting 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 as existing is visible and as proposed would remain visible from public areas to the north that includes the footpath that runs along the north edge of the field on the opposite side of the brook/stream. This would be around 40 metres away from the back edge of the application site and therefore also the subject development, so it is at a reasonably close distance.

5.4.2 As built, the height, scale, mass and material of the development is considered to be inappropriate and out of character for this location on the edge of the

village. It does, therefore, have an unacceptable impact on the character of both the natural and historic environment.

- 5.4.3 However, the development as proposed under this application is considered to be a significant improvement. The reduction of the height of the rearmost timber sleeper wall on the stream edge by some 50% contributes to softening the visual impact, and this will only serve to be improved further by the removal of the timber railing currently atop and its repositioning on top of the ragstone wall further back. Hanging and trailing vegetation/planting also proposed all around the terracing will further soften its appearance.
- 5.4.4 The proposal to carry out remedial pointing works to the ragstone walling will also improve the appearance of the development. The predominant materials used of timber and ragstone also reflect that used and included generally in built form in the area.
- 5.4.5 Taking into account the apparent need for some sort of retaining structure at the property due to the subsidence problems that have historically existed, and that ragstone walling apparently previously existed in a similar location at the property, I do therefore consider that on balance the proposed scheme is acceptable in visual terms.

## **5.5 Residential Amenity**

- 5.5.1 The rear garden of this property has been raised (in terracing format) as part of this development. As a result it is possible to see over the dividing fence with the adjacent property to the east (Millbourne Cottage). However, there is a distance of around 20 metres to the private areas immediately behind the rear of that dwelling, whilst the detached garage at that property is also in between. I therefore consider that this dwelling and its private areas are unaffected in terms of overlooking/loss of privacy.
- 5.5.2 Given the considerable distances and orientation involved between the application property and the properties on the other side of the stream/brook to both the north-east (Kirkdale Cottages) and north-west, combined with the various vegetation and enclosures between, I do not consider that there is any unacceptable overlooking of these dwellings or their private areas as a result of the development.

## **5.6 Landscaping**

- 5.6.1 Hanging, climbing and trailing planting is proposed as part of the submissions all around this terraced area, which should provide good cover generally even on the ground. Although some of the planting type is detailed on the submitted drawing, some is left unspecified and stated to be to LPA approval. In this respect, for ecological reasons, species native to the riverbank and area would be preferred. An informative could advise of this. The exact type and detail of all this planting can therefore be secured by condition.
- 5.6.2 Submission of a detailed landscaping scheme by condition and a further condition concerning implementation and maintenance of any such scheme would then also ensure that if the protected Norway Spruce tree on the lower terrace of the development was to die, then a suitable replacement would be required. It has already been suggested by the Council's Landscape Section that

the roots of this tree at least are likely to have been damaged by the work that has already taken place.

## **5.7 Ecology**

5.7.1 Although this development will have involved removal of vegetation along the corridor of the riverbank, leading to a significant decline in its suitability as a wildlife corridor, planting is proposed within the area to minimise the general impact of the development. If the landscaping scheme were designed to incorporate native species already common to this riverbank then this would to some extent reduce the ecological impact of these works as already carried out and proposed under this application, and improve the site for bio-diversity. This landscaping scheme and its implementation can be secured by condition. KCC Ecology accept that this could limit the impact. They do, however, also point out that connectivity will still be reduced as the hardstanding of the terraced area could prevent wildlife from moving along the river bank.

## **5.8 Flooding**

5.8.1 The Environment Agency have recommended that permission be refused for this development within Flood Zone 3a, on the basis that it will impede flood flow and/or reduce storage capacity and thereby increase flood risk elsewhere, that the development will cause an unacceptable risk of surface water flooding; and that there is no buffer zone to the Loose Stream.

5.8.2 There will, however, be planted areas on the development and site which will help to minimise this loss of flood storage and interruption to flood flow, and therefore also the consequent flood risk. It also needs to be considered that unchecked subsidence of the bank could have caused greater problems.

5.8.3 Also, I consider that the development is of a minimal size and scale, and that therefore any resultant flood risk is not to the extent that permission should be refused.

5.8.4 Further, it would not be practical for the development to be moved back to create an 8 metre buffer zone from the stream considering the relative size of the back garden, nor appropriate considering the structures and levels of land that previously existed within this "zone".

## **5.9 Other matters**

5.9.1 It needs to be considered how best to secure implementation of the proposed scheme as opposed to the development constructed.

5.9.2 Enforcement action could be taken against the unauthorised development as constructed (prior to it achieving immunity which would be in at least another 3 years) should any planning permission granted for the proposed scheme not be implemented in the meantime. Whilst I could understand any demand for the proposed scheme to be implemented within a restrictive timescale, I do not therefore consider it necessary to impose a short time limit for implementation by way of condition on any permission granted for the proposed scheme, if this were indeed even possible. The applicants could also be advised by way of Informative that appropriate enforcement action will be taken by the LPA should the unauthorised development remain in place without any progress/steps being

made to implement the planning permission granted. Such action would not necessarily have to wait until near the time when immunity would be reached.

- 5.9.3 Conditions requiring submission within 2 months of details of landscaping, details of materials and details of the repointing of the ragstone will also provide focus in this respect.

## **6. CONCLUSION**

- 6.1 The proposed scheme would not have an unacceptable visual impact on the character of the natural and historic environment including the Conservation Area and designated ALLI. Proposed hanging, climbing and trailing planting will assist in this respect.
- 6.2 The proposed scheme would not have an unacceptable impact on residential amenity.
- 6.3 The ecological impact of the development can be reduced by incorporating native species common to the riverbank in the proposed planting.
- 6.4 It can be assured that the details of proposed planting, materials to be used and repointing of the ragstone are acceptable and appropriate by securing all for submission and implementation by condition.
- 6.5 Should the proposed scheme not be implemented then enforcement action could still be taken against the unacceptable development as constructed before it achieves immunity.
- 6.6 I therefore consider the development to be acceptable and that planning permission should be granted subject to conditions.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:



JL Ack  
8/13.12.2012

'0'

P.R. Correspondence?	
REF:	
13 DEC 2012	Init'l
CHQ. DET. £	
DRAWER	

Church House  
Church Street  
Loose, Maidstone  
Kent ME15 0BT

Mr Jon Lawrence  
Planning Officer  
Maidstone Borough Council  
Maidstone House, King Street  
Maidstone ME15 6JQ

12 December 2012

Dear Sir

Re: 12/0324, Rhencullen, Loose

I am responding to your letter of 22 November. Having seen the amended drawings dated 17 November 2012, I am maintaining my total objection to this planning application. Please refer to my objection letter to the initial planning application MA/11/1872 because all the points I made then still stand.

The small modifications which have been suggested in the latest revision go nowhere near enough to let the application stand. Proposing that the problem of garden subsidence can be solved by increasing the load on the bank rather than decreasing it, is the wrong way round. Raising the overburden right to the bank of the stream seems to be completely defeating the object of stopping subsidence and erosion.

The history of this site is that the subsidence problem arose because soil from Millbourne (now next door; then the same property) was piled on the area, and the bungalow, then called Forelle, was built on top of this made-up land. There has been significant underpinning of the house as a result. Under the present ownership, the garden was first raised when the conservatory was built higher than the existing patio, making it necessary to build a 4' high retaining wall on the west side. The current structure, built without planning permission, has raised the garden level even more, and therefore the weight of build-up is increased right down to the stream. I have found no evidence that this scheme as it stands or its latest revisions have been engineered by any qualified engineering authority. Building-up the structure can't be claimed to reduce the risk of movement into the stream, with all the weight of earth and materials piled behind. My objection is that any structure which isn't properly engineered risks collapsing into the stream. Gabions will not stop the garden creeping into the stream.

This property is within the Conservation Area. The existing and proposed structure is damaging the conservation area and will damage it further; this urban development is a creeping infringement into the rural area of the Loose Valley and the Local Wildlife Site.

The hard, vertical face of the existing and proposed structure has already broken the corridor for wildlife. There is no room left for a wildlife corridor or habitat, and none is proposed. The natural bank of the property can be seen in attached photo 1 (2007) and the wildlife corridor can also be seen in older photos 2 and 3 of Forelle and the valley (undated). The wildlife corridor will be lost for ever and this is another reason for my objection.

I ask the Maidstone Borough Council Planning Committee to insist that a properly engineered solution is found, which minimises impact in every respect on the conservation area.

Yours faithfully

Roy Hood

Encs

Aug 2007

Kirkdale Meadow  
Looking across the heat of  
"Rhencullen" Loose

1.

P.R. Correspondence?	
REF:	
13 DEC 2012	(init)
CHK DET. S	
DRAWER	



'Fotelle' far left

Breckfield in foreground  
green corridor visible behind and passed Breckfield

3.

PRI	Correspondence?	
REF		
	13 DEC 2012	Int'l
CHO. DET. E		
DRAWER		





"Forelle" before extensions were added

2.

P.R. Correspondence?	
REF	INIT
13 DEC 2012	
CHO	
DRAWER	





NI 57 0

Ach  
SS  
21/12/2011

P.R. Correspondence?	
REF:	
29 DEC 2011	Init'l
CHQ. DET. £	
DRAWER	

Church House  
 Church Street  
 Loose  
 Maidstone  
 Kent. ME15 0BT

7<sup>th</sup> December 2011

Jon Lawrence  
 Planning Department  
 Maidstone Borough Council  
 King Street  
 Maidstone  
 Kent. ME16 6JQ

Dear Mr Lawrence,

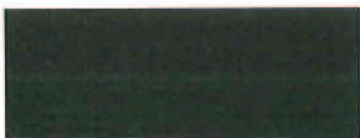
**Re: Retrospective application for hard-landscaping works to rear garden -Rhencullen, Bridge Street, Loose - Planning Application Numbers - MA/11/1872 & Enforcement Notice ENF11869**

With regards to the Enforcement Notice, I would like to draw your attention to the fact that not only is the area within the Loose Valley Conservation area and subject to an Article 4 Direction, it is also within a 'Site of Nature Conservation Interest'. It should also be noted that the concrete slab creating a ledge at the river's edge was built by a previous owner, when the house was called 'Forelle'. Furthermore, there was already a retaining wall located some 4 ft from the rear boundary of the house.

I also wish to express my objection to the hard-landscaping works for reasons outlined below and therefore request that the application is refused.

- i) The hard-landscaping detracts from the natural views experienced from the Loose Valley to the detriment of many of its visitors. The development is in effect replacing a 'green' with an 'urban' outlook.
- ii) The natural line of the stream bank has been destroyed, which again detracts from the views and environment that the conservation area seeks to protect.
- iii) The construction has created a platform which permits neighbouring properties to be overlooked resulting in a loss of privacy.
- iv) Even if the roots of the tree encased by the decking were not damaged during the construction works, it is likely that the additional weight on the root system will have a detrimental effect on the tree's longevity.
- v) It would appear that the stream-side decking is to be illuminated. This would be seen not only from the valley, but also from the village and as such represents an unwelcome source of light pollution.

Yours sincerely,



222



223





224



225



226





227

A photograph of a house partially obscured by trees and a grassy field. The house has a brick and stone foundation and a dark wooden deck. The number 227 is written vertically on the left side of the image.



228



229

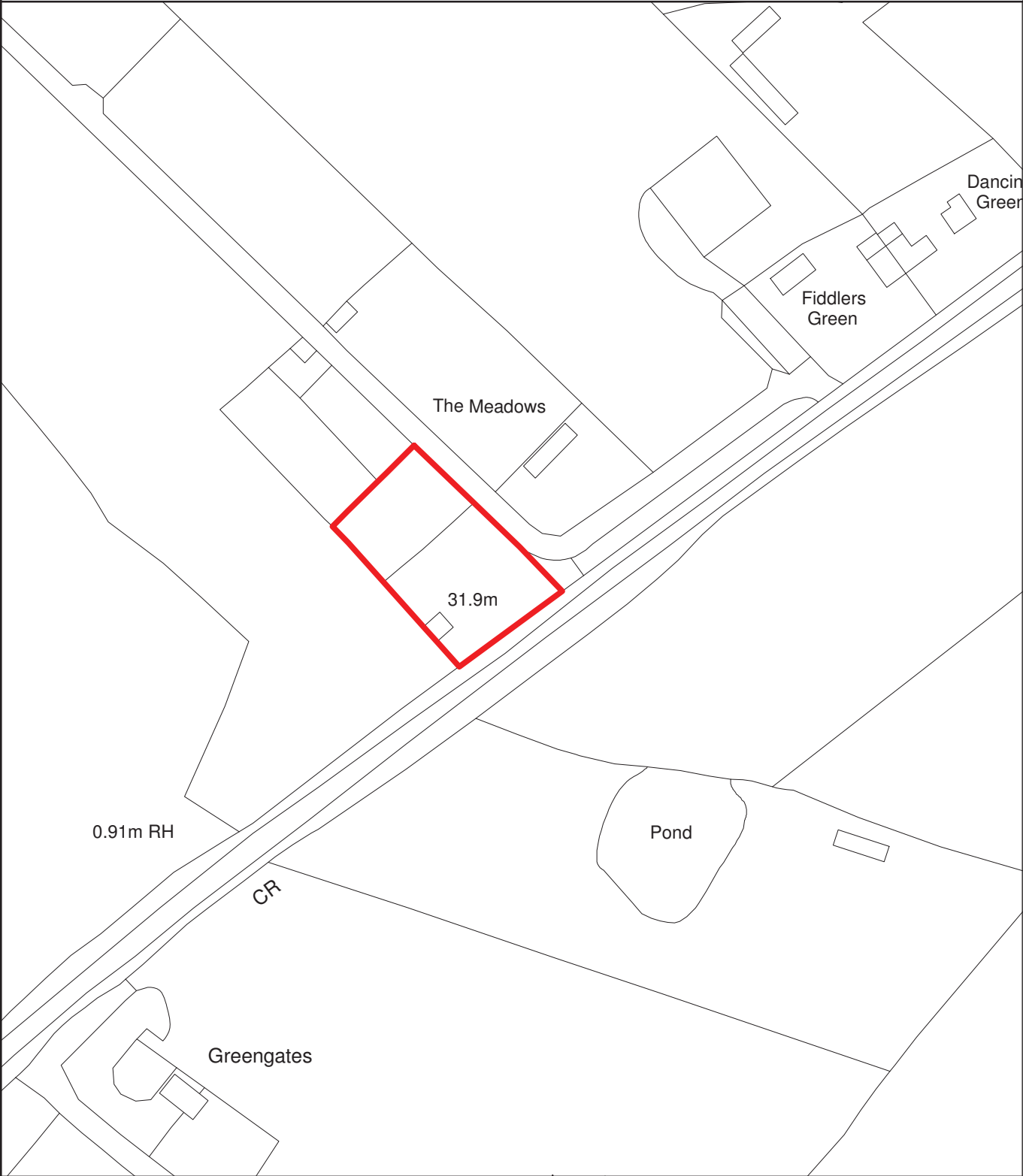


# THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/0760

GRID REF: TQ8546

LAND AT THE MEADOWS,  
LENHAM ROAD, HEADCORN.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 100019636, 2013. Scale 1:1250



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

APPLICATION: MA/12/0760 Date: 26 April 2012 Received: 15 June 2012

APPLICANT: Mr G Smith

LOCATION: LAND AT THE MEADOWS, LENHAM ROAD, HEADCORN, MAIDSTONE, KENT, TN27 9LG

PARISH: Headcorn

PROPOSAL: Continued use of land as a residential gypsy site without complying with previously imposed conditions relating to restricted occupancy to Mr J Bignall Snr and his immediate family, and including the stationing of a mobile home; the retention of hardsurfacing and boundary fencing and proposed boundary fencing; the retention of a day room with conservatory addition; a separate storeroom building; and the retention of a new access created onto the Lenham Road.

AGENDA DATE: 10th January 2013

CASE OFFICER: Peter Hockney

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

- it is contrary to views expressed by Headcorn Parish Council

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34
- South East Plan 2009: CC1, CC6, C4, H4
- Government Policy: NPPF (2012), Planning Policy for traveller sites (2012)

## **2. HISTORY AND BACKGROUND**

MA/08/0393 – Erection of a day room to serve existing Gypsy site (Resubmission of MA/07/2430) – APPROVED WITH CONDITIONS.

MA/07/2430 – Erection of a day room to serve existing Gypsy site – REFUSED.

MA/06/1181 – Variation of condition 1 and 2 of MA/00/1117 (Change of use of the land to allow the siting of a residential caravan for a gypsy family and the erection of a toilet block) to permit permanent occupation of the site with

personal consent to Mr and Mrs John Bignall Snr – APPROVED WITH CONDITIONS.

MA/02/0834 – Erection of a permanent utility building – REFUSED – DISMISSED AT APPEAL.

MA/02/0324 – Variation of condition 3 of permission MA/00/1117, to allow a mobile home and a touring caravan to remain on the site all year – REFUSED – ALLOWED AT APPEAL.

MA/00/1117 – Change of use of the land to allow the siting of 1 No. residential caravan for a gypsy family and the erection of a toilet block – REFUSED – ALLOWED AT APPEAL.

MA/94/1012 – Retrospective application for change of use of land from agriculture to a mixed use comprising agriculture and the stationing of two caravans for occupation by a gypsy family between 1 October & 30 June each year – REFUSED – DISMISSED AT APPEAL.

MA/93/0765 – Use of land for the siting of (i) a residential caravan for the gypsy family (ii) water troughs and water tank together with the erection of a shed and electricity metre box and the laying of a hardstanding – REFUSED – DISMISSED AT APPEAL.

Members considered this application at Planning Committee on 22 November 2012 and deferred consideration of the application for the following reason:-

*That consideration of this application be deferred to enable further negotiations to take place with the applicant in order to minimise the impact of the development upon the countryside. The negotiations should address issues regarding boundary treatments, landscaping, hardsurfacing, lighting and visibility in the wider countryside.*

*That Ward Members should be involved in the discussions prior to the application being reported back to the Committee.*

The amended plan has been received and consultations sent to the Ward Members, Parish Councils and notification letters to neighbours. I attach a copy of the previous Committee Report as Appendix 1 for Members information.

### **3. CONSULTATIONS**

- 3.1 No consultation responses have been received following the receipt of the amended plan.

#### **4. REPRESENTATIONS**

4.1 No representations have been received following the receipt of the amended plan.

#### **5. CONSIDERATIONS**

5.1 I will only deal with the changes on the submitted plan following the deferral by Members at the 22 November 2012 Planning Committee. The remainder of the considerations are as discussed in the previous report in Appendix 1.

5.2 The submitted plan shows the following elements:-

- The entrance gates set 5.5m back from the edge of the highway.
- An area of lawn has been shown closest to Lenham Road. This is a minimum of 6m deep and 20m wide.
- The hedgerow along the boundary with Lenham Road is shown to be retained and any gaps reinforced.
- The mobile home has been moved to the rear part of the site approximately 32m back from the boundary with Lenham Road.

5.3 All of the above changes help in reducing the visual impact of the site. The submitted plan will be conditioned to ensure its implementation. The species used in the landscaping to plug any gaps in the retained hedge would be hawthorn and this would again be conditioned. The existing hedge is predominantly hawthorn and this would be an acceptable species in the location.

5.4 There is no external lighting proposed as part of the development and a condition is proposed to prevent future lighting without planning permission.

5.5 Overall I consider that the changes made deal sufficiently with the request from Members and I recommend approval. It is important to note that this application is effectively to change the name of the occupier and if Mr Bignall returned to the site it could be lawfully occupied without setting the gates back, reducing the hardstanding or plugging the gaps in the hedge.

#### **6. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use hereby permitted shall be carried on, and the caravans occupied, only by Mr Gilbert Smith and/or Mrs Chevone Smith (and any resident dependents) and shall be for a limited period, being the period during which the premises are

under control of Mr Gilbert Smith or Mrs Chevone Smith;

Reason: In order to meet the identified need of the applicant in accordance with guidance contained in Planning Policy for Traveller Sites.

2. When the premises cease to be under the control of Mr Gilbert Smith and/or Mrs Chevone Smith the use hereby permitted shall cease and any caravan and all materials and equipment brought on to the premises in connection with the use shall be removed, including any hardstanding or cesspool, and the land restored to its former condition prior to the commencement of the use;

Reason: To ensure a satisfactory impact on the character and appearance of the countryside and in order to meet the identified need of the applicant in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained in Planning Policy for Traveller Sites.

3. No more than three caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time;

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of the South-East Plan (2009).

4. This permission does not authorise the use of the land as a caravan site by any other persons other than gypsies, as defined in Annex 1 of Planning Policy for traveller sites;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted in accordance with policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

5. Within 2 months of the date of this decision a scheme for the means of foul and surface water drainage of the site shall be submitted to and approved by the Local Planning Authority and the details shall be implemented within 2 months of them being approved and maintained thereafter;

Reason: To ensure a satisfactory impact on the character and appearance of the countryside and in order to meet the identified need of the applicant in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained in Planning Policy for Traveller Sites.

6. The gaps in the hedgerow shall be plugged with hawthorn bushes within the first planting and seeding seasons following the granting of this permission; 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 ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

7. No external lighting shall be erected on the site at any time unless previously agreed in writing by the Local Planning Authority;

Reason: To safeguard the character and appearance of the area and to prevent light pollution in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000) and policy C4 of the South East Plan (2009).

8. No commercial activity or open storage shall take place on the site;

Reason: To ensure a satisfactory impact on the character and appearance of the surrounding area in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

9. The development hereby permitted shall be carried out in accordance with the following approved plans:  
MAI/25/PL/01A;

Reason: To safeguard the character and appearance of the countryside in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

### **Informatives set out below**

Any sewage treatment requires the system to be desludged on a regular basis to prevent the build up of solids so that sewage flows freely through the unit. Anyone used to remove the sludge should be registered with the Environment Agency to carry waste. Sludge should normally be removed every 12 months or in accordance with the manufacturer's instructions.

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and

proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

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

APPLICATION: MA/12/0760 Date: 26 April 2012 Received: 15 June 2012

APPLICANT: Mr G Smith

LOCATION: LAND AT THE MEADOWS, LENHAM ROAD, HEADCORN, MAIDSTONE, KENT, TN27 9LG

PARISH: Headcorn

PROPOSAL: Continued use of land as a residential gypsy site without complying with previously imposed conditions relating to restricted occupancy to Mr J Bignall Snr and his immediate family, and including the stationing of a mobile home; the retention of hardsurfacing and boundary fencing and proposed boundary fencing; the retention of a day room with conservatory addition; a separate storeroom building; and the retention of a new access created onto the Lenham Road.

AGENDA DATE: 22nd 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 Headcorn Parish Council

## 1. **POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34
- South East Plan 2009: CC1, CC6, C4, H4
- Government Policy: NPPF (2012), Planning Policy for traveller sites (2012)

## 2. **HISTORY AND BACKGROUND**

MA/08/0393 – Erection of a day room to serve existing Gypsy site (Resubmission of MA/07/2430) – APPROVED WITH CONDITIONS.

MA/07/2430 – Erection of a day room to serve existing Gypsy site – REFUSED.

MA/06/1181 – Variation of condition 1 and 2 of MA/00/1117 (Change of use of the land to allow the siting of a residential caravan for a gypsy family and the erection of a toilet block) to permit permanent occupation of the site with

personal consent to Mr and Mrs John Bignall Snr – APPROVED WITH CONDITIONS.

MA/02/0834 – Erection of a permanent utility building – REFUSED – DISMISSED AT APPEAL.

MA/02/0324 – Variation of condition 3 of permission MA/00/1117, to allow a mobile home and a touring caravan to remain on the site all year – REFUSED – ALLOWED AT APPEAL.

MA/00/1117 – Change of use of the land to allow the siting of 1 No. residential caravan for a gypsy family and the erection of a toilet block – REFUSED – ALLOWED AT APPEAL.

MA/94/1012 – Retrospective application for change of use of land from agriculture to a mixed use comprising agriculture and the stationing of two caravans for occupation by a gypsy family between 1 October & 30 June each year – REFUSED – DISMISSED AT APPEAL.

MA/93/0765 – Use of land for the siting of (i) a residential caravan for the gypsy family (ii) water troughs and water tank together with the erection of a shed and electricity metre box and the laying of a hardstanding – REFUSED – DISMISSED AT APPEAL.

The site was granted planning permission at appeal under MA/00/1117 for a temporary personal permission to Mr J Bignall (and dependants) for a 5 year period with a condition that only allowed caravans on site from 1 October to 30 June. Following the grant of this permission application MA/02/0324 was allowed at appeal to permit caravans on site all year round. Planning permission was granted under reference MA/06/1181 to allow a permanent gypsy caravan site with a condition limiting occupation to Mr J Bignall Snr (and immediate family residing with him). Mr J Bignall has since left the site and planning permission is sought to vary the previous personal condition.

### **3. CONSULTATIONS**

- 3.1 **Headcorn Parish Council** wish to see the application REFUSED and request that the application be reported to Planning Committee stating:-

“Please be advised that my Council would wish to see this application refused as the occupants do not satisfy the criteria of the original planning inspectorate decision, they appear not to be immediate family. We would wish to see this referred to the planning committee if it is contrary to your decision.”

- 3.2 **Ulcombe Parish Council** wish to see the application refused but does not wish for it to be reported to planning committee stating:-

"Please could you note that Ulcombe Parish Council wishes to see the application refused because the site permission was originally granted to the Bignall family and the personal circumstances which applied when Mr Bignall was given his personal permission no longer apply because he is no longer resident on the site.

The parish council does not request that the application be referred to MBC planning committee."

- 3.3 **MBC Environmental Health Manager** raises no objections to the application and recommends a condition regarding foul sewage discharge and informatives.

- 3.4 **Kent Highway Services** raise no objections to the application or the introduction of a new access onto Lenham Road and recommend conditions in relation to the maintenance of visibility splays and the set back of gates.

#### 4. **REPRESENTATIONS**

- 4.1 **3 letters** of objection have been received on the following grounds:-

- Noise, disturbance and anti-social behaviour from the surrounding gypsy sites.
- Highway safety issues from the new access.
- Loss of property value.
- Increased occurrences of crime.
- The circumstances granted to Mr Bignall are no longer relevant to the new occupiers.
- Yes to a name change from Mr Bignall but no to stationing of a mobile home due to the visual impact on the landscape.

#### 5. **CONSIDERATIONS**

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

- 5.1.1 The site is within the open countryside and is in an area designated as part of the Low Weald Special Landscape Area due to the scenic quality of the landscape. It is located on the north west side of Lenham Road approximately 2.3km from the village of Headcorn.

- 5.1.2 The site is an existing gypsy site that was granted permanent personal consent for Mr J Bignall Snr and his immediate family residing with him under reference MA/06/1181. The lawful planning use of this field is for a gypsy site for

occupation by Mr J Bignall Snr, if the site is occupied by anyone else then that is not lawful.

- 5.1.3 The overriding character of the area is open agricultural fields with traditional field boundaries interspersed with sporadic development. The development that is in the surrounding area is predominantly residential (traditional bricks and mortar housing and Gypsy caravan accommodation) or agricultural and is generally located adjacent to Lenham Road fronting the road.

## **5.2 Proposal**

- 5.2.1 The application is to retain the site as a gypsy residential caravan site without complying with previously imposed conditions (under application MA/11/relating to restricted occupancy to Mr J Bignall Snr and his immediate family, and including the stationing of a mobile home; the retention of hardsurfacing and boundary fencing and proposed boundary fencing; the retention of a day room with conservatory addition; a separate storeroom building; and the retention of a new access created onto the Lenham Road.
- 5.2.2 The applicant is Mr Gilbert Smith and it is proposed that he would live on the site with his wife Chevone and children Rushell, Shannon, Whitney Jade, Gilbert Dido, Priscilla, Tallis. Four of the children are enrolled at Headcorn Primary School and all of the family are registered with Headcorn surgery for healthcare.

## **5.3 Principle of Development**

- 5.3.1 There are no saved Local Plan Policies that relate directly to the provision of gypsy site accommodation. 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 gypsy development; this was previously formally covered under housing Policy H36 but this is not a 'saved' policy.

- 5.3.2 There is no specific gypsy accommodation policy in The South East Plan 2009 although Policy H4 makes reference to providing accommodation for gypsies and therefore there is no need to advertise this application as a departure from the Development Plan. Policy CC1 concerns sustainable development and ensuring the physical and natural environment of the South East is conserved

and enhanced. Policy CC6 outlines that actions and decisions associated with the development and use of land should respect, and where appropriate enhance, the character and distinctiveness of settlements and landscapes. Policy C4 concerns landscape and countryside management, essentially outlining that outside nationally designated landscapes, positive and high quality management of the region's open countryside will be encouraged, protected and enhanced, securing appropriate mitigation where damage to local landscape character cannot be avoided.

- 5.3.3 A key consideration in the determination of this application is central Government guidance contained with *Planning Policy for traveller sites* published in March 2012. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.
- 5.3.4 Work on the Local Development Framework is progressing; however there is, as yet, no adopted Core Strategy. Now that the Government intends to abolish the South East Plan, local authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. To this end Maidstone Borough Council, in partnership with Sevenoaks District Council has procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). The GTAA concludes the following need for pitches over the remaining Core Strategy period:-

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
Total Oct 2011 - March 2026	157 pitches

These figures were agreed by Cabinet on the 14<sup>th</sup> March 2012 as the pitch target to be included in the next consultation version of the Core Strategy.

- 5.3.5 Draft Policy CS12 of the Regulation 25 version of the Core Strategy outlines that the Borough need for gypsy and traveller pitches will be addressed through the granting of planning permissions and through the Development Delivery Local Plan.
- 5.3.6 The Development Delivery Local Plan will allocate the specific sites for residential (including gypsy sites) and non-residential development, other than the strategic allocations to be made in the Core Strategy, as well as dealing with land designations and village boundaries. The timetable approved by Cabinet in May 2012 indicates that the Development Delivery Local Plan is scheduled for adoption in December 2015.



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

## **5.4 Gypsy Status**

5.4.1 Annex 1 of Planning Policy for traveller sites (2012) defines gypsies and travellers as:-

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

5.4.2 The application documents state that the applicant (Mr Gilbert Smith) is son of Mrs Bignall and the step son of Mr Bignall. He is related to the occupiers of another gypsy site on the opposite side of the road.

5.4.3 From discussions I have had with the applicant, it is clear that he works as a landscape gardener and travels for the purposes of his work. I am satisfied from the information in the application and the matters discussed with the applicant that the applicant complies with the definition of a gypsy.

## **5.5 Need for Gypsy Sites**

5.5.1 Planning Policy for traveller sites gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.

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

5.5.3 Between 1 April 2006 and 31 September 2011 the following permissions for mobiles have been granted (net):

41 Permanent non-personal permissions  
18 Permanent personal permissions  
8 Temporary non-personal permissions  
29 Temporary personal permissions

Therefore a net total of 59 permanent planning permissions for mobiles have been granted between 1 April 2006 and 31 September 2011.

- 5.5.4 The latest GTAA (2011-2026) provides the projection of accommodation requirements as follows –

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
Total Oct 2011 – March 2026	157 pitches

The requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. Therefore although the pitch target is high for the first five years, the immediate need is not, in my view, overriding.

- 5.5.5 Taking into account this time period, since 1<sup>st</sup> October 2011 the following permissions for pitches have been granted (net):

- 23 Permanent non-personal permissions
- 6 Permanent personal permissions
- 0 Temporary non-personal permissions
- 7 Temporary personal permissions

Therefore a net total of 29 permanent pitches have been granted since 1<sup>st</sup> October 2011.

- 5.5.6 In terms of unauthorised caravans, based on the bi-annual gypsy and traveller count figures from the July 2011 count and according to the Council's database at the time of writing this report, there were 25 unauthorised mobile homes and 22 unauthorised touring caravans on 24 unauthorised sites. The number of unauthorised mobiles and touring caravans was fully taken into account in pitch need figures in the latest GTAA.

- 5.5.7 It is considered that the Council met the identified need for the period 2006 to April 2011 through the Development Management process. However, the need for pitches continues as revealed in the latest GTAA.

## **5.6 Visual Impact**

- 5.6.1 The latest guidance in the Government's Planning Policy for Traveller Sites states that Local Planning Authorities should strictly limit new traveller

development in open countryside (para 23) but goes on to state that where sites are in rural areas the considerations are issues of not dominating the nearest settled community and not placing undue pressure on local infrastructure.

5.6.2 The site is located adjacent to the boundary with Lenham Road and the site is visible from the road. The site has been made more visible by the creation of its separate access onto Lenham Road thereby affording more direct views into the site.

5.6.3 In the Inspector's decision on MA/00/1117 she considered that the proposal would encroach into the countryside and add to the sporadic development pattern along Lenham Road. In concluding on the matter of visual impact she states:-

*"...my conclusion on this issue is that the proposal would be a form of encroachment in the countryside and it would not conserve the natural beauty of the landscape. In these ways it would harm the character and appearance of the area, although the existing natural screening reduces the degree of harm and visual intrusion."*

5.6.4 I conclude that there would be harm to the character and appearance of the countryside from the site and this would be consistent with previous decisions. Furthermore, the creation of a separate access to the site has increased its visual impact by making it more visible from Lenham Road.

## **5.7 Residential Amenity**

5.7.1 There are other residential properties in the vicinity both gypsy sites and traditional bricks and mortar housing. The site is sufficiently separated from other gypsy sites and the nearest dwellinghouse (Fiddlers Green, 100m away) to ensure that there would be no significant impact on residential amenity in terms of loss of privacy, loss of light or an overbearing impact from the development.

5.7.2 I note the concerns raised by objectors regarding anti-social behaviour and increased occurrences of crime, however, the application for the use of this gypsy site by another family would not necessarily result in these matters occurring.

## **5.8 Highways**

5.8.1 The proposal includes a new access onto Lenham Road. Kent Highway Services have examined the proposal and are satisfied that the use of the access would

not result in a hazard to highway safety. Conditions are requested in relation to visibility splays and the set back of gates and these would be appropriate to ensure highway safety is maintained.

## **5.9 Landscaping**

- 5.9.1 There is an existing native hedgerow along the frontage with Lenham Road and I consider that it would be appropriate to secure its retention and plug the gaps in the hedge with additional hawthorn. This would assist in mitigating some of the visual harm caused.

## **5.10 Personal Circumstances**

- 5.10.1 The application MA/00/1117 granted permission to Mr Bignall despite the visual impact. The Inspector in her balancing exercise considered that the general need for gypsy sites should be given significant weight and the personal circumstances of Mr Bignall and his family in relation to the stability that a lawful site would provide in terms of the educational needs of the children and the possible healthcare requirements of the family. This led the Inspector to grant a temporary personal permission.
- 5.10.2 The Council decided in determining application MA/06/1181 that the personal circumstances of Mr Bignall and family indicated above, including the fact that he was related to occupiers of other sites in the immediate vicinity, were sufficient to merit a permanent personal consent.
- 5.10.3 The applicant, Mr Gilbert Smith, has a wife and a number of children, four of which are enrolled at Headcorn Primary School. These children range in age from the eldest 11 down to the youngest at 4 years old. Mr Smith's wife Chevone is also expecting another child. I have had regard to the Planning Policy for traveller sites (2012) and acknowledge that a settled base would provide a stable situation to enable the continued education of the children. In addition, I consider that this settled base would provide stability for any healthcare issues that would arise. Mr Smith is related to the occupiers of a site in the immediate vicinity.
- 5.10.4 I consider that the personal circumstances of the applicant and his family have significant weight in the determination of this application. These circumstances being the number of children of school age and in particular their enrolment in the local school to meet their educational need. I do not consider that the general need for gypsy sites would be would carry significant weight due to the work that has been undertaken by the Council in terms of the needs assessment and work on the provision of sites.

5.10.5 Overall, I consider that the applicant and his family have similar personal circumstances to those that Mr Bignall and his family had when they applied for permanent consent. It is my view; given the length of time that the children on the site are likely to be involved in education, that a permanent personal consent would be appropriate in the circumstances.

### **5.11 Other Matters**

5.11.1 Although the site is within the open countryside, I do not consider that it is so remote from services to warrant a refusal on sustainability grounds. Other gypsy sites have been found to be acceptable and are similar distances from facilities. In addition, the wider considerations of sustainability within the Planning Policy for traveller sites include the advantages of providing a settled base for the occupiers.

5.11.2 Approval of this application would provide an additional pitch for a gypsy family and would prevent the applicant from living unlawfully. However, given that this site has a permanent permission already (albeit to a different family) it would not result in a net increase of pitch provision in relation to the identified need in the GTAA.

## **6. CONCLUSION**

6.1 The site is within the open countryside and currently a gypsy site with a personal permission to Mr Bignall and his family. The applicant Mr Gilbert Smith wishes to occupy the site without the restriction to Mr Bignall.

6.2 The use of the site and the development does result in visual harm to the character and appearance of the countryside. Against this harm the general need for gypsy sites and the specific requirements of the applicant need to be balanced. I give little weight to the general need in this case due to the work undertaken by the Council on the assessment of need and that work that is continuing with the provision of sites. I give significant weight to the personal circumstances of the applicant and his family and conclude that a permanent personal planning permission should be granted.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use hereby permitted shall be carried on, and the caravans occupied, only by Mr Gilbert Smith and/or Mrs Chevone Smith (and any dependents) and shall be for a limited period, being the period during which the premises are under control of Mr Gilbert Smith or Mrs Chevone Smith;

Reason: In order to meet the identified need of the applicant in accordance with guidance contained in Planning Policy for Traveller Sites.

2. When the premises cease to be under the control of Mr Gilbert Smith and/or Mrs Chevone Smith the use hereby permitted shall cease and any caravan and all materials and equipment brought on to the premises in connection with the use shall be removed, including any hardstanding or cesspool, and the land restored to its former condition prior to the commencement of the use;

Reason: To ensure a satisfactory impact on the character and appearance of the countryside and in order to meet the identified need of the applicant in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained in Planning Policy for Traveller Sites.

3. No more than three caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time;

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of the South-East Plan (2009).

4. This permission does not authorise the use of the land as a caravan site by any other persons other than gypsies, as defined in Annex 1 of Planning Policy for traveller sites;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted in accordance with policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

5. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - i. within 3 months of the date of this decision a scheme for:
    - the means of foul and surface water drainage of the site;
    - visibility splays at the site access and the set back of entrance gates by at least 5.5m from the highway;
    - the internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas; tree, hedge and shrub planting and where appropriate earth mounding including details of species, plant sizes and proposed numbers and densities;
    - the restoration of the site to its condition before the development took place, (or



as otherwise agreed in writing by the local planning authority) at the end of the period that the site is occupied by those permitted to do so;

(hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.

ii. within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.

iv. the approved scheme shall have been carried out and completed in accordance with the approved timetable.

Reason: To ensure a satisfactory impact on the character and appearance of the countryside and in order to meet the identified need of the applicant in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained in Planning Policy for Traveller Sites.

6. 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 policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

7. No external lighting shall be erected on the site at any time unless previously agreed in writing by the Local Planning Authority;

Reason: To safeguard the character and appearance of the area and to prevent light pollution in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000) and policy C4 of the South East Plan (2009).



8. No commercial activity or open storage shall take place on the site;

Reason: To ensure a satisfactory impact on the character and appearance of the surrounding area in accordance with policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

**Informatives set out below**

Any sewage treatment requires the system to be desludged on a regular basis to prevent the build up of solids so that sewage flows freely through the unit. Anyone used to remove the sludge should be registered with the Environment Agency to carry waste. Sludge should normally be removed every 12 months or in accordance with the manufacturer's instructions.

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 no. 18**

**Page no. 158**

**Address:**

**Reference no. MA/12/0760**

**Land at The Meadows, Lenham Road, Headcorn**

A representation has been received from the Weald of Kent Preservation Society asking the following to be brought to the attention of Planning Committee:-

*"...that the Weald of Kent Protection Society has repeatedly written to MBC's planners about the real degradation of Lenham Road by many piecemeal little developments, and implored them to exercise a more robust policy: fine countryside has badly suffered. We would ask the Planning Committee to take this seriously into regard, when considering this application and the all too likely similar future applications."*

The Borough Council considers each application on its own merits and in accordance with the relevant policies of the Development Plan and Government guidance including in relation to the protection of the countryside.

My recommendation remains unchanged.

251



252



253





254



255





256



257

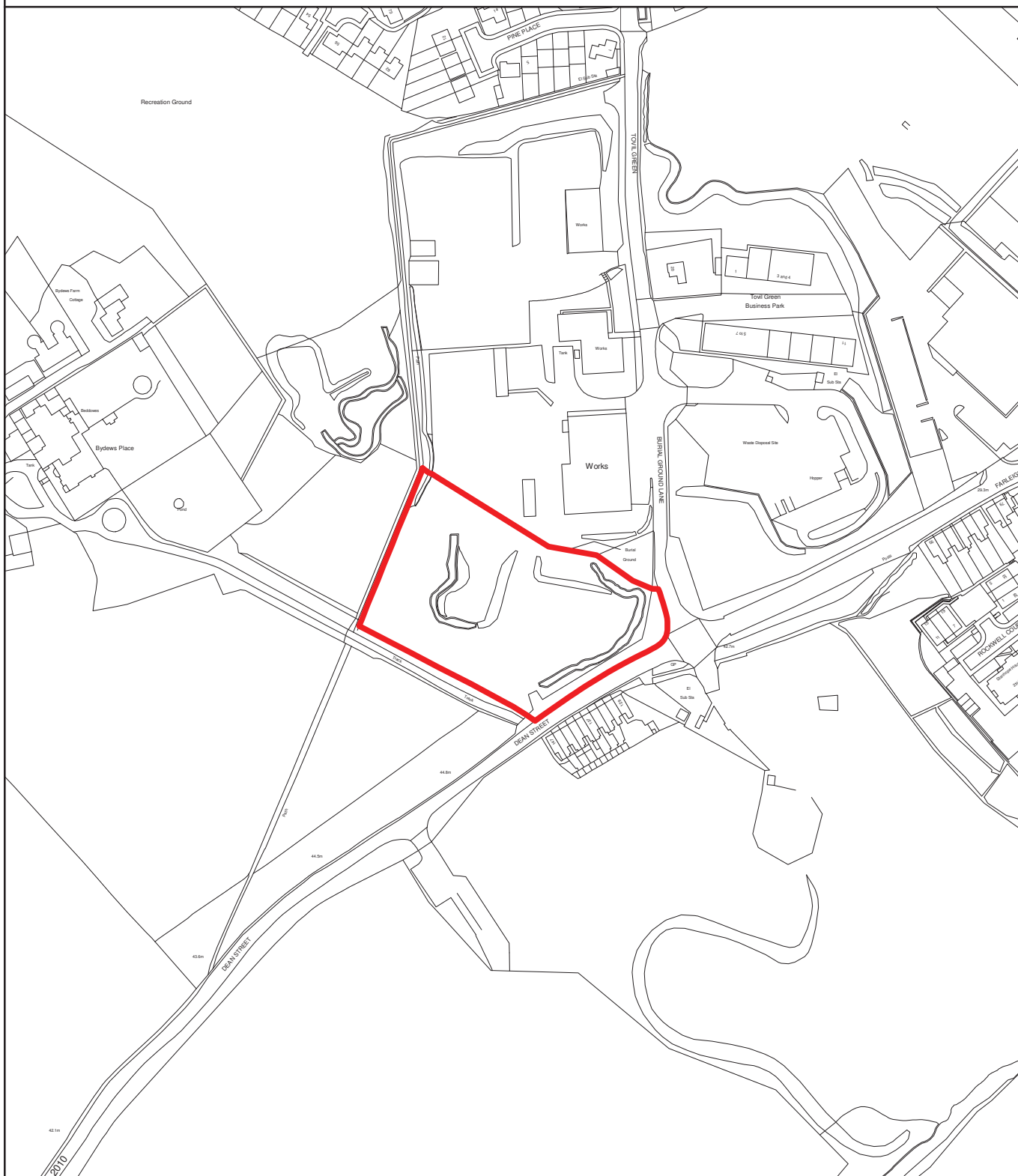


## THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/0980

GRID REF: TQ7454

LAND WEST OF BURIAL GROUND LANE,  
TOVIL.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 100019636, 2013. Scale 1:2500



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

APPLICATION: MA/12/0980 Date: 24 May 2012 Received: 24 May 2012

APPLICANT: Fernham Homes

LOCATION: LAND WEST OF, BURIAL GROUND LANE, TOVIL, KENT

PARISH: Tovil

PROPOSAL: The development of 27 houses together with raising of land levels, new access and access road, parking, car barns and associated landscaping and footpath links as shown on site location plan no. DHA/7811/01; and drawing no.s DHA/7811/20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34; Design & Access Statement dated May 2012; Planning Statement dated May 2012; Transport Assessment dated November 2011; Reptile Survey Report dated 31 May 2011; Tree Survey & Arboricultural Implications Assessment dated 25 November 2011; Grant Acoustic Report dated 24 November 2011; Phase 1 Environmental Assessment report dated 28 April 2011; Sustainable and Renewable Energy Assessment dated May 2011 and Economic Viability Assessment dated May 2012.

AGENDA DATE: 10th January 2013

CASE OFFICER: Amanda Marks

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

- It is a departure from the Development Plan.
- Councillors Chittenden and Mortimer have requested it be reported for the reasons set out in the report.

## 1. **POLICIES**

Maidstone Borough-Wide Local Plan 2000: ENV6, ED2, T13, T21  
South East Plan 2009: SP3, CC1, CC4, H1, H2, H5, T4, BE2  
Government Policy: The National Planning Policy Framework.

## 2. **HISTORY**

MA/11/2168 Land West of Burial Ground Lane. Erection of 29 dwellings including the raising of land levels within the site.  
WITHDRAWN

MA/04/2413	Land at, Burial Ground Lane. O/A for the erection of dwellings. REFUSED 9/3/05 (different site area)
MA/03/2122	Land to the west of Burial Ground Lane. Change of use of former waste disposal site to open storage for a temporary period. APPROVED 27/2/2004
MA/92/1245	Land on west side of Burial Ground Lane. Layout of new roads to serve existing and proposed development, provision of parking. APPROVED 11/06/93
MA/86/0269	Land at junction of Dean Street and Tovil Green. Erection of warehouse/workshop and provision of portable office. APPROVED 01/04/1986

### **3. CONSULTATIONS**

- 3.1 **Tovil Parish Council** were consulted and recommend that the application be approved.
- 3.2 **Mouchel (on behalf of KCC)** were consulted and requested a financial contribution be provided towards the provision of the following:

Local Libraries	£5,595.75
Youth Facilities	£ 419.83
Community Learning	£1,154.78

These contributions are fully considered within the main body of the report.

- 3.3 **West Kent PCT:** A financial contribution of £27,216 is sought towards the provision of healthcare needs arising from the development. These contributions are fully considered within the main body of the report.
- 3.4 **Natural England** were consulted and raise no objections to this proposal.
- 3.5 **The Environment Agency** were consulted and raised no objections subject to conditions.
- 3.6 **KCC Heritage were consulted and made the following comments:**

'The site of the application lies within an area of archaeological potential associated with possible early prehistoric activity. Recent geoarchaeological research suggests that the irregular nature of Hythe Beds, especially where

ragstone deposits are present, can lead to the formation of preservation of "caves" or funnels within the harder rock. These caves or funnels collect deposits (Pleistocene deposits) which have potential for Palaeolithic remains. This site seems to have exposed quarry faces after ragstone extraction and there is potential for early prehistoric remains to survive here.

The post medieval burial ground lies along part of the northerly boundary. I recommend special measures need to be secured to ensure this burial ground is mitigated sympathetically and that there is no chance of disturbance.'

They therefore raise no objections subject to the imposition of a suitable condition.

### 3.7 **KCC Ecology were consulted and made the following comments:**

3.7.1 'We have reviewed the ecological scoping survey and the reptile survey and we are largely satisfied with the information has been submitted however we do require additional information to be submitted prior to determination of the planning application.

#### **Bats**

3.7.2 The landscaping plan indicates that trees are proposed to be removed as a result of the development. When the ecological scoping survey was carried out it was not proposed to remove any trees as a result there was no requirement for emergence surveys to be carried out.

3.7.3 The recommendations detailed that if any work was to be carried out on the mature trees with dense clumps of ivy, particularly on the east site boundary, it would be necessary for emergence surveys to be carried out.

3.7.4 Please provide photos or additional information about the tress which are to be removed. If any of the tress are mature with dense clumps of ivy there will be a need for additional surveys to be carried out prior to determination of the planning application.

3.7.5 Lighting can be detrimental to roosting, foraging and commuting bats. We advise that the Bat Conservation Trust's *Bats and Lighting in the UK* guidance is adhered to in the lighting design (see end of this note for a summary of key requirements).

#### **Reptiles**

3.7.6 No reptiles were recorded during the reptile survey however the survey highlighted that there is some limited potential for reptiles accessing the site from the adjacent habitat. The precautionary mitigation detailed in 6.4 of the reptile survey must be carried out.

### **Nesting Birds**

3.7.7 There is suitable habitat present within the site for nesting birds. The vegetation must be removed outside of the breeding bird season (March – August inclusive). If that is not possible an experienced ecologist must examine the site prior to works starting – if any nesting birds are identified all works must cease in that area until all the young have fledged.

### **Enhancements**

3.7.8 One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity in and around developments should be encouraged”.

3.7.9 It is welcomed that the applicant is proposing to create wildlife areas within the proposed development site – however we do have some concerns about how these areas will be managed in the future to ensure they remain beneficial for wildlife.

3.7.10 Further enhancements could also be incorporated in to the proposed development site for example the inclusion of bat bricks and tiles within the new buildings or the erection of bird or bat boxes within the grounds.’

### Subsequent comments

3.7.11 ‘The applicant has provided additional detail to the effect that none of the trees have Ivy grown on them and on the basis of this information we are satisfied that no emergence surveys are required.’

3.8 **West Kent PRow:** raise no objections.

3.9 **Southern Water:** ‘Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

Our initial investigations show that there is currently inadequate capacity in the local network to provide surface water disposal to service the proposed development. The proposed development would increase flows to the public sewerage system, and any existing properties and land may be subject to a



greater risk of flooding as a result. We advise that the applicant investigates alternative means for surface water disposal, considering the following options:

Discharge to an available watercourse

Discharge to soakways

Alternatively;

If the existing development discharges surface water to the existing surface water system, then a discharge from the site may be permitted. If the applicant wishes to investigate this option, the applicant will be required to provide a topographical site survey and/or a CCTV survey showing the existing connection points, pipe sizes, gradients and calculations confirming the proposed flows will be no greater than the existing flows received by the sewer. Any excess surface water should be attenuated and stored on site.

Southern Water's current sewerage records do not show any public sewers to be crossing the above site... 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.

3.10 **UK Power Networks:** raise no objections.

3.11 **Kent Highway Services:** 'The level of traffic generated is not significantly high when compared against that generated by an employment use of the site and this can be satisfactorily accommodated on the existing highway network. Adequate parking is provided and tracking diagrams have been submitted which indicate that the layout offers adequate space for deliveries, emergency services and refuse collection vehicles to turn.

Improvements are to be made to the accessibility and safety of the site by the provision of the following off site highway works:-

Improvements to the two existing bus stops at the junction of Burial Ground Lane with the B2010 by the provision of bus stop signs, bus boarders, shelters and hard standing areas.

Best endeavours made to extend the existing 30mph speed limit for which a Traffic Regulation Order is required and this should be processed by the applicant. This should include works to remove the existing speed limit signs and surfacing and the provision of a new 'Gateway' feature at the new location.

The construction of a footway between Burial Ground Lane and Tesco along the northern side of Farleigh Hill with dropped kerb crossing on Burial Ground Lane to connect with the new footways leading into the development site.

3.12 **MBC Parks and Open Space:** request a financial contribution of £42,525 towards enhancing, maintaining, repairing and renewing play areas and green spaces within a one mile radius of the proposed development.

1. Claire Park to improve the surfacing around the trampoline and replace the igloo climber with a new item.
2. Gatland Lane – General play area improvements to whole site.
3. Woodbridge Drive – General play area improvements to the whole site.

3.13 **MBC Conservation Officer:**

3.13.1 Although there would be no direct intervisibility between the proposed development and the group of listed buildings at Bydews, the site lies immediately adjacent to the access track serving these buildings. This approach at present has a rural atmosphere which is an important feature of the setting of the listed group. Bydews Place itself is a Grade II\* building; English Heritage should therefore be consulted regarding the impact of these proposals on its setting.

3.13.2 The group of listed buildings at Bydews is not the only heritage asset to be potentially affected. On the other side of the application site lies the old Antabaptist Burial Ground (Tovil having been a centre of non-conformism). This small cemetery, with its densely packed gravestones under mature trees, enclosed by a ragstone wall, is an attractive feature of considerable historic interest. Although bounded to the north by large modern industrial sheds, on other sides it retains a rural character which adds to its feeling of repose.

3.13.3 The application site lies largely at a slightly lower elevation than the surroundings and appears to have been used for quarrying in the early 20<sup>th</sup> Century, having been an orchard before then. It currently has an untidy appearance, although the substantial boundary planting effectively screens it from the adjacent roads and tracks. This boundary planting is essential to the preservation of a rural atmosphere at this urban fringe site.

3.13.4 The proposals involve landfill to bring the site back up to the surrounding levels. Whilst this will reinstate the pre-1900 situation, it will make the new housing more visually prominent. In terms of the settings of the listed group at Bydews and the old burial ground, the maintenance of an illusion of a rural environment is important. Thus, whilst I would not wish to object to the principle of development for housing, I consider that some additional revisions to the layout would be advantageous. Of prime importance is the maintenance of effective and substantial boundary planting, both to reduce the visual impact of the new housing and to preserve these features which are important parts of

the rural character. Particularly around the junction of Burial Ground Lane and Dean Street, the proximity of the proposed terrace appears to result in the removal of some of this boundary planting. The scheme would have less impact on the setting adjacent heritage assets if those terraces facing Dean Street were to be turned through 90 degrees to face the new access road – it would take buildings further away from the sensitive boundaries of the site and allow for more of the boundary planting to Dean Street to be maintained.

3.14 **MBC Environmental Health Officer** was consulted and made the following comments:

3.14.1 Both noise and contamination reports have been included in the submission. The noise assessment is a concise report ... despite the mixed nature of the site for the proposed houses the report concludes that a notional NEC (noise exposure category) 'B' exists – I would not disagree. A prediction of internal noise levels in line with the guidance contained in BS 8233 is also included – the calculations and mitigation measures suggested, whether glazing and/or trickle vent/mechanical ventilation, are also agreed.

3.14.2 There is also a parallel rating BS 4142 industrial noise assessment in which a rating of +6dB is described. This falls within the category of 'marginal significance' in terms of complaints being made and therefore the author correctly suggests that mitigation measures are required, especially for those properties closest to the industrial units. The mitigation measures are accepted, i.e. a combination of enhanced glazing and airbrick.

3.14.3 The contamination assessment is a comprehensive phase 1 investigation which concludes that further intrusive investigation is required. Knowing the area in and around this site, I would not disagree with this opinion.

3.14.4 There is no mention of air quality within the submission. This is an oversight, not because this is an area of known poor air quality, but there should be an assessment of the effect that this development will have on local air quality and some means of taking this effect into account and drawing up measures to counter it.'

3.14.5 No objections subject to conditions.

3.15 **MBC Landscape:** no objections subject to conditions.

3.16 **MBC Housing:** no comments.

3.17 **MBC Policy:** 'The principal planning policy issues raised by this application are:

1. The loss of employment land
2. Affordable housing

### **Employment land**

The application site falls within an area allocated as an existing employment area in the Maidstone Borough-wide Local Plan (Policy ED2(vi)). The policy identifies the site for B1 and B2 uses. Permission to redevelop such sites for non-employment purposes will not be granted unless retention of the site has been explored without success.

The purpose of the policy is to help retain the overall stock of employment land in the Borough and to ensure a range of sites are available to accommodate the variety of business needs. The NPPF urges LPAs to anticipate and meet business' development needs (paragraph 20). The Council's Employment Land Review (July 2011) is relevant in this regard. It identifies a need for up to 26,000sqm of additional 'Grade A' office (B1) floorspace between 2010 and 2026 and up to 2,341sqm of B2 floorspace over the same period.

This application is for the redevelopment of the site for housing. The proposal is therefore contrary to the development plan presumption to retain the site in employment generating use. Policy ED2 goes on to state that permission to redevelop such sites for non-employment purposes will not be granted unless retention of the site has been explored without success.

To this end, the applicant has submitted information about the marketing of the site as an employment location. The site history set out in the applicant's submission indicates that the site has consent for open storage, having previously been used as a waste disposal site. The submissions indicate that the site was marketed between 2004 and 2009 for open storage use. This lengthy marketing exercise did not yield any success. It is of note, however, that there is no evidence that the site was marketed for a wider range of employment uses and in particular B1 and B2 uses which Policy ED2 specifically identifies as suitable uses for this site.

It is recognised, as set out in the applicant's submissions, that this site is not ideally located to meet modern business requirements where importance is placed on connectivity to the strategic highway network. Access to the motorway from this site is constrained by the need to travel through the town centre. The need for additional 'Grade A' office space is more likely to be best accommodated on key town centre sites, with the benefits of accessible services and good public transport connections, and business park type locations. Whilst

there is a need for additional business floorspace going forward, it is accepted that the application site is somewhat constrained as an employment location.

This application, if approved, will result in the loss of land with consent for economic use (open storage) and with potential for B1 and B2 uses. It would marginally reduce the overall stock of employment land in the borough and the range of sites available to new and expanding businesses. It is a significant weakness in the applicant's case that the site does not appear to have been marketed for B1 and B2 uses. It is not possible to be categorical that an occupier could not have been found for these policy-compliant uses.

Balanced against these important points, this site appears to have been vacant for a very significant period (7 years), has been on the market for some 5 years. It has limitations as a location for B1 or B2 uses. The NPPF states that "where there is no reasonable prospect of site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to the market signals and the relative need for different land uses to support sustainable local communities" (paragraph 22).

The signals over an extended period are that this site is not attractive to the market as an employment site. This site could, however, successfully contribute to the on-going requirement for housing. In my view, the terms of Policy ED2 and the 'reasonable prospect' test in the NPPF have been demonstrated in this case.

### **Affordable Housing**

The application does not provide for any affordable housing. Policy AH1 of the Affordable Housing Development Plan Document requires that developments of 15 dwellings and above provide for 40% affordable housing unless 'exceptional circumstances' indicate otherwise. I understand that a viability assessment has been submitted and that its findings have been agreed by the District Valuer. In such circumstances the terms of the policy would be met and an affordable housing element should not be required.

Based on the consideration above, I would recommend approval of this application.'

## **4. REPRESENTATIONS**

- 4.1 Cllrs Chittenden: 'I am asking that the application goes to committee. Basically it is for the same reasons as the previous application as, as yet the applicants do not seem prepared to recognise the particular difficulties. I also feel that KCC need to continue in an active roll in dealing with the potential parking problems

which cannot be ignored and the worsening situation in relation to congestion on the adjacent roads on the approach to the recycling Centre in Burial ground Lane. My concerns are:

1. The existing householders, opposite the site entrance, at the moment use the verge on Dean Street for parking their vehicles. This needs to be taken into account and other options considered. There is an existing layby adjacent which has been closed off with bollards. This may be an option.
2. I have concerns in relation to the proposed positions for the bus stops and believe these need to be reviewed.
3. The serious congestion problem on the approach to the tip which occurs at weekends and occasionally during weekdays is getting worse. Cars queue up to the top of Burial Ground Lane and into Dean Street. See attached photograph. Because of these concerns, and in particular the problem of parking in relation to adjacent properties, local residents need to have the opportunity to put their concerns to members of the Planning Committee.

I understand in relation to possible 106 arrangements there is a proposal to provide the much needed footpath from the frontage of the site in Dean Street to the Tesco entrance and I would fully support this.'

4. 2 Several letters of objection on highway grounds have been received by residents on Farleigh Hill opposite the site. The objections state the proposed access will be dangerous and should be relocated off the access track to the west of the site. They state that the developer should be required to provide alternative parking arrangements i.e by losing two houses in the scheme to make space, or that the Council should delay a decision until the Burkes site has been developed.

## **5. CONSIDERATIONS**

### **5.1 Site Description**

- 5.1.1 The application site lies within the urban area to the south west of Maidstone Town Centre on the western edge of Tovil. The site is bounded to the south by Dean Street, to the east by Burial Ground Lane (and the burial ground) , to the north by an existing B2 use which also provides the access to the site at present and to the west by fields over which a PRoW crosses over in a north westerly direction.
- 5.1.2 The site is previously developed land and the planning history reflects this. The application site is generally open in character and due to its former use as a quarry there are steeply sloping sides to the east, south and western

boundaries. In these directions the land is set at a lower level to adjoining property. The closest residential properties to the site are a terrace of 10 dwellings fronting Dean Street and which are opposite the proposed entrance into the site. To the south-west of the site is a private track which leads to Bydews a Grade 2 Listed Building (private house). In addition to the plant hire company to the north, there are further commercial premises located to the east, including the county waste recycling centre.

- 5.1.3 The site is at present partially screened from Dean Street with sporadic and seemingly unmaintained trees and vegetation. From the private track and PRow to the south and west there is screening and dilapidated picket fencing and barbed wire in places. Unlawful parking takes place parallel to Dean Street on the south-eastern boundary of the site, the highway verge is worn and muddy from this use; residents which use this for parking have to bump up the roadside kerbstone. The site is on the brow of the hill when reaching the outer limit of Tovil if travelling from East Farleigh. There is currently no access from Dean Street into the site, nor is there a footpath across the front of the site nor when continuing east as far as the Tesco development. Generally speaking the existing site is not readily apparent in the street scene due to access being through a neighbouring site and the level of screening from the main boundary on Dean Street.
- 5.1.4 The burial ground which is located to the east of the site does contain a number of graves/headstones and a ragstone boundary wall. The primary views of this area from Burial Ground Lane.

## **5.2 Proposal**

- 5.2.1 This is a full planning application for the change the use of the land to residential in order to provide 27 dwellings along with a new access road, car parking, landscaping and footpath links. An increase in the existing land levels will need to be undertaken to facilitate the development. The site area is 00.83 hectares which equates to a proposed density of 32 dwellings per hectare.
- 5.2.2 The development will be arranged in six terraces and two pairs of semi-detached dwellings. The primary frontage will face Dean Street and comprise a terrace of four (plots 7-10) and a terrace of six (plots 1-6), with the central spine road running between the two. These dwellings will be set behind a landscaped frontage with footpath access to the front of each dwelling. The dwellings are set back from Dean Street by 8m at the southern end of the start of the terrace and this deepens to 12m once reaching the northernmost curve of the site. Plots 1 - 6 comprise 3 bed gable end dwellings arranged over three floors. The design of the dwellings includes a flat roof dormer on the front elevation, squared off bay windows on the front ground floor, a shared pitched porch



canopy between each set of two dwellings, and a shared chimney stack also between each pair of dwellings. Materials are shown as facing brick, weatherboarding and plain roof tiles. Detailing is shown of exposed rafter feet, feature tiling and feature brick work. The weather boarding has been wrapped around the side elevation of plots 1 and 6 as has the decorative tile hanging below the external sills; the rear of the dwellings show the brick course detail above all openings. These dwellings are 5.5m to the eaves and 10m to the ridge height. Each property has a rear private garden of 10m in length and 4.5m in width. Plots 1-6 are set in a very slight curved formation.

- 5.2.3 Plots 7 -10 comprise 3 bed gable end dwellings arranged over two floors. They share chimneys and have linked entrance porches between the two pairs. These plots show tile hanging on the first floor and include decorative tiles below the sills and feature brick work above the openings. The side elevation of plots 7 and 10 include the tile hanging shown to wrap round. These dwellings are 5m to the eaves and 9m to the ridge. Each property has a private rear garden of varying lengths and configuration. Plot 10 has a side/rear garden.
- 5.2.4 Plots 1 -10 all back on to communal parking areas, and in the case of plot 1 this garden backs onto the side elevation of a quadruple car barn. Travelling into the site over the initial block paved bell mouth entrance and granite set strip, the surface changes to a 28m length of black asphalt; off this the first parking area is accessed behind plots 1-6 and the surface changes back to block paving for the parking courts/spaces. Continuing into the site the second car park court is reached which again is to be finished in block paving. The hard landscaping plan identifies clearly that the remainder of the site will be finished in block paving, the remainder of the spine road and a turning head at the western end will need to be block paved to meet Kent Highway standards.
- 5.2.5 Dwellings front the central spine road as a terrace of three on the southern side and two pairs of semi-detached properties on the northern side. Four parking bays are located to the front of the terrace; no parking is provided in front of the semi-detached dwellings, instead they have gardens of between 5-6m deep and parking bays in the parking courts. The terrace of three (plots 11-13) are similar in detail and design to plots 1-6 except for a change in materials on the side elevations and with a band of soldier brick between ground and first floor level; the soldier course is continued to the rear elevation.
- 5.2.6 The layout has been arranged such that the vista from the bell mouth is of a central terrace of four with a terrace of three either side at the western end of the site. The terrace of four consists of 3 bed dwellings over two floors. The two end plots of the terrace have barn hipped roofs, with a continuous ridge linking across to incorporate the two central dwellings. This terrace is well articulated with the varying roof projections on both main roof and over the

porches. Again, this design of dwelling is utilised for the other two terraces of three, with variation introduced to the external finishes i.e. render, tile hanging, facing brick.

5.2.7 The final section of dwellings (plots 24-27) is located along the northern side of the spine road. The two pairs of semi-detached dwellings reflect the design features seen elsewhere within the site. Plot 27 is different to the others in that whilst forming half of a semi-detached property it has its front elevation at a 90 degree angle to the other half, such that it is orientated to the front of the site. Plot 27 has the appearance of a detached dwelling from the side 'front' elevation and is a prominent focal point when entering the overall development.

5.2.8 The levels of the site will be raised in order to facilitate the development. The finished levels show a drop in gradient from south to north and east to west. Plans indicating the proposed slab levels and site sections accompany the application documents. An illustrative cut and fill plan has been provided which shows the required depth of fill ranging from approximately 1m to 5m across the site. The amount of fill and difference in existing and proposed site levels is further illustrated in the site sections; this plan also shows the relationship of the site to the adjacent commercial site whereby a stepped retaining wall with a 2m high steel palisade fence on top will be provided. There will be planting on both the troughs on the northern aspect and also on the southern side of the palisade fencing.

5.2.9 The development is proposed to be entirely market housing. A confidential Viability Assessment has been submitted by the applicant to demonstrate that to provide any affordable housing on this development would render it unviable. This will be discussed later in the report.

#### Highway Proposals

5.2.10 A Transport Assessment and Addendum Transport Statement accompanies the application. This assesses the trip generation and distribution arising from the development. It is proposed to extend the 30mph speed limit to 170m to the south-west of its current location to take into account the new access. The site is within 200m from the tesco superstore to the north-east. Kent Highways have requested that a footway is constructed between the junction with Burial Ground Lane and the tesco store.

5.2.11 Throughout the site there are 47 parking spaces, this equates to an average of 1.75 spaces per dwelling.

#### Landscaping

5.2.12 The existing trees on the boundaries are to be retained. A scheme for additional landscaping has been submitted. A Tree Survey and Arboricultural Implications Assessment also accompany the application.

Other documents

5.2.13 In addition to the above, an ecological report; contaminated land assessment and acoustic report have also been submitted to assist with the consideration of the application.

### **5.3 Principle of Development**

5.3.1 The application site falls within part of an area designated as an employment site in the Maidstone Borough-Wide Local Plan 2000 under Policy ED2 as a site suitable for B1 and B2 uses. As such the proposed residential use is a departure from the local plan and has been advertised as such. In order to accept the loss of the site for employment, the application needs to demonstrate why the site cannot be developed for economic purposes. In 2005 planning permission was refused for development for residential purposes on both this site and the remainder of the allocation. The reasons for refusal were as follows:

- 1. The Local Planning Authority contends that there is no requirement for this site to be utilised for residential purposes. The site is not included within the Urban Capacity Study as being necessary to meet the housing figures and there is plentiful land which accords with Policy to meet housing targets.*
- 2. The site falls within Policy allocation ED2 (vi) of the Maidstone Borough-Wide Local Plan 2000 and as such is protected for economic activity through both this and Policy ED2 of the Kent Structure Plan 1996.*
- 3. In the absence of a Transport Assessment, there is an objection on the grounds that the proposed use of the site may not be acceptable in proximity to the surrounding road network and neighbouring land uses. As such the proposal is considered to be contrary to Policy T21 of the Maidstone Borough-Wide Local Plan 2000.*
- 4. In the absence of a Contaminated Land Assessment and Industrial Noise Assessment there is an objection on the grounds of harm to health and failure to meet the guidance contained in PPS23 and the Maidstone Borough-Wide Local Plan 2000 Policies ENV2 and ENV4.*
- 5. The application makes no provision for community facilities, including the provision for education contributions, Primary Care Trust needs, affordable*

*housing and open space. It is therefore contrary to Policies CF1, H24 and H37 of the Maidstone Borough-Wide Local Plan 2000.*

- 5.3.2 The current application includes details of how the site has unsuccessfully been marketed for years without success, by Sibley Pares initially, and then Core Commercial. It seems that the location of the site being accessible only through the town centre is a big contributing factor to its unattractiveness for a B1/B2 use. A Marketing Report by Sibley Pares states '*...Tovil no longer being attractive to industrial and other commercial users due to the significant changes which had occurred to land uses in Tovil over the past couple of decades, triggered primarily due to commercial users more and more requiring directness and speed to and from the motorway network. Tovil, being south of the town centre with the M20 motorway to the north of the town centre, has particularly suffered as the only route to the motorway is through the southern outskirts of the town and the town centre itself, part of which are one way systems which can add at least half an hour to journey times (more on a bad day) for a very short travel distance.*' Initially, Sibley Pares marketed the site for £50,000 (June 2004) and by 2008 the price had been dropped to £30,000. Core Commercial were also approached in 2005 to market the site, but again no success – the reason given was the difficult access to the site in relation to the major road network. It is noted that the site was marketed for a B8 use as this was the previous use that permission had been granted for. No evidence has been submitted of marketing for a B1/B2 use.
- 5.3.3 Conversely, the location of the site is sustainable as a housing site with good local transport access, public amenities and facilities within walking distance or easy access (this will be enhanced with the proposed footway links). This is a brownfield site within the urban area and as such, suitable for redevelopment. Policy ED2 states that '*planning permission will not be granted to redevelop or use vacant business, industrial, storage or distribution sites or premises for non-employment purposes unless the retention of the site or premises for employment use has been explored fully without success.*' I accept that the site has been fully marketed for B8 use and suggest that this is an indicator that that the site is neither desirable nor overly attractive as an employment site per se, despite the designation.
- 5.3.4 In addition to the above, a further consideration is the report from the Planning Manager to Cabinet on 21 November 2012, which set out the current position on the 5 year Housing Supply. It was stated that whilst the 5 year supply had been maintained to April 2011, it was unlikely to be met from 1 April 2012. The scale of any shortfall was yet to be determined and Cabinet agreed that the evidence base for the 5 year supply was to be reviewed; this work is currently underway.

- 5.3.5 The overarching aim of the National Planning Policy Framework is to deliver sustainable development, as mentioned above the site is in a sustainable location and additional dwellings in this location are considered sustainable.
- 5.3.6 With regard to the previous reasons for refusal in 2005, of consideration is that the proposal was for the entire of the designated employment site. The current site is approximately one-third of the area and very different in nature. The remaining two-thirds of the site are in active use as employment sites, they are level and more usable. The current application site is basically a big hole in the ground and incapable of being utilised as an employment site without significant earthworks taking place.
- 5.3.7 Reasons 1 and 2 of the refusal relate to the need for the site to meet housing targets and the protective status of the employment designation. Reasons for refusal 3,4 & 5 related to inadequate information being provided to the satisfaction of highway issues; contamination and contributions.

## **5.4 Visual Impact**

- 5.4.1 The site is vacant and has been for a number of years. The site is on the brow of the hill when entering Tovil from a westerly direction. The site is currently fenced with wire mesh and slightly screened from existing views on the southern boundary fronting Dean Street. Views of the site are otherwise limited due partially to the absence of development on the site and partly due to the existing burial ground and business premises which obscure views from the north/north-east. There are close up views from the PRoW where there are gaps in the landscaping. Whilst the site is currently unoccupied, I do not consider it makes a positive contribution to the locality.
- 5.4.2 The proposed development would significantly change the character of the entry to Tovil in this location. Together with the existing terrace of two storey cottages opposite the proposed entrance, the development would form a strong gateway feature into Tovil in conjunction with the cottages opposite. Further east on Dean Street is a relatively modern housing development, also built on previous employment land; this comprises a mix of terraced, semi-detached and flatted residential units. I consider the proposed development would not be out of character with the area.
- 5.4.3 The proposed development is well designed and has evolved through initial pre-application discussion, an earlier application submitted in December 2011 and then the current submission. The scale of development is well proportioned with other development in the locality. The dwellings have been well articulated and form a strong frontage with an attractive block paved entrance and a vista with the terraced formations at the back of the site.

- 5.4.4 The proposed development would include block paved parking areas within the site and car barns to break up the parking courts. The proposed soft landscaping at the front of the site and within will assist in softening the development. The Conservation Officer has raised concerns over the impact of the development on the status of the Burial Ground on the northern boundary. Clearly the development will change the historic setting to the burial ground and a clear back drop of a residential development will be viewed. However, I am of a different view to the conservation officer. The development has to be considered in light of the context of the designation for employment use. Were the site to have been developed for a B1/B2 use then the character of the site would clearly have changed and again, the impact of built development on the setting of the burial ground would have to be balanced. I also consider that in light of the existing burial ground being opposite the household tip and adjacent to an existing commercial premises the proposal is not as harmful as suggested.
- 5.4.5 The Conservation Officer has also raised the issue of the impact of the development on the setting of Bydews Place a Grade 2 Listed Building to the west of the application site. The access to this property is the private track referred to earlier in this report and to the north of the application site. Bydews is some 130 from the rearmost boundary of the development site and views of the dwelling are limited from the PRow and non-existent from Dean Street. The Conservation Officer suggests the development be redesigned to take into account this Listed property, however I do not consider the proposal is close enough to impact on the its setting such that it causes harm.

## **5.5 Residential Amenity**

- 5.5.1 The nearest residential properties to the development are opposite the site. A number of objections have been received from the nearby residents in relation to the loss of parking which will be brought about by the development. However, the parking which takes place is unlawful and occurs on a highway verge. Whilst the development will prevent this parking from continuing, I consider it unreasonable to impose upon the developer to provide alternative parking. I understand that the approved permission for residential development on the Burkes Land which is partially behind these cottages, does include parking for the residents of the cottages. However, that development should it be implemented is on a considerably larger site than the current proposal.
- 5.5.2 The proposed site abuts the existing depot on the northern boundary. This is a fairly noisy activity with a number of commercial vehicles working within the site. A detailed acoustic appraisal has been submitted to assess the impact the development will have and the site layout has been designed to mitigate against

the noise. The Environmental Health Officer is satisfied with the results of the acoustic survey and raises no objection.

5.5.3 The dwellings are not sited in close proximity to any existing dwellings and as such there are no issues relating to loss of light or privacy from the proposed development other than within the new site. The layout is such that each dwelling has a private garden and there is no direct overlooking. I do not consider the proposed dwellings will have an overbearing impact on the cottages on Dean Street.

## **5.6 Highways**

5.6.1 With regard to the internal highway layout this has evolved through pre-application discussion. The visibility splays, gradient into and within the site, and parking layout has all been designed to minimise the level of hard landscaping and enhance the soft landscaping whilst still meeting the standards of Kent Highways. The Highways Officer has raised concern over whether the unauthorised parking currently undertaken will be displaced into the development site and thus compromise highway safety. I consider this will need to be a management issue when the development is implemented.

5.6.2 The extension of a footway and visible linkage from the corner of the site across Burial Ground Lane and down to the tesco store will improve the accessibility of the site to local amenities. In conjunction with the Highways Authority agreement, it is proposed to provide some form of visible marking across Burial Ground Lane which would highlight the fact that is linkage to a footpath on the northern side of the hill which has not previously been there. The footpath will then allow pedestrians to safely walk to the local stores at the base of the hill. At present there is some unauthorised parking of resident's vehicles which takes place along this route which would be lost; however this is not a lawful use of the land and as such there is no protection afforded to this adhoc parking.

5.6.3 Concern has also been raised regarding the loss of parking to existing residents on Farleigh Hill, however, this parking is also unlawful and could be restricted at any time by the Highways Authority if they chose to do so. It has been suggested that the developer should provide alternative parking; there is a potential layby further down the hill on the opposite side of the road. However, I see no justifiable reason to expect the developer to provide alternative parking on land outside their ownership when the parking which will be lost is unlawful.

5.6.4 The issue of the position of bus stops has also been raised. However, it is not proposed to alter the existing positions, the proposal is to enhance them. I understand that there are issues relating to the traffic congestion caused by the



Waste Disposal Tip on weekends and buses not going the correct route to avoid this, but this is an issue which needs to be addressed by the Highway Authority and not this development. In a similar vein, the anticipated trip generation from the site is not sufficiently high to impact upon the tip; particularly as the access is no longer off Burial Ground Lane to the development site. I understand that there are plans to provide a ghosted right turn lane at the Farleigh Hill/Burial Ground Lane junction; this is a Highway Authority scheme.

5.6.5 The Highway Authority have also requested that the applicant enter into a S278 Agreement to secure the following:

1. Improvements to the two existing bus stops at the junction of Burial Ground Lane with the B2010 by the provision of bus stop signs, bus boarders, shelters and hardstanding areas;
2. Best endeavours are made to extend the existing 30mph speed limit for which a TRO is required and this should be processed by the applicant. This should include works to remove the existing speed limit signs and surfacing and the provision of a new 'gateway' feature at the new location.
3. The construction of a footway between Burial Ground Lane and Tesco along the northern side of Farleigh Hill with dropped kerb crossings on Burial Ground Lane to connect with the new footways leading into the development site.

5.6.6 The above Highway Improvements, especially the footpath on the Northern side of Farleigh Hill is considered a significant benefit to the functioning of the locality.

## **5.7 Landscaping**

5.7.1 Additional landscaping is proposed on the site boundaries to bulk out the existing and infill the gaps, and also within the site i.e. along the access road to soften the impact of the development. In the previously withdrawn application the landscape officer had commented that there may be need for a scheme to protect the trees on the southern part of the western boundary, however on the revised layout there is now no cutting necessary around these trees and therefore the arboricultural report states no need for such protection. The landscape officer is generally happy with the proposals subject to standard conditions. The submitted scheme will make a positive contribution to the locality, it will assist in assimilating the development into the street scene and enhance the existing tree boundaries on the northern and western boundaries in particular. The proposed planting on the front (southern elevation) is more formal which adds to the 'gateway' approach discussed earlier. It is my view

that there is an overall benefit to the setting of the area brought about by the proposed landscaping.

## **5.8 Affordable Housing**

- 5.8.1 The application has been submitted for 100% market housing. A confidential viability assessment has been submitted which provides a detailed break down of the costs and margins involved in the development of this site. The applicant has met the costs of having this report analysed by the District Valuer. The resulting report from the District Valuer sets out that the development costs of this site are such that were affordable housing to be provided then this would render the development unviable. The Abnormal costs of this site that were considered relate to its former use as a quarry and the arising remediation; stabilisation; fills & retaining structures and sewer upgrade required. The DVS report goes on to state that if any other contributions are paid (i.e. PCT; Open Sapce) the margin is reduced but the development would be viable.
- 5.8.2 The applicant has accepted the findings of the District Valuer and agreed to meet the requests of the consultees with regard to other contributions as set out below.
- 5.8.3 Whilst it is acknowledged that the contributions could be waived in lieu of a reduced percentage of affordable housing – which is the Governments priority; there are issues of deliverability to be considered. If the contributions are waived they would equate only to a minor percentage of affordable housing being provided on site. The site is relatively small with 27 dwellings. The DVS were asked to comment on if the percentage of affordable housing were reduced whether this could be a viable alternative i.e even if only one or two units could be provided. Apart from the obvious difficulties in getting a provider on board for such a small scheme, the DVS state that even if the developer would accept a lower profit margin, any affordable housing would still render the development unviable. To take the contributions money and try to put this towards affordable housing on another site would proved near impossible to secure. It is therefore considered that in this instance and due to the 100% affordable housing site near by in Beaconsfield Road, it is appropriate to accept the other contributions.

## **5.9 Contributions**

- 5.9.1 Any contributions need to considered in accordance with Regulation 122 of the Act. The criteria set out state that any obligation must meet the following requirements:-
- (a) Necessary to make the development acceptable in planning terms;

- (a) Directly related to the development; and
- (b) Fairly and reasonably related in scale and kind to the development.

5.9.2 The following requests have been made by consultees as a result of the proposed development:-

- A contribution of £5,595.75 for bookstock, staff and extended hours at Maidstone Libraries and mobile service;
- A contribution of £419.83 for youth facilities;
- A contribution of £1,154.78 for community learning.
  
- A contribution of £42,525 towards enhancing, maintaining, repairing and renewing play area and green spaces within 1 mile of the proposed development.
  1. Claire Park to improve the surfacing around the trampoline and replace the igloo climber with a new item
  2. Gatland Lane – General play area improvements to whole site
  3. Woodbridge Drive – General play area improvements to the whole site

5.9.3 The Primary Care Trust has requested £27,216 as a result of the development. It has listed 8 local surgeries within a 1.5 mile radius whereby the contribution would be directly related to supporting improvements within the primary care by way of extension, refurbishment and/or upgrade in order to the required capacity.

5.9.4 It is considered that the above contributions are fair and reasonable in relation to the development.

## **6. ECOLOGY**

6.1 A detailed scoping report was submitted with the application. This has been considered by the KCC ecologist and the findings accepted. There will be no harm to ecological interests arising from this development provided the advice contained in the Scoping Report is followed and that enhancement measures are incorporated within the scheme. These can be subject to condition.

## **7. CONCLUSION**

7.1 In light of the above considerations, it is accepted that the loss of the site to housing will result in a minor reduction to the employment site stock, but will be a positive contribution to meeting the housing land supply. The marketing

exercise has demonstrated that the site is unattractive as an employment site and unlikely to be occupied as such.

- 7.2 The applicant has taken on board the suggestions of officers with regard to the layout and design of the proposal. It is considered that the site will be a positive contribution to this area of Tovil and not harm the character or functioning of the locality.
- 7.3 It is considered that the development does accord with the development plan and accordingly the development should be approved.

## **8. RECOMMENDATION**

I BE DELEGATED POWER TO GRANT PLANNING PERMISSION subject to the prior completion of a legal agreement, in such terms as the Borough Solicitor may advise and 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. 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 policy ENV6 of the Maidstone Borough-Wide Local Plan 2000.

3. Prior to the commencement of the development, details of all fencing, walling and other boundary treatments shall be 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.

4. The development shall not commence until:

1. The application site has been subjected to a detailed scheme for the investigation and recording of site contamination and a report has been submitted to and approved by the Local planning authority. The investigation strategy shall be based upon relevant information discovered by a desk study. The report shall include a risk assessment and detail how site monitoring during decontamination shall be carried out. The site investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology and these details recorded.

2. Detailed proposals in line with current best practice for removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') have been submitted to and approved by the Local Planning Authority. The Contamination Proposals shall detail sources of best practice employed.

3. Approved remediation works have been carried out in full on site under a Quality Assurance scheme to demonstrate compliance with the proposed methodology. If, during any works, contamination is identified which has not previously been identified additional Contamination Proposals shall be submitted to and approved by, the local planning authority.

4. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved methodology. The closure report shall include details of any post remediation sampling and analysis together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Reason: To prevent harm to human health and pollution of the environment in accordance with Policy NRM1 of the South East Plan 2009.

5. No development shall commence until a scheme for the disposal of foul and surface waters has been submitted to and approved by the Local Planning Authority. Such a scheme shall include provision for water conservation and for provision of oil separators unless otherwise agreed by the Local Planning Authority;

Reason: In the interests of sustainability and prevention of pollution, in accordance with the South East Plan 2009 Policy NRM1.

6. Prior to the commencement of the development, details of the proposed slab levels of the building(s) and the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development having regard to the topography of the site, in accordance with Policy BE1 of the South East Plan 2009.

7. 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 and in accordance with Policy BE1 of the South East Plan 2009.

8. A scheme of landscaping using indigenous species shall be submitted to include a land survey and tree survey in accordance with BS 5837 (2005) 'Trees in Relation to Construction - Recommendations' with indications of all existing trees and hedgerows on the land, and details of any to be retained, together with details of the measures for their protection in the course of development and a programme for the scheme's implementation and 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 and in accordance with Policy BE1 of the South East Plan 2009.

9. A scheme of landscaping using indigenous species as required under Condition 01 above shall include a land survey and tree survey in accordance with BS 5837 (2005) 'Trees in Relation to Construction - Recommendations' with indications of all existing trees and hedgerows on the land, and details of any to be retained, together with details of the measures for their protection in the course of development and a programme for the scheme's implementation and 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.

10. No building hereby permitted shall be occupied until that part of any access road and footpath which provides access to it has been constructed in accordance with the approved plans;

Reason: In the interests of highway safety, in accordance with Policy T13 of the Maidstone Borough Wide Local Plan 2009.

11. All services to the new development shall be underground;

Reason: In the interests of visual amenity and to accord with BE1 of the South East Plan 2009.

12. No development shall commence until:

1. The application site has been subjected to a detailed scheme for the investigation and recording of gas and a report has been submitted to and approved by the Local Planning Authority. The report shall include a risk assessment and detail how on site monitoring during the investigation took place. The investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a methodology that complies with current best practice, and these details reported.

2. Detailed proposals in line with current best practice for gas protection measures (the 'Gas Protection Proposals') have been submitted to and approved by the Local Planning Authority. The Proposals shall detail sources of best practice employed.

3. Approved works shall be carried out in full on site prior to first occupation.

4. Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the Local Planning Authority. The closure report shall include full details of the works and certification that the works have been carried out in accordance with the approved scheme;

Reason: To safeguard the future occupants of the site, in accordance with South East Plan 2009 Policy NRM1.

The proposed development does not conform with policy ED2 of the Development Plan however a departure from that policy would be likely to result in only minor harm and it has been demonstrated that the site has been marketed without success. The provision of housing within this site at this point in time is considered to be of over-riding benefit to justify a departure from this policy of the Development Plan.



284

4. 12. 2012



285

4. 12. 2012







286

4. 12. 2012





4. 12. 2012



288

4. 12. 2012

289

4. 12. 2012





290

WATER TREATMENT PLANT  
EAST GREEN

4. 12. 2012



291



4. 12. 2012





292

4. 12. 2012





293

4. 12. 2012





294

4. 12. 2012



295

4. 12. 2012







4 12 2012





297

4. 12. 2012





298

4. 12. 2012





209

4.12.2012



300

4.12.2012







301

4.12.2012



302

4.12.2012





303

4. 12. 2012





304

4. 12. 2012





305

4.12.2012

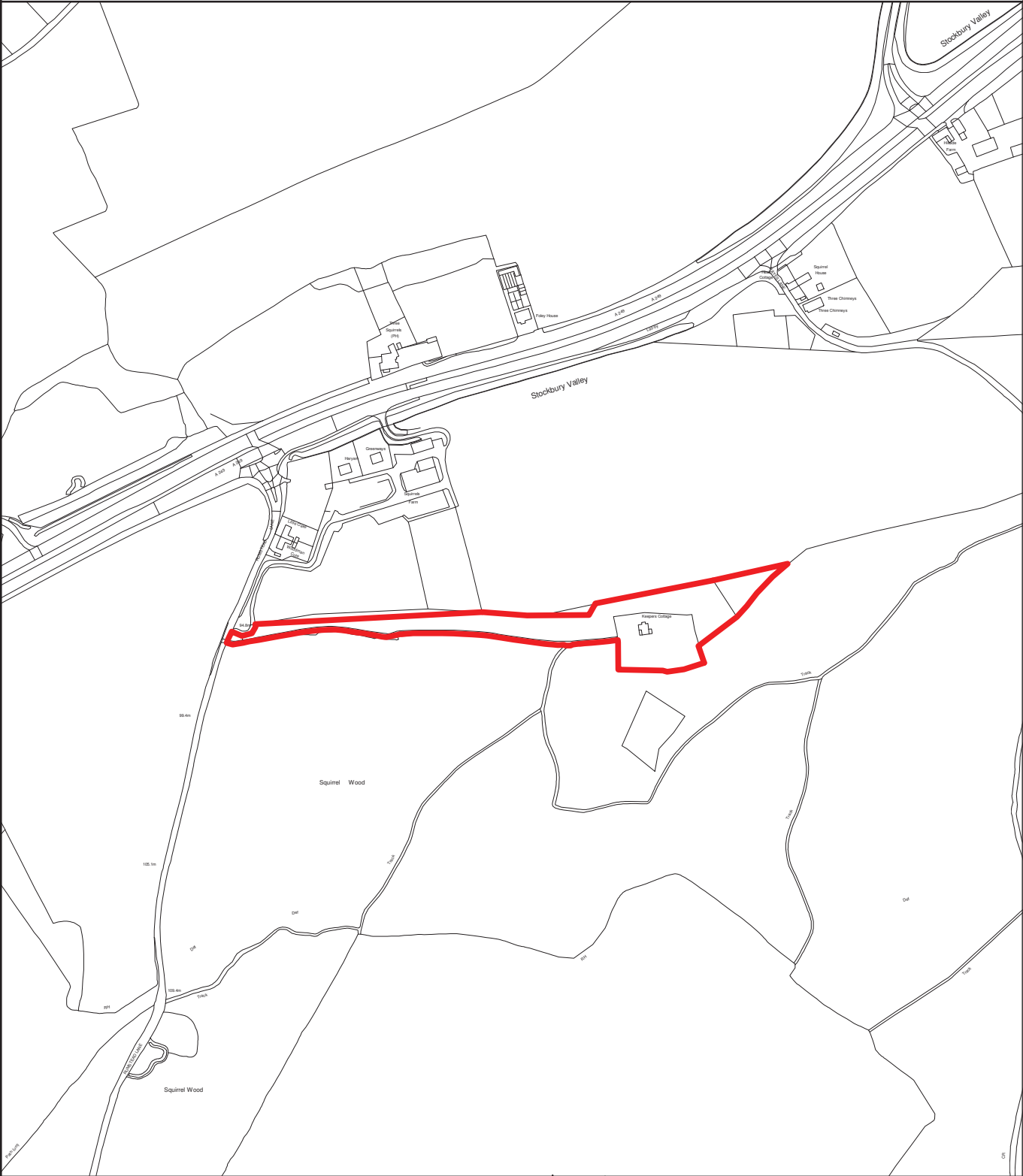


# THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/1299

GRID REF: TQ8460

**KEEPERS COTTAGE, RUMSTEAD LANE,  
STOCKBURY.**



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 100019636, 2013. Scale 1:5000



**Rob Jarman  
Head of Planning**

APPLICATION: MA/12/1299 Date: 12 July 2012 Received: 16 July 2012

APPLICANT: Mr K Smith

LOCATION: KEEPERS COTTAGE, RUMSTEAD LANE, STOCKBURY,  
SITTINGBOURNE, KENT, ME9 7QL

PARISH: Stockbury

PROPOSAL: Single storey side extension and alterations to existing dwelling as shown on the site location plan and drawing numbers 2029-001 rev A, 2029-002 and 2028-003, supported by a design and access statement, all received 12th July 2012

AGENDA DATE: 10th January 2013

CASE OFFICER: Catherine Slade

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

- it is contrary to views expressed by **Stockbury Parish Council**.

## 1. **POLICIES**

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV33, ENV34, H33, T13  
South East Plan 2009: CC1, CC6, T4, C3, C4, NRM5, NRM7  
Village Design Statement: Not applicable  
Other: Residential Extensions Development Plan Document  
Government Policy: National Planning Policy Framework 2012

## 2. **HISTORY**

MA/12/1689 Change of use of land from agricultural/forestry land to garden, construction of concrete hard surfacing and erection of detached garage/storage building - REFUSED

MA/02/0435 Proposed first floor extension of roof with removal of existing dormer windows – APPROVED WITH CONDITIONS

MA/82/1392 Extension and alterations – APPROVED

MA/77/0328 Erection of garage – APPROVED



MA/76/1240           Erection of greenhouses – APPROVED

- 2.1 Extensions to the existing dwelling have been the subject of pre-application discussions between the applicant and the Local Planning Authority under the scope of PA/11/0279 and PA/12/0246. The applicant was advised that the scale of the extensions originally proposed exceeded what would be likely to be considered favourably, but that an amended scheme of reduced scale, a version of which is currently before members, would be likely to be considered acceptable.

### **3. CONSULTATIONS**

- 3.1 **Stockbury Parish Council** wish to see the application refused on the grounds that the proposed development is “out of keeping with the surrounding area.”
- 3.2 The **Kent County Council Ecology Officer** raises no objection to the proposal.

### **4. REPRESENTATIONS**

- 4.1 No representations were received.

### **5. CONSIDERATIONS**

#### **5.1 Site Description**

- 5.1.1 The proposal site is located in a rural location in open countryside designated as being within the North Downs Area of Outstanding Natural Beauty and Kent Downs Special Landscape Area. The site is also within the Squirrel Wood Local Wildlife Site.
- 5.1.2 The site comprises a substantial detached two storey detached dwellinghouse which has been the subject of previous additions, as detailed above in section 2 above. The property is located in its own gardens, and is approximately 345m to the east of Rumstead Lane, an unclassified single track rural highway, from which the site is accessed via a private track.
- 5.1.3 The site is located on the southern slope of the Stockbury Valley, and in an elevated position relative to the A249 which runs to the north of the site, from which the site is visible due to the removal of trees in the immediate vicinity of the site.
- 5.1.4 The site is surrounded to the south east and west by woodland, and is bounded to the north by agricultural land in arable use. The site has no near residential

neighbours, the closest being the properties located at Squirrels Farm fronting onto the A249, which are located approximately 220m to the north west of the proposal site.

## **5.2 Proposal**

- 5.2.1 The proposed development is the erection of single storey extensions to the north, south and east elevations, and alterations to the arrangement of the fenestration and the material treatments to external elevations.
- 5.2.2 The extension to the east elevation would replace an existing conservatory, and would have a rectangular footprint with an area of 37.6m<sup>2</sup>. The form of the extension would project 4.5m beyond the east elevation of the property, and would be flat roofed with a small lantern light located in the southern part of the addition. The addition would have a height of 3m and 3.7m to the apex of the lantern. The extensions to the north elevation would comprise two flat roofed storm porch structures to the existing two storey extension to the dwelling. These additions would both project 2.2m from the north elevation and have heights of 3.4m, and areas of 5.06m<sup>2</sup> and 5.83m<sup>2</sup>. These additions to the north elevation would have simple open forms supported by columns formed by groups of four discrete supports. The flat roofed, wedge shaped open structure to the south elevation would have a maximum projection of 2.5m in the west, which would decrease to 0.5m in the east of the structure. The balcony would have a floor level of 2.8m, with a 1m balcony enclosing the external space above ground floor level. This addition would provide a balcony to a first floor bedroom.
- 5.2.3 The works to the fenestration and finishes of the existing building include the replacement and enlargement of the existing openings to provide extensive glazed areas allowing greater levels of light to the interior of the dwelling. The existing external materials, which currently comprise white render, white painted brick and dark stained weatherboarding, would be entirely replaced with white render and, to the north, west, and part of the south elevation of the two storey extension, red cedar vertical cladding.

## **5.3 Principle of Development**

- 5.3.1 Proposals for alterations to dwellinghouses in the open countryside are primarily assessed under policies ENV28 and H33 of the Maidstone Borough-Wide Local Plan 2000, which requires such proposals to be of appropriate design and scale (not overwhelming the original dwellinghouse), to respect the residential amenity of the occupiers of neighbouring properties, and to not result in any significant detrimental impact upon highway safety or provision of off street parking, or the character and appearance of the open countryside.

- 5.3.2 Applications for residential extensions are also subject to assessment against the policies set out in the Maidstone Borough Council Residential Extensions Supplementary Planning Document (SPD), which require extensions to dwellings in rural areas to be modest in size, subservient to the original dwelling, and not to overwhelm or destroy the original form of the building.
- 5.3.3 There are no policies in the South East Plan 2009 which relate specifically to residential development of this scale, however policies CC1 and CC6 seek to achieve sustainable forms of development particularly with respect to the built environment and communities, whilst policy C4 seeks to protect and enhance the diversity and local distinctiveness of the landscape of the open countryside. In addition, proposals within the AONB and SLA should be assessed under the provisions of Local Plan policies ENV33 (AONB) and ENV34 (SLA) which require proposals for new development, whether acceptable in principle or not, to be considered in terms of the impact on the natural beauty of the landscape, and scenic quality and character of the landscape. These policies, which seek to protect the amenity of the open countryside and AONB in particular, are supported by policies C3 and C4 of the South East Plan 2009.
- 5.3.4 These policies are in accord with central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

#### **5.4 Design and Visual Impact**

- 5.4.1 The proposed extensions and alterations to the dwellinghouse are considered to be modest and in keeping with the overall character and appearance of, and well related to, the original dwelling, in accordance with Development Plan policy and planning policy and guidance in the Kent Design Guide. The use of a contemporary design is considered to be a valid approach, particularly given the limited architectural interest of the host building.
- 5.4.2 In this context, whilst the changes to the fenestration and the materials will undoubtedly have a visual impact on the appearance of the dwelling, the overall form and scale of the original dwelling would be retained and it is not considered that this element of the proposal would be contrary to the relevant Local Plan policy and guidance on residential alterations. However, a condition requiring the submission and approval of samples and details of materials and joinery is considered appropriate and necessary in order to safeguard the quality of the development.
- 5.4.3 It is considered that the proposed development would have a limited visual impact upon the open countryside, and would be subject to limited public views as a result of its scale and spatial relationship to the existing dwelling against which the development would be seen, together with the existing landscape

screening to the site. For this reason it is considered that the proposal would have a restricted visual impact upon the character and appearance of the open countryside, the North Downs Area of Outstanding Natural Beauty and the Kent Downs Special Landscape Area and would not result in harm to the scenic beauty of the surroundings.

5.4.4 For these reasons, there is therefore no objection to the proposal on the grounds of design or visual impact.

## **5.5 Other Matters**

5.5.1 There are no neighbouring dwellings which would be impacted in any way by the proposed development. The proposal would not result in any changes to the existing access arrangement or provision of on site parking provision.

5.5.2 The site is located within a Local Wildlife Site, however the Kent County Council Ecology Officer has raised no objection to the proposal. In this case, it is considered that the design of the extension is such that the inclusion of bat boxes or swift bricks is not appropriate.

5.5.3 The proposal would not have any impact upon the surrounding trees, which are not protected.

## **6. CONCLUSION**

6.1 For the reasons set out above, the proposed development is considered to be in accordance with the policies of the Maidstone Borough-Wide, Local Plan 2000 and South East Plan 2009, and with the Maidstone Borough Council Residential Extensions SPD and national planning policy as set out in the National Planning Policy Framework 2012, having regard to all other material considerations, and it is therefore recommended for approval subject to conditions.

## **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 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 open countryside designated as being within the North Downs Area of Outstanding Natural Beauty and Kent Downs Special Landscape Area in accordance with policies ENV28, ENV34 and H33 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6, C3 and C4 of the South East Plan 2009, the Residential Extensions DPD, and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

3. The development shall not commence until details of external joinery in the form of large scale drawings (at a scale of 1:20 or 1:50) have been submitted to and approved by the Local Planning Authority, and the development shall be undertaken in accordance with the approved details;

Reason: To ensure a satisfactory appearance to the development and safeguard the character and appearance of open countryside designated as being within the North Downs Area of Outstanding Natural Beauty and Kent Downs Special Landscape Area in accordance with policies ENV28, ENV34 and H33 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6, C3 and C4 of the South East Plan 2009, the Residential Extensions DPD, and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.

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

drawing numbers 2029-001 rev A, 2029-002 and 2028-003, supported by a design and access statement, all received 12th July 2012;

Reason: To ensure a satisfactory appearance to the development and safeguard the character and appearance of open countryside designated as being within the North Downs Area of Outstanding Natural Beauty and Kent Downs Special Landscape Area in accordance with policies ENV28, ENV34 and H33 of the Maidstone Borough-Wide Local Plan 2000 and CC1, CC6, C3 and C4 of the South East Plan 2009, the Residential Extensions DPD, and central government planning policy and guidance as set out in the National Planning Policy Framework 2012.



## Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required.

The applicant/agent was provided with pre-application advice.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

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.

314

17.06.2011

315

17.06.2011

316

17.06.2011





317

17.06.2011



318



17.06.2011

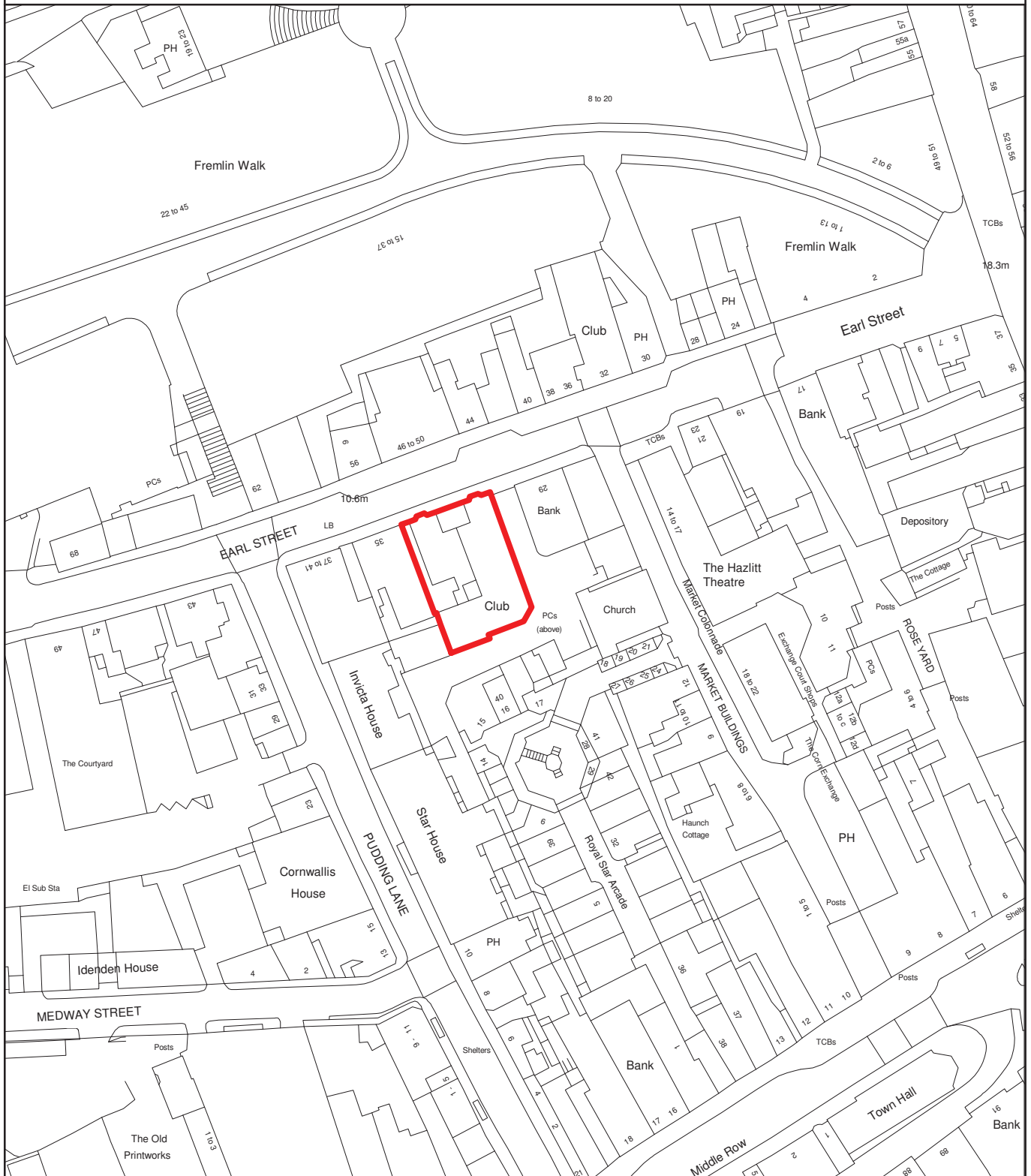
# Agenda Item 21

## THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/1769

GRID REF: TQ7555

31 EARL STREET,  
MAIDSTONE.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 100019636, 2013. Scale 1:1250



**Rob Jarman**  
Head of Planning

APPLICATION: MA/12/1769 Date: 28 September 2012 Received: 2 October 2012  
APPLICANT: Mr Neale Jackson  
LOCATION: 31, EARL STREET, MAIDSTONE, KENT, ME14 1PF  
PARISH: Maidstone  
PROPOSAL: Partial demolition, alterations, extensions and change of use of building to a mixed use of A3 use, A2 use and a self-contained residential apartment as shown on site location plan and drawing nos. 3266.14A, 15A, 16A, 17A, 18A, 19A, 20A, 21A, 22A, and 23A received on 28/9/12; and fixing detail received 20/12/12.  
AGENDA DATE: 10th January 2013  
CASE OFFICER: Geoff Brown

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

- Councillor Ash has requested it be reported for the reason set out in the report

## **1. POLICIES**

Maidstone Borough-Wide Local Plan 2000: ENV8, R1, R9  
South East Plan 2009: CC1, CC6, BE6  
Government Policy: NPPF

## **2. HISTORY**

- 2.1 The planning history for this site mainly involves planning and listed building consent applications for minor internal and external alterations and advertisements. The recent planning history is as follows:

MA/12/1770 - Listed building consent for partial demolition, alterations and extensions (being works involved in the change of use of building to a mixed use of A3 use, A2 use and a self-contained residential apartment) – Undetermined - Reported on these papers.

MA/95/0922 - Listed Building Consent for the formation of doorway in an internal party wall – Approved.

MA/93/0115 - Listed Building Consent to alter guttering at rear of property – Approved.

MA/90/0488 – Internal box sign – Withdrawn.

MA/89/1764 - Listed building consent for alterations and improvements (to include alterations and improvements to front entrance hall and staircase new floor and pump sump to cellar and improvements to staircase new fire resisting ceiling to cellar new beer chute into cellar) – Approved.

MA/86/2021 - Internal fire precaution works and improvements to toilets – Approved.

### **3. CONSULTATIONS**

- 3.1 THE KENT COUNTY COUNCIL ARCHAEOLOGICAL OFFICER comments that the site lies within an area of archaeological potential associated with medieval and post medieval activity and recommends a 'watching brief condition'.
- 3.2 THE MBC ENVIRONMENTAL HEALTH OFFICER states that details of the method of extraction for kitchen fumes should be submitted, along with hours of opening and waste storage.
- 3.3 THE MBC CONSERVATION OFFICER objects to the proposals. His comments are copied in full as an appendix to this report. The impact of the proposals on the listed building and conservation area is the main issue in this case and is discussed below.

### **4. REPRESENTATIONS**

- 4.1 COUNCILLOR ASH has requested committee consideration should I be minded to recommend refusal. This to discuss the restoration of a premises which is dilapidated at present; the value of this building within the street scene and to the heritage of Maidstone; and the economic benefits of the proposed business with respect to jobs and other financial benefits.

### **5. CONSIDERATIONS**

#### **5.1 Site Description**

- 5.1.1 The application site involves 31 and 33 Earl Street, a grade 2 listed building situated within the town centre off the south side of Earl Street. Number 31 is essentially the eastern half of the building and 33 the western half. This is land within the Maidstone Centre Conservation Area. The site involves a three storey

building, the scale of which decreases as one moves south, with its southern element involving a flat-roofed ground floor projection. The front of the building exhibits an open courtyard centrally located between two wings so that the two entrance doors are set back from the street. The building has a facing of stucco and roughcast and prominent quoining.

- 5.1.2 The building fronts Earl Street and is opposite the Zizzi restaurant. To the east is an access road, beyond which is Nando's restaurant. To the west is a vacant office, whilst to the rear is a service yard for surrounding properties, accessed by the aforementioned side road.
- 5.1.3 The site previously accommodated a private club (normally falling with Use Class D2), the offices of a law firm (A2) and, at the upper level, a residential flat (C3). I agree with the applicant's agent that, on the balance of probability, the lawful use of the site is as a mixed use of those elements. The active use as a club has now ceased, although the law firm use continues.
- 5.1.4 The Conservation Officer has carried out a comprehensive analysis of this site and its historical significance and I draw attention to his comments in the appendix hereto for further detail.

## **5.2 Proposal**

- 5.2.1 The application proposes the change of use of the premises to a new mixed use of an A3 restaurant, an A2 office and a residential apartment; and physical external and internal alterations to facilitate that.
- 5.2.2 The scheme essentially seeks to re-unite the two halves of the building. The whole of the ground floor and the first floor of No. 31 would become a restaurant; the first and second floors of No. 33 would remain in office use, accessed by the existing door in the external passageway to the west of the building and by the existing secondary staircase; the top floor of No. 31 would form a two-bedroom flat, with independent access gained via a new staircase addition to the rear. The collection of single storey 20<sup>th</sup> Century additions to the rear which detract from the significance of the building would be demolished to be replaced by new kitchen accommodation serving the proposed restaurant.
- 5.2.3 The main external alteration involves the addition of a 'glass box' at the front of the building to infill the courtyard. This would be a single storey, flat roofed structure of glass, approx. dimensions being 6m by 4.2m, with a height of 4m. The front of the 'glass box' would be level with the front of the existing two wing projections and its forward elevation, with glass double doors, would replace the existing low wall and railings that currently separate the courtyard from the pavement. More information has now been submitted with regard to the method



of construction and fixing: a stainless steel channel would be formed in the string and plinth courses with the toughened glass inserted and made good with silicone. Support would be provided by glass fins, mullions and beams with silicone joints and stainless steel brackets.

- 5.2.4 The other significant external changes involve the removal of existing modern single storey additions at the rear of the building and replacement with a single storey kitchen extension. A new three-storeyed glazed structure is proposed at the rear (adjacent to the aforementioned kitchen extension) to house a new staircase giving independent access to the second floor flat. Finally, in the first floor rear room of No. 31, it is proposed to change an existing window to a pair of doors, giving access to a roof terrace to be formed on the flat roof of the 1930's extensions. The window appears to be within the extension probably added in 1919 and is of low significance.
- 5.2.5 There are also a series of internal alterations proposed that are described and analysed by the Conservation Officer (see appendix). Internal changes are beyond the scope of planning control but require listed building consent and I therefore deal with those changes under the MA/12/1770 listed building consent application reported on these papers.

### **5.3 Principle of Development**

- 5.3.1 The application site is located in a town centre location and, more specifically, in a 'tertiary town centre area' covered by 'saved' Local Plan Policy R9 which states that a wide range of uses will be acceptable. The list of uses includes all of those uses applied for in this application (ie A2, A3 and C3) and therefore there can be no broad policy-based objection to the uses proposed here. In any event, in my view the proposed mixed use of restaurant, office and residential flat is very similar to the existing mix of private club, office and residential. This is a vibrant part of the town, characterised by restaurants and entertainment venues, and I see no reason as to why, in principle, a restaurant, etc. would not be acceptable in this location. However, clearly the detail of the scheme must be acceptable.

### **5.4 Visual Impact/Impact on Designated Heritage Assets**

- 5.4.1 In my view the main issue raised by this case is the impact of the proposed physical alterations on the designated heritage assets of the grade 2 listed building and the wider conservation area. Development Plan Policy, specifically Policy BE6 of The South East Plan, makes it clear that the historic environment should be protected, conserved and, where appropriate, enhanced, whilst the region's internationally and nationally designated historic assets should receive the highest level of protection. Proposals that make sensitive use of historic

assets through regeneration, particularly where these bring redundant or under-used buildings and areas into appropriate use should be encouraged.

5.4.2 The NPPF, at Section 12 'Conserving and Enhancing the Historic Environment' essentially reinforces the need to conserve designated heritage assets before going on to state that, in determining applications, local authorities should take account of:

- **the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;**
- **the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and**
- **the desirability of new development making a positive contribution to local character and distinctiveness.**

5.4.3 As can be seen from his analysis, the Conservation Officer objects to this application on the basis that the physical external changes would cause fundamental harm to the character of the conservation area and to a listed building that is of both historic and architectural interest. His detailed comments are set out in the appendix but his objections can be summarised thus:

- a) The proposed glazed addition to the Earl Street frontage of the building (ie the 'glass box') would result in an unacceptable visual intrusion into the principle elevation of the listed building, resulting in substantial harm to its significance. It would appear as an alien feature of inappropriately large scale, dominating the listed building by virtue of its siting and would result in the loss of the open forecourt which is a characteristic feature of the building's type. In the absence of any evidence to the contrary, the channelling of the structure into the existing walls may result in damage to historic fabric. The proposal would also result in the need to re-site the fine bracketed porch lantern to a higher level where it would appear incongruous, whilst the loss of the front boundary wall and attractive railings would be undesirable.
- b) The removal of four sash windows to the ground floor of the principle elevations of the existing building and the deepening of their openings to form new doorways into the new glazed extension would result in the loss of features of significance to an important stage in the building's development, namely its 18<sup>th</sup> Century remodelling and conversion to two dwellings, and would also be visually detrimental to the listed building.

- c) The new glazed staircase addition proposed for the rear elevation would be of excessive scale, exceeding the current eaves level, and would have an awkward and inappropriate relationship with significant features of the rear elevation such as windows and dormers.

This list omits his objections to the internal works which can only be considered under the listed building consent application.

- 5.4.4 These are fundamental objections from the Council's qualified advisor on heritage matters and, in my view, must be given significant weight in the process of determining this application.
- 5.4.5 The applicant contends that the scheme is not harmful arguing that the 'glass box' is a small simple structure that would not compete with the Jacobean architecture and that it would not challenge the external appearance and detailing of the building. The glass box would be removable and contemporary architecture of this sort is supported by English Heritage. The Conservation Officer addresses these issues in his detailed analysis and clearly disagrees.
- 5.4.6 The application justifies the 'glass box' partly on the basis that, without it, the recessed access to the building would not be apparent and potential customers would not be able to identify the presence of the restaurant from the approaches along Earl Street. This contention is supported by a letter from a Chartered Surveyor from A1 Retail Ltd stating that interest from restaurant operators is dependent on the inclusion of the 'glass box'. There would appear to be no definite commitment on behalf of the operators and I do not consider it reasonable for prospective operators to insist on a specific alteration to a listed building, particularly a significantly harmful alteration.
- 5.4.7 The application contends that the scheme (including the inclusion of the 'glass box') is the only way forward in terms of finding a new user for a building in need of renovation and refurbishment. I acknowledge that new uses need to be found for under-used listed buildings in order to help ensure their preservation. However, the building is still partly in active use with the other parts only recently vacated and I agree with the Conservation Officer that the building appears to be in a reasonable state of repair. It is not a building 'at risk'. There is no substantial evidence that the scheme put forward is the only means of securing its preservation.
- 5.4.8 The potential for the rejuvenation of the building and the introduction of a new restaurant facility into the town centre economy are clearly positive aspects of the application. Whilst no details of potential employment are given, it is reasonable to assume that full and part time jobs would be created. However, these factors need to be balanced against the fundamental harm to the listed building (and wider conservation area) set out by the Conservation Officer. I

conclude that the harm to the designated heritage assets outweighs the economic benefits.

## **5.5 Residential Amenity**

- 5.5.1 Aside from the flat that forms part of the application site, I can find no record of there being residential property in the immediate vicinity of the site. Notwithstanding the despatch of notification letters, the posting of a site notice and the advertisement of the application, no objections have been received. I note that there are residential flats at the corner of Earl Street and Pudding Lane but, as I indicated above, the proposed mix of uses is not so different to the existing (and to the prevailing 'night economy' uses in the general area) to raise significant residential amenity issues. The use of the first floor terrace at the rear of the site could potentially increase noise and disturbance and, if permission were to be granted, I would recommend the imposition of a condition to control the hours of use of that open terrace so as not to cause a loss of amenity late a night.
- 5.5.2 The flat within the application site has clearly evolved alongside the other uses and I do not consider that its standard of amenity would reduce significantly as a result of the development.

## **5.6 Highways**

- 5.6.1 This is a town centre location served by excellent public transport links and the various town centre car parks. As such, there is no need for on site parking spaces (none exist and none are proposed). There are therefore no significant highways issues in this case. In terms of deliveries and general servicing, the site would be no different to other town centre retail and office premises.

## **5.7 Landscaping**

- 5.7.1 This is a town centre location dominated by buildings and hardstandings. There are no trees on site. There are therefore no significant landscape or ecology issues in this case.

## **6. CONCLUSION**

- 6.1 The significant issue here is the impact of the proposals on the listed building and conservation area. I agree with the Conservation Officer that the alterations to the building would cause harm such as to outweigh the limited benefits in terms of finding a use for the building and the wider economic benefits to the town centre. I recommend that permission be refused.

## **7. RECOMMENDATION**

REFUSE PLANNING PERMISSION for the following reasons:

1. The application is considered to be contrary to Policy BE6 of The South East Plan 2009 and the advice in The National Planning Policy Framework 2012 as the proposals would cause harm to the character of the listed building and the conservation area. The proposed glazed addition to the Earl Street frontage of the building would result in an unacceptable visual intrusion into the principle elevation of the listed building, resulting in substantial harm to its significance. It would appear as an alien feature of inappropriately large scale, dominating the listed building by virtue of its siting and would result in the loss of the open forecourt which is a characteristic feature of the building's type. In the absence of any evidence to the contrary, the channelling of the structure into the existing walls may result in damage to historic fabric. The proposal would also result in the need to re-site the fine bracketed porch lantern to a higher level where it would appear incongruous, whilst the loss of the front boundary wall and attractive railings would be undesirable.
2. The application is considered to be contrary to Policy BE6 of The South East Plan 2009 and the advice in The National Planning Policy Framework 2012 as the proposals would cause harm to the character of the listed building and the conservation area. The removal of four sash windows to the ground floor of the principle elevations of the existing building and the deepening of their openings to form new doorways into the new glazed extension would result in the loss of features of significance to an important stage in the building's development, namely its 18th Century remodelling and conversion to two dwellings, and would also be visually detrimental to the listed building.
3. The application is considered to be contrary to Policy BE6 of The South East Plan 2009 and the advice in The National Planning Policy Framework 2012 as the proposals would cause harm to the character of the listed building and the conservation area. The new glazed staircase addition proposed for the rear elevation would be of excessive scale, exceeding the current eaves level, and would have an awkward and inappropriate relationship with significant features of the rear elevation such as windows and dormers.



For admin. use	
Date logged:	12/10/2012
21 day completion:	No
If no, timescale is:	38 days
Original MA ref (conditions):	MA/ /
<b>Time allocation:</b>	<b>1680 mins</b>

**Maidstone Borough Council**  
Heritage, Landscape and Design  
**Planning Consultation Response Sheet (C)**

FAO (Case Officer): Geoff Brown  
**Application No.: MA/12/1769**

Address of site: 31 Earl Street, Maidstone  
Proposal: Partial demolition, alterations and extensions occasioned by conversion to mixed use as A3, A2 and a self-contained flat  
Application for: Full planning permission

Type of consultation: Automatic

Reason for consultation:

- |   |  |   |                                    |
|---|--|---|------------------------------------|
| <input type="checkbox"/> Major application            | <input checked="" type="checkbox"/> Conservation area  | <input type="checkbox"/> Locally listed building    | <input type="checkbox"/> Not known |
| <input checked="" type="checkbox"/> Listed building   | <input type="checkbox"/> Setting of Conservation area  | <input type="checkbox"/> Registered park/garden     |                                    |
| <input type="checkbox"/> Setting of Listed building   | <input type="checkbox"/> Planning Committee report     | <input type="checkbox"/> Scheduled ancient monument |                                    |
| <input type="checkbox"/> Curtilage of Listed building | <input type="checkbox"/> Additional comments           | <input type="checkbox"/> Design advice              |                                    |
| <input type="checkbox"/> Agricultural conversion      | <input type="checkbox"/> Non-designated heritage asset | <input type="checkbox"/> Appeal                     |                                    |

Comments:

The application address should be changed to incorporate No. 33 Earl Street.

As this application appears to involve the demolition of load-bearing internal walls (between the proposed kitchen and dining room) it is necessary to consult English Heritage and the national amenity societies under the terms of Circular 8/2009.

Architecture and History

Nos. 31 and 33 Earl Street comprise a single building, listed Grade II. It was first listed on 30<sup>th</sup> July 1951. It was erected in the early 17<sup>th</sup> Century and represents an important survival of a grand town house. In October 2011, English Heritage published its Listing Selection Guide – Domestic 2: Town Houses which is one of a series of thematic guides to the importance of different categories of building giving advice on "listability". In the Historical Summary section it has the following to say about the development of town houses:-

"From the medieval period onwards, grandees have often had imposing houses, conveniently situated close to centres of power and commerce. These combined impressive public areas, private quarters, and ancillary accommodation for retainers; because of the value of their inner city sites, few of these...have come down to us today...With the continuing ascent of the merchant classes during the seventeenth and eighteenth centuries and the emergence of a specifically urban identity, these houses grew in number but were increasingly located in suburban locations, where greater opportunities for display, comfort and expansion presented themselves...

...Always exceptional, such houses reflect the aspirations of the aristocracy and of the professional and merchant classes and retain crucial evidence of long-vanished lifestyles and attitudes."

Nos. 31 and 33 Earl Street thus represent an important example of a grand town house built in a central location rather than the suburban location which was becoming more common by the 17<sup>th</sup> Century. In this particular case it is representative of the rise of the professional class within Maidstone and their desire to show off their status by the erection of grand houses reflecting the latest tastes in architecture and domestic planning.

Nos 31 and 33 Earl Street formed the residence of Andrew Broughton (1602/3 – 1687) who was living in Maidstone by 1627. He became a lawyer and by 1639 had been appointed clerk of the peace for the county of Kent, but lost this position at the start of the English Civil War. During the war he acted as attorney on behalf of the corporation of Maidstone and in November 1648 was elected mayor. In January 1649 he was appointed Clerk of the Court at the High Court of Justice in the trial of King Charles I; as such he read out the charge against the king and declared the sentence of death. He subsequently served as a member of the commonwealth parliament, but at the restoration in 1660 he was exempted from the general pardon and fearing for his life fled the country, eventually landing up at Lausanne in Switzerland, a country where he lived the rest of his life. This association with an important historical figure adds extra significance to this listed building.

The building also gains enhanced significance by its association with other grand houses in Maidstone town centre. It lies directly opposite the surviving (unlisted) street range of the former courtyard house of Earls Place (now occupied by Zizzi's and Bison Print). The frontage has been masked by Victorian alterations and modern shopfronts, but above ground floor level the original 15<sup>th</sup> Century timber frame and fine crown post roof survive. A little further away, in St. Faith's Street, lies the 16<sup>th</sup> Century mansion of Chillington Manor (now the museum). This major brick house (listed Grade II\*) was built by another lawyer, Nicholas Barham, in the prevailing Elizabethan style of the day. A little further away still, Stone House in Lower Stone Street was the town house of the Sackville family.

Significance is further enhanced by the building's position within the Maidstone Centre Conservation Area and particularly within Earl Street which the approved Conservation Area Appraisal identifies as one of the most important streets in the conservation area in architectural and townscape terms with a high concentration of listed buildings. It contrasts the north side of the street, with its continuous building line hard up to the pavement edge, with the more varied line of the southern side formed, for example, by the set-back of the Hazlitt Theatre and the entrance courtyard to Nos. 31-33.

Nos. 31-33 were built in the first half of the 17<sup>th</sup> Century. The house is of the typical Jacobean plan, which forms one of its defining characteristics contributing greatly to its significance. Although described in the listing as being of half-H plan which "forms a centre and 2 projecting wings", the building is actually of a full H-plan as the wings continue backwards beyond the original rear wall of the centre range. Although ultimately deriving from the medieval house plan of a hall and cross-wings, the H-plan developed during the Elizabethan and Jacobean eras of the late 16<sup>th</sup>/ early 17<sup>th</sup> Century as a refinement adapted to changing domestic arrangements and to a more regular, symmetrical architectural treatment under the influence of the importation of Renaissance ideas. It was first applied to country houses, a good relatively local example being Charlton House near Greenwich, erected in 1612. Subsequently, it sometimes became adapted on a smaller scale to town houses. For a member of the rising professional classes, the appropriation of this style of building would have been

attractive, carrying aristocratic connotations and a feeling of being "up to date". These would have helped to confer status on the occupant; in addition, the use of a plan with an open courtyard hinted at a degree of wealth whereby the owner could be seen to be able to afford not to cover his entire frontage with building. From a practical point of view it removed the main body of the house from the public street frontage set behind a semi-private courtyard and enabled additional lighting of the wings from the return elevations facing into the courtyard rather than having to rely on light and air which might be affected by operations or buildings on a neighbour's land. It also enabled a bolder architectural statement to be made, the projections and recessions of the façade enlivening the street scene.

Although subsequently altered in the 18<sup>th</sup> and 19<sup>th</sup> Centuries the building still displays in its architectural treatment typical features of the early 17<sup>th</sup> Century recognisable from other Jacobean buildings, such as the canted bay windows rising through all storeys – although these have been re-fenestrated in the 18<sup>th</sup> or early 19<sup>th</sup> Century with sash windows, the basic form is common in Jacobean architecture but with mullioned and transomed windows. Similarly, the parapet masking the roof slopes from street level is probably also original (as Renaissance design, being imported ultimately from Italy, featured roofs of shallow pitch which were not architecturally dominant). Both of these features can be seen, for example, at Charlton House. It is not clear, but the original building may have been faced in exposed brickwork now covered by the stucco and roughcast of the 18<sup>th</sup>/ 19<sup>th</sup> Century; however, the prominent quoining to the corners of the projecting wings probably reflects the original arrangement as this was also a common feature of Jacobean architecture (again, it can be seen at Charlton House).

According to the list description, the house was subdivided into two dwellings in the 18<sup>th</sup> Century. This may well be correct, although some features of the interior of No. 31, such as the simple but elegant staircase, are more characteristic of the early 19<sup>th</sup> Century Regency period. In truth, the two halves of the building have probably been subjected to a process of sequential alteration in line with their individual owners requirements since the initial partition took place.

It is believed that for a period in the 19<sup>th</sup> Century, No. 31 was in use as a school. In 1873 it was acquired and opened as The Maidstone Club for gentlemen; at this time it appears that No. 33 remained in residential use, but by the 1890s this had been converted to an office for solicitors. This office use remains today.

To begin with, the club operated within the original building, but a number of extensions to the rear took place in the 20<sup>th</sup> Century; first, in 1919, an extension was made to the rear of the dining room, followed in the 1930s by the larger flat-roofed extensions to the rear of the site; No. 33 has only had minor additions made. For the most part, the club and commercial uses have caused little harm to the interior character of the historic parts of the building.

### Proposals

The proposals now put forward seek to re-unite the two buildings. The whole of the ground floor and the first floor of No. 31 would become a restaurant; the first and second floors of No. 33 would remain in office use, accessed by the existing door in the external passageway to the west of the building and by the existing secondary staircase; the top floor of No. 31 would form a two-bedroom ~~330~~ flat, with independent access gained via a new staircase addition to the rear. A motley collection of single storey 20<sup>th</sup> Century additions

to the rear which detract from the significance of the building would be demolished to be replaced by new kitchen accommodation serving the proposed restaurant; the demolition of these additions is considered to be acceptable.

The conversion will entail a number of internal and external alterations and extensions which are extensive in their impact. The application is accompanied by a Heritage Statement as required by the NPPF; however, I have to say that in my opinion this is insufficiently detailed and flawed. In terms of assessing the building's significance it hardly goes beyond a recitation of the List Description and a comparison of OS maps between 1869 and 1968 (which do not cover the periods of greatest significance). Rather surprisingly, it states that the building "was *probably* built in the Jacobean style" (my italics) with the half H plan being one characteristic. It talks about historic alterations to the property and seems to erroneously suggest that the front wings are later additions. It concludes that the significance "derives from its historical value and architectural detailing, principally on the exterior of the building. There is no mention of any important internal features". It does not specify what historic value or architectural features in particular constitute the significance; the assumption that because there is no description of internal features in the list description means that there is no significance to internal features is plainly wrong. The Historic Environment Planning Practice Guide produced by English Heritage in March 2010 to accompany PPS5 has been confirmed by Government to be still valid despite the demise of PPS5. It gives guidance on additions and alterations to heritage assets and in paragraph 181 states that:-

" When a building is adapted for new uses, its form as well as its external and internal features may impose constraints".

Paragraph 182 continues:-

" The plan form of a building is frequently one of its most important characteristics and internal partitions, staircases (whether decorated or plain, principal or secondary) and other features are likely to form part of its significance. Indeed they may be its most significant feature. Proposals to remove or modify internal arrangements, including the insertion of new openings... will be subject to the same considerations of impact on significance (particularly architectural interest) as for externally visible alterations."

As the Listing Selection Guide for Town Houses already referred to points out, many houses (including those already listed) have never been inspected internally – this is particularly true for early listings such as is the case here. It goes on to list examples of internal features which will add to significance – these include staircases, fireplaces, decorative plasterwork, joinery, doors, architraves, panelling, shutters, built-in cupboards and shelved niches.

The fact that the Heritage Statement submitted with this application dismisses the interior in the way that it does means that the significance of interior features and the impact on them of the proposals are not addressed at all.

The submitted Heritage Statement concludes that the significance of the listed building has been reduced by the unsympathetic extensions at the rear (with which I wholly agree) and by alterations to the front façade and internal alterations. I would entirely disagree with this latter point; these alterations have in fact for the most part added significance to the building, both in showing <sup>391</sup> it has evolved through time but also by the quality of architectural and decorative detailing.



a) External Alterations

- i) The proposal which would have the single most significant impact on the listed building is that to add a single storey "glass box" to infill the entrance courtyard. The only justification for this addition comes in a letter of support from a chartered surveyor acting on behalf of A1 Retail Ltd. who states that the property "has generated interest from a couple of well known branded restaurant operators, one of whom, I believe, will commit to occupation. However, because the main entrance to the ground floor is recessed and, as a consequence not visible from Earl Street in both directions they (the potential occupiers) have insisted that the "Glass Box" be incorporated as "part" of the building in order that potential customers can identify their presence on Earl Street".

Apart from the fact that there appears to be no definite commitment from the operator in question, it is not reasonable for a potential occupier to insist on a specific alteration to a listed building - alterations and additions should flow from an analysis of the building's character and significance, the analysis should not seek to justify a pre-conceived notion.

The submitted Planning Statement, Design and Access Statement and Heritage Statement seek to do exactly this.

The Planning Statement, at paragraph 6.17, considers that " the proposed development will be the catalyst in finding a new user for the building which in turn will attract the necessary investment to renovate and refurbish it. The only way that this building will be refurbished and thereby conserved for future generations is for enabling development in the form of the glazed box to be permitted." I find this to be a surprising conclusion not backed up by any substantial evidence and cannot agree that the addition of the glass box is the only way in which the building can be conserved. One half of the building has only recently been vacated and the other half is still occupied; the building appears to be in a reasonable state of repair and I would not consider it at present to be "at risk".

It further seeks to justify the appropriateness of the glass box as follows:-

- *The glass box is recessive and will not compete with the Jacobean architecture, is simple and transparent, of single storey height.* My response to this is that whilst the glass box is clearly a modern alteration in a style clearly different from that of the existing building, I cannot agree that it will not compete with the Jacobean (and Georgian) structure. English Heritage's Historic Environment Planning Practice Guide gives advice on additions and alterations to heritage assets. At paragraph 178 it states

"The main issues to consider in proposals for additions to heritage assets...are proportion, height, massing, bulk, use of materials...alignment and treatment of setting...It would not normally be acceptable for new work to dominate the original asset...in either scale, material or as a result of its siting. Assessment of an asset's significance and its relationship to its setting will usually suggest the forms of extension that might be appropriate."

In my view, the proposed glass box, infilling the entrance courtyard, is wholly inappropriate as it will dominate the listed building by virtue of its siting on the front elevation where it will destroy the formal and symmetrical architectural



composition of the house. This composition depends to a large extent on the presence of the open entrance courtyard, a fundamental characteristic of the typical Jacobean H-plan; infilling this in any form is, in my view, unacceptable in principle.

The applicants claim that the addition will be transparent and therefore not have any great visual impact on the listed building and that it will enable the existing architecture to still be seen. Apart from the fact that glass structures are never invisible, it is not clear what purpose the covered space created by the addition would be put to. Two conflicting perspective drawings have been submitted, one showing the glass box as an empty space, the other showing it set out with tables and chairs. I consider it unlikely that the space created would remain unused, and if it is used for restaurant seating this will have a significant impact on its visual permeability and views of the original facades of the building. The potential occupiers' expressed desire for greater visibility along the street will also presumably include a need for signage, likely to be added to the glass box, which would in itself increase the visual impact of the addition.

In terms of scale, whilst the addition would be single storey, it would in my opinion be of excessive height within its context. The existing building has a carefully composed and ordered elevation with horizontal subdivision provided by the use of projecting stringcourses. One of these divides the ground floor from the upper floors and also marks a change from stucco below to roughcast above. The proposed glass box would finish significantly above this string course level; it would therefore work contrary to the existing proportions of the building and appear out of scale.

- *It will preserve the external appearance and detailing of the existing building.* In response, I would argue that it does not. Further alterations are proposed which are allied to the addition of the glass box. The first of these is the removal of four sash windows at ground floor level and the lowering of their sills to provide further doorways into the original building. These sash windows are of considerable importance to the significance of the building (but are not recognised as such within the Heritage Statement) and their removal is not therefore acceptable. Secondly, the glass box entails the removal of the existing low wall and decorative iron railings which currently enclose the forecourt and form the street boundary between the two projecting wings. These are not addressed at all in the Heritage Statement and the assumption may be that they are not particularly old. I can find no planning record of their erection, but irrespective of their age they form an attractive and appropriate feature which probably reflects historic arrangements. The wall is currently cement-rendered but may be ragstone beneath to tie in with the plinth of the building. Thirdly, there is currently an attractive lantern on a large decorative iron swan-necked bracket which is fixed above the paired entrances to the properties which I also consider to contribute to the building's significance. This would need to be removed to facilitate the erection of the glass box; whilst it is proposed to re-fix it at a higher level, it will make no sense in this relocated position.
- *The glass box is easily removable in the future and will cause no harm to the fabric of the building.* Whilst in theory the box could be removed in the future, there is no guarantee of this and once erected the likelihood is that the extension would remain for a considerable time. Whilst reversible alterations are preferable to

non-reversible ones, the temporary nature of an alteration does not necessarily make it acceptable (para 180 of the Historic Environment Planning Practice Guide). The glass box would be fixed to the existing structure by chasing grooves into the existing building at wall and roof abutments to house the frame. The Heritage Statement makes no assessment of whether this is likely to result in any damage to historic fabric, and if the addition were to be removed in the future it is likely that it would leave visible scars. Paragraphs 179 and 180 of the Historic Environment Planning Practice Guide stress the importance of the retention of historic fabric and the treatment of the junctions between new work and the existing fabric. I would also point out that the means of draining the roof of the glass box is not made clear.

- *Contemporary architecture of this sort is supported by English Heritage.* A number of examples are given of glazed structures added to historic buildings. Whilst these are interesting, each case is different and needs to respond to the individual circumstances of each building. I have no objection to the principle of frankly modern additions to listed buildings, but it depends on the context and location of the extension, and in this case I believe any addition in the location proposed would be inappropriate whatever its architectural style.
- ii) To the rear of the building it is proposed to demolish the various 20<sup>th</sup> Century one storeyed extensions. As already pointed out, these extensions are unsympathetic and diminish the significance of the building and I therefore have no objections to their removal.

It is proposed to replace these buildings with:-

- a) A new single storey structure to house kitchens - details provided of this are rather sketchy but appear to involve a solid-walled flat-roofed extension which whilst of no great architectural merit would probably have a neutral effect on the building's significance. However, no details are given of any extract ducting/ plant which will be undoubtedly necessary to secure compliance with other legislation. As this potentially could have a significant impact on the listed building, I believe that details should be submitted prior to determination.
- b) A new 3-storeyed glazed structure to house a new staircase giving independent access to the proposed second floor flat. Whilst this is not in such a sensitive location as the proposed glass box to the front of the building, this extension would have an awkward relationship with the existing building. In particular, on the ground floor its wall forming the entrance to the staircase would cut across the existing ground floor window to No. 33, which is a good tripartite sash window, which is unacceptable. The addition would also be abutted to and obscure the "dormers" which probably represent the 18<sup>th</sup> Century stair turrets added when the property was divided and consequently adversely affect the significance of the listed buildings. It would also rise above existing eaves level thus appearing excessive in scale.
- c) In the first floor rear room of No. 31, it is proposed to change an existing window to a pair of doors, giving access to a roof terrace to be formed on the flat roof of the 1930s extensions. The window appears to be within the extension probably added in 1919 and is of low significance. I have no objections to this element of the proposals or to the creation of the roof terrace.

## b) Internal Alterations

- i) On the ground floor it is proposed to create a door-sized opening within the entrance vestibules to create a link between the two properties. In principle, such a small-scale opening could be acceptable as the impact on historic fabric (likely to be 18<sup>th</sup> Century walling) would be limited. However, on a practical level, the existing front doors appear to both open against this wall, which will make use of the opening difficult unless the doors are re-hung (which does not appear to be proposed)
- ii) On the ground floor of No. 31, in the rear room it is proposed to remove bar fittings and partitions which appear to be modern – this would be an improvement and I have no objections. However, it is also proposed to remove sections of the wall between this room and the hallway and servery. There is no historic assessment of the nature or age of this wall and it appears to have been assumed that it is modern studwork. However, it does seemingly follow the line of the original 17<sup>th</sup> Century walls and is therefore conceivably of historic significance – Council records show that as part of a listed building consent granted in 1989 one of the areas of wall affected was straightened, but this was done by battening out from the existing wall surface. Even if the wall did prove to be modern, it still defines the original floorplan of the building which the Historic Environment Planning Practice Guide identifies as important to protect. These walls line through with walls directly above, so must be considered to be supporting walls, thus triggering the need for the application to be the subject of consultations with English Heritage and the national amenity societies.
- iii) Also at ground floor level in No.33 the rear room is annotated to show possible additional toilet accommodation. Such vagueness in the proposals is unhelpful but this use, with the level of alteration and partitioning likely to be needed, is not appropriate for one of the major rooms in the house, despite it already having been subdivided by the secondary staircase.
- iv) At first floor level in No. 31, stub walls either side of the fireplace in the front room of the wing projecting towards the street are shown to be removed. These contain doors and architraves which are likely to be of significance, whose removal would be unacceptable.
- v) At second floor level a corridor is formed within the existing room which becomes Bedroom 2 of the proposed flat. The original room is therefore subdivided and the original floorplan not therefore preserved – again, this will adversely affect significance.
- vi) More generally, the application forms for listed building consent indicate that there will be stripping out of internal wall, ceiling and floor finishes, but no details of these works are included, contrary to the instructions in the application forms. Clearly such works could have a significant impact on the special interest of the building and determination without these details is not possible.
- vii) Given the multiple uses proposed for the building there will no doubt be requirements under Environmental Health and Building Regulations legislation for further works which could potentially impact upon the historic structure. In particular, within No. 33 there is likely to be a need to carry out fire separation works between the ground floor restaurant and the first floor offices; the same will apply at No. 31 between the first floor restaurant accommodation and the second floor residential use. In the latter case, there is also likely to be a need to secure adequate soundproofing. No details are given of any such necessary works and determination in advance of such details is inappropriate.

- viii) The scheme does not appear to have been efficiently planned – the main staircase in No. 33 is to have all doors off it at first and second floor levels sealed, meaning that the staircase becomes redundant and goes nowhere.

**Recommendation**

- I **STRONGLY OBJECT** to this application on heritage grounds for reasons as detailed above.

Signed: Mike Parkinson

Date:19/11/2012



337

R Restaurant Property  
ALL ENQUIRIES  
020 7935 2222

31.12.2012



338

Restaurant  
Property  
ALL INQUIRIES  
020 7935 2222

31. 12. 2012

339

0707333222

31. 12. 2012



340



31. 12. 2012

341

31. 12. 2012



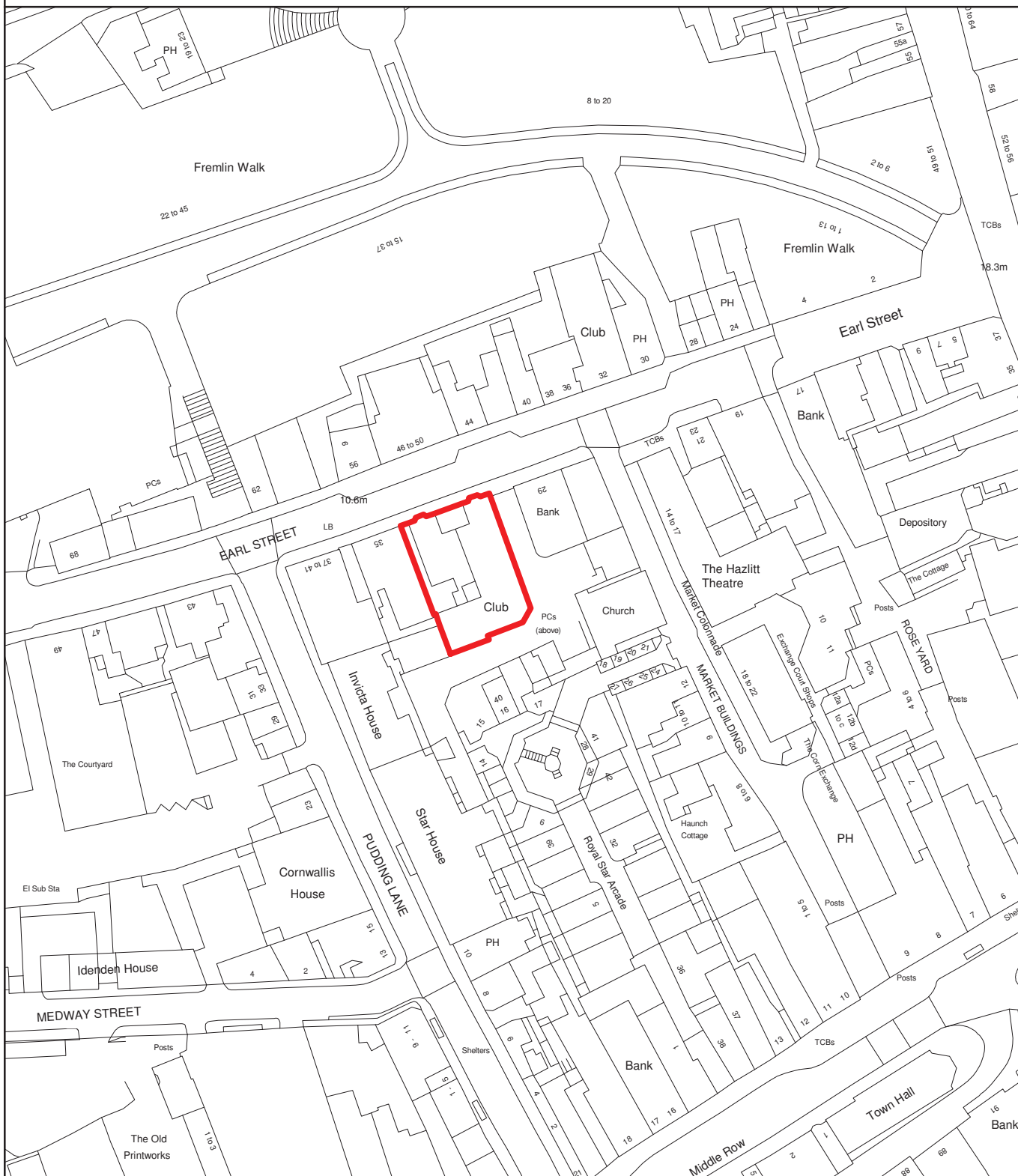


# THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/1770

GRID REF: TQ7555

31 EARL STREET,  
MAIDSTONE.



This copy has been produced specifically for Planning and Building Control Purposes only. No further copies may be made. Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office ©Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council No. 100019636, 2013. Scale 1:1250



**Rob Jarman**  
Head of Planning



APPLICATION: MA/12/1770 Date: 28 September 2012 Received: 28 September 2012

APPLICANT: Mr N Jackson

LOCATION: 31, EARL STREET, MAIDSTONE, KENT, ME14 1PF

PARISH: Maidstone

PROPOSAL: Listed building consent for partial demolition, alterations and extensions (being works involved in the change of use of building to a mixed use of A3 use, A2 use and a self-contained residential apartment) as shown on site location plan and drawing nos. 3266.14A, 15A, 16A, 17A, 18A, 19A, 20A, 21A, 22A, and 23A received on 28/9/12; and fixing detail received 20/12/12.

AGENDA DATE: 10th January 2013

CASE OFFICER: Geoff Brown

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

- Councillor Ash has requested it be reported for the reason set out in the report

## **1. POLICIES**

Maidstone Borough-Wide Local Plan 2000: N/A  
South East Plan 2009: BE6  
Government Policy: NPPF

## **2. HISTORY**

2.1 The planning history for this site mainly involves planning and listed building consent applications for minor internal and external alterations and advertisements. The recent planning history is as follows:

MA/12/1769 - Partial demolition, alterations, extensions and change of use of building to a mixed use of A3 use, A2 use and a self-contained residential apartment – Undetermined - Reported on these papers.

MA/95/0922 - Listed Building Consent for the formation of doorway in an internal party wall – Approved.

MA/93/0115 - Listed Building Consent to alter guttering at rear of property – Approved.

MA/90/0488 – Internal box sign – Withdrawn.

MA/89/1764 - Listed building consent for alterations and improvements (to include alterations and improvements to front entrance hall and staircase new floor and pump sump to cellar and improvements to staircase new fire resisting ceiling to cellar new beer chute into cellar) – Approved.

MA/86/2021 - Internal fire precaution works and improvements to toilets – Approved.

### **3. CONSULTATIONS**

- 3.1 ENGLISH HERITAGE has sent a 'holding reply' raising objection. It says "we will be objecting to the application, particularly because of the glazed extension, and will do so in detail before your committee meets." I will update Members on any detailed comments from English Heritage at the meeting.
- 3.2 THE SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS states: "Having studied the documentation we felt that it was important to place on record our objection to the proposed glazed lobby located at the front of the building. Although there is an *Access and Design Statement [sic]* incorporating a *Statement of Heritage Significance* that attempts to make that case that the glazed lobby will not have a detrimental impact on the heritage asset we are unconvinced. We also note that we cannot find a convincing argument as to why this intervention is necessary. We are told that the "*Glass Box within the entrance is the key to unlocking the future use of the listed building*" but there does not appear to be any evidence to support this statement. Therefore we must object strongly to this aspect of the scheme as it appears to be unnecessary and will have a potentially detrimental impact on the significance of the heritage asset. Though transparent in their material nature glazed structures are rarely so when looked at objectively as varying light levels and reflections change their appearance considerably. It is therefore quite possible that for large parts of the time the glazed lobby will effectively obscure the lower part of the elevation and the attractive double entrance doors. With regard to the question of the physical impact we would argue that cutting a chase into the existing fabric to take the glazing channel is extremely intrusive and will cause considerable irreversible harm.

So whilst we have no objection to the proposed change of use and indeed welcome the efforts to bring the building back into a good state of repair we believe that this can be achieved without the addition of the glazed lobby. In

our view the scheme is acceptable in general terms but we firmly object to this particular element.”

- 3.3 THE MBC CONSERVATION OFFICER objects to the proposals. His comments are copied in full as an appendix to the MA/12/1769 report. The impact of the proposals on the listed building is the significant issue in this case and is discussed below.

#### **4. REPRESENTATIONS**

- 4.1 COUNCILLOR ASH has requested committee consideration should I be minded to recommend refusal. This to discuss the restoration of a premises which is dilapidated at present; the value of this building within the street scene and to the heritage of Maidstone; and the economic benefits of the proposed business with respect to jobs and other financial benefits.

#### **5. CONSIDERATIONS**

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

- 5.1.1 The application site involves 31 and 33 Earl Street, a grade 2 listed building situated within the town centre off the south side of Earl Street. Number 31 is essentially the eastern half of the building and 33 the western half. This is land within the Maidstone Centre Conservation Area. The site involves a three storey building, the scale of which decreases as one moves south, with its southern element involving a flat-roofed ground floor projection. The front of the building exhibits an open courtyard centrally located between two wings so that the two entrance doors are set back from the street. The building has a facing of stucco and roughcast and prominent quoining.
- 5.1.2 The building fronts Earl Street and is opposite the Zizzi restaurant. To the east is an access road, beyond which is Nando's restaurant. To the west is a vacant office, whilst to the rear is a service yard for surrounding properties, accessed by the aforementioned side road.
- 5.1.3 The site previously accommodated a private club (normally falling with Use Class D2), the offices of a law firm (A2) and, at the upper level, a residential flat (C3). I agree with the applicant's agent that, on the balance of probability, the lawful use of the site is as a mixed use of those elements. The active use as a club has now ceased, although the law firm use continues.
- 5.1.4 The Conservation Officer has carried out a comprehensive analysis of this site and its historical significance and I draw attention to his comments in the appendix for further detail.

## **5.2 Proposal**

- 5.2.1 This application is for listed building consent and proposes external and internal works associated with the change of use of the premises to a new mixed use of an A3 restaurant, an A2 office and a residential apartment.
- 5.2.2 The scheme essentially seeks to re-unite the two halves of the building. The whole of the ground floor and the first floor of No. 31 would become a restaurant; the first and second floors of No. 33 would remain in office use, accessed by the existing door in the external passageway to the west of the building and by the existing secondary staircase; the top floor of No. 31 would form a two-bedroom flat, with independent access gained via a new staircase addition to the rear. The collection of single storey 20<sup>th</sup> Century additions to the rear which detract from the significance of the building would be demolished to be replaced by new kitchen accommodation serving the proposed restaurant.
- 5.2.3 The main external alteration involves the addition of a 'glass box' at the front of the building to infill the courtyard. This would be a single storey, flat roofed structure of glass, approx. dimensions being 6m by 4.2m, with a height of 4m. The front of the 'glass box' would be level with the front of the existing two wing projections and its forward elevation, with glass double doors, would replace the existing low wall and railings that currently separate the courtyard from the pavement. More information has now been submitted with regard to the method of construction and fixing: a stainless steel channel would be formed in the string and plinth courses with the toughened glass inserted and made good with silicone. Support would be provided by glass fins, mullions and beams with silicone joints and stainless steel brackets.
- 5.2.4 The other significant external changes involve the removal of existing modern single storey additions at the rear of the building and replacement with a single storey kitchen extension. A new three-storeyed glazed structure is proposed at the rear (adjacent to the aforementioned kitchen extension) to house a new staircase giving independent access to the second floor flat. Finally, in the first floor rear room of No. 31, it is proposed to change an existing window to a pair of doors, giving access to a roof terrace to be formed on the flat roof of the 1930's extensions. The window appears to be within the extension probably added in 1919 and is of low significance.
- 5.2.5 There are also a series of internal alterations proposed that are described and analysed by the Conservation Officer (see appendix).

## **5.3 Visual Impact/Impact on Designated Heritage Assets**

- 5.3.1 This is an application for listed building consent: the only issue in such an application is the impact of the proposed physical changes (both internal and external) on the character of the listed building.
- 5.3.2 Development Plan Policy, specifically Policy BE6 of The South East Plan, makes it clear that the historic environment should be protected, conserved and, where appropriate, enhanced, whilst the region's internationally and nationally designated historic assets should receive the highest level of protection. Proposals that make sensitive use of historic assets through regeneration, particularly where these bring redundant or under-used buildings and areas into appropriate use should be encouraged.
- 5.4.3 The NPPF, at Section 12 'Conserving and Enhancing the Historic Environment' essentially reinforces the need to conserve designated heritage assets before going on to state that, in determining applications, local authorities should take account of:
- **the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;**
  - **the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and**
  - **the desirability of new development making a positive contribution to local character and distinctiveness.**
- 5.4.4 As can be seen from his analysis, the Conservation Officer objects to this application on the basis that the changes would cause fundamental harm to the listed building that is of both historic and architectural interest. His detailed comments are set out in the appendix but his objections can be summarised thus:
- a) The proposed glazed addition to the Earl Street frontage of the building (ie the 'glass box') would result in an unacceptable visual intrusion into the principle elevation of the listed building, resulting in substantial harm to its significance. It would appear as an alien feature of inappropriately large scale, dominating the listed building by virtue of its siting and would result in the loss of the open forecourt which is a characteristic feature of the building's type. In the absence of any evidence to the contrary, the channelling of the structure into the existing walls may result in damage to historic fabric. The proposal would also result in the need to re-site the fine bracketed porch lantern to a higher level where it would appear incongruous, whilst the loss of the front boundary wall and attractive railings would be undesirable.



- a) The removal of four sash windows to the ground floor of the principle elevations of the existing building and the deepening of their openings to form new doorways into the new glazed extension would result in the loss of features of significance to an important stage in the building's development, namely its 18<sup>th</sup> Century remodelling and conversion to two dwellings, and would also be visually detrimental to the listed building.
- b) The new glazed staircase addition proposed for the rear elevation would be of excessive scale, exceeding the current eaves level, and would have an awkward and inappropriate relationship with significant features of the rear elevation such as windows and dormers.
- c) Internal alterations proposed will result in the loss of the original floorplan and of historic features in places, resulting in harm to the significance of the listed building. It is proposed to strip out internal floor, wall and ceiling finishes, and in the absence of any adequate detail on the extent of these works or the significance of the interior of the listed building, such works are likely to have an adverse impact on its special interest. Similarly, no details are given of any works which may be required to comply with fire safety or environmental health requirements, and in the absence of any such detail such works are also likely to have an adverse impact on the significance of the listed building.

5.4.5 These are fundamental objections from the Council's qualified advisor on heritage matters and, in my view, must be given significant weight in the process of determining this application.

5.4.6 The applicant contends that the scheme is not harmful arguing that the 'glass box' is a small simple structure that would not compete with the Jacobean architecture and that it would not challenge the external appearance and detailing of the building. The glass box would be removable and contemporary architecture of this sort is supported by English Heritage. The Conservation Officer addresses these issues in his detailed analysis and clearly disagrees.

5.4.7 The application justifies the 'glass box' partly on the basis that, without it, the recessed access to the building would not be apparent and potential customers would not be able to identify the presence of the restaurant from the approaches along Earl Street. This contention is supported by a letter from a Chartered Surveyor from A1 Retail Ltd stating that interest from restaurant operators is dependent on the inclusion of the 'glass box'. There would appear to be no definite commitment on behalf of the operators and I do not consider it reasonable for prospective operators to insist on a specific alteration to a listed building, particularly a significantly harmful alteration.

5.4.8 The application contends that the scheme (including the inclusion of the 'glass box') is the only way forward in terms of finding a new user for a building in need of renovation and refurbishment. I acknowledge that new uses need to be found for under-used listed buildings in order to help ensure their preservation. However, the building is still partly in active use with the other parts only recently vacated and I agree with the Conservation Officer that the building appears to be in a reasonable state of repair. It is not a building 'at risk'. There is no substantial evidence that the scheme put forward is the only means of securing its preservation.

## **6. CONCLUSION**

6.1 The significant issue here is the impact of the proposals on the listed building. I agree with the Conservation Officer that the alterations to the building would cause harm such as to outweigh the limited benefits in terms of finding a use for the building. I recommend that consent be refused.

## **7. RECOMMENDATION**

REFUSE LISTED BUILDING CONSENT for the following reasons:

1. The application is considered to be contrary to Policy BE6 of The South East Plan 2009 and the advice in The National Planning Policy Framework 2012 as the proposals would cause harm to the character of the listed building. The proposed glazed addition to the Earl Street frontage of the building would result in an unacceptable visual intrusion into the principle elevation of the listed building, resulting in substantial harm to its significance. It would appear as an alien feature of inappropriately large scale, dominating the listed building by virtue of its siting and would result in the loss of the open forecourt which is a characteristic feature of the building's type. In the absence of any evidence to the contrary, the channelling of the structure into the existing walls may result in damage to historic fabric. The proposal would also result in the need to re-site the fine bracketed porch lantern to a higher level where it would appear incongruous, whilst the loss of the front boundary wall and attractive railings would be undesirable.
2. The application is considered to be contrary to Policy BE6 of The South East Plan 2009 and the advice in The National Planning Policy Framework 2012 as the proposals would cause harm to the character of the listed building. The removal of four sash windows to the ground floor of the principle elevations of the existing building and the deepening of their openings to form new doorways into the new glazed extension would result in the loss of features of significance to an important stage in the building's development, namely its 18th Century

remodelling and conversion to two dwellings, and would also be visually detrimental to the listed building.

3. The application is considered to be contrary to Policy BE6 of The South East Plan 2009 and the advice in The National Planning Policy Framework 2012 as the proposals would cause harm to the character of the listed building. The new glazed staircase addition proposed for the rear elevation would be of excessive scale, exceeding the current eaves level, and would have an awkward and inappropriate relationship with significant features of the rear elevation such as windows and dormers.
4. The application is considered to be contrary to Policy BE6 of The South East Plan 2009 and the advice in The National Planning Policy Framework 2012. Internal alterations proposed would result in the loss of the original floorplan and of historic features in places, resulting in harm to the significance of the listed building. It is proposed to strip out internal floor, wall and ceiling finishes, and in the absence of any adequate detail on the extent of these works or the significance of the interior of the listed building, such works are likely to have an adverse impact on its special interest. Similarly, no details are given of any works which may be required to comply with fire safety or environmental health requirements, and in the absence of any such detail such works are also likely to have an adverse impact on the significance of the listed building.

351

R Restaurant  
Property  
ALL ENQUIRIES  
020 7935 2222

31.12.2012



352

Restaurant  
Property  
ALL INQUIRIES  
020 7935 2222

31. 12. 2012



353

07073932222

31. 12. 2012

354



31. 12. 2012



355

31. 12. 2012

## **THE MAIDSTONE BOROUGH COUNCIL** **PLANNING COMMITTEE – 13/01/13**

### **APPEAL DECISIONS:**

1. - **MA/11/0804** Erection of a barn and improvements to existing access as shown on drawing numbers 0603/44/10 A, 1A, 2A, 3A, 4A and 5A received 2nd February 2012, design and access statement received 18th May 2011, and letters dated 30th June 2011, 29th July 2011, 23rd September 2011, 30th January 2012 and 24th February 2012.

**APPEAL:** ALLOWED WITH CONDITIONS

Land at Smarden Road, Headcorn, Kent

**DELEGATED POWERS**

- 
2. - **MA/11/1148** Demolition of existing garage and erection of a detached dwelling as shown on unnumbered scale 1:100 floorplan and elevation drawings, 1:200 site layout plan. 1:1250 site location plan and supporting Arboricultural and Planning Integration Report and application statement received on 11 July 2011.

**APPEAL:** DISMISSED

8 Howard Drive, Maidstone, Kent

**DELEGATED POWERS**

- 
3. - **MA/11/1238** -An application for a certificate of lawfulness of proposed use or development being the erection of a single storey side/rear extension; the installation of solar panels; and the erection of a detached ancillary building within the curtilage of Millfield House, as described in application MA/11/1238.

**APPEAL:** DISMISSED

Millfield House Headcorn Road Staplehurst

**DELEGATED POWERS**

**4. MA/11/1438** -Retrospective application for the change of use of land from agricultural to residential and the retention of a driveway as shown on unnumbered site location plan and unnumbered block plan received on 22/8/11 and 2/11/11.

**APPEAL B:** DISMISSED

Oakhurst Scragged Oak Road Detling ME14 3HJ

**DELEGATED POWERS**

**5. MA/11/1439** -Erection of single storey building (retrospective) and se for holiday accommodation and teaching of spiritual therapy including student accommodation as shown on unnumbered site location plan and drawing number 291010/1 received on 22/8/11 and 2/11/11.

**APPEAL A** – Dismissed

Oakhurst Scragged Oak Road Detling ME14 3HJ

**DELEGATED POWERS**

---

**6. MA/11/1447-** Erection of 1no. dwelling with associated works as shown on drawing nos. 2471.01, 02 & 03 received 23/08/11, site location plan and amended floor plans received 14/10/11 & 02/1/11.

**APPEAL:** DISMISSED

70 College Road, Maidstone, Kent

**DELEGATED POWERS**

---



**7. MA/11/2039** - Demolition of existing disused milking parlour and construction of a new bungalow for use ancillary to the use of 'The Hayloft' as shown on drawing nos. 1582/0501 and 0502 received on 28/11/11; and site location plan received on 15/12/11.

**APPEAL: ALLOWED WITH CONDITIONS**

The Hayloft Old Shelve Ashford Road Lenham ME17 2DT

**DELEGATED POWERS**

---

**8. MA/11/2152-** Outline application for the demolition of 25 and 27 Marion Crescent and erection of 11 dwellings with access road onto Marion Crescent and associated development.

**APPEAL: ALLOWED WITH CONDITIONS**

Land at 15, 17, 36, Brockenhurst Avenue and 25, 27 Marion Crescent, Maidstone, Kent

**DELEGATED POWERS**

---

**9.- MA/12/0136** Erection of a replacement detached three bedroom dwelling as shown on site location plan and drawing nos. RS/11/6/2A, TOH/11/6/3 and RS/08/2/2B received on 30/1/12.

**APPEAL: DISMISSED**

The Old Hall, Gravelly Bottom Road, Kingswood, Maidstone

**DELEGATED POWERS**

---

**10. MA/12/0168** Change of use of land for the keeping of horses and erection of private stables and haystore As shown on scale 1:100 floor plans and elevations, scale 1:500 block plan 1; 2500 site location plan. and supporting Design and Access statement received on 01 February 2011.

**APPEAL: ALLOWED WITH CONDITIONS**

Land West of Maidstone Road, Yalding

**DELEGATED POWERS**

---

**11. ENF/11736 - Without planning permission, the change of use of land from a mixed use of agricultural, keeping of horses and residential to a mixed use for agricultural, keeping of horses, residential and keeping of dogs; and the carrying out of associated operational development being the erection of kennel/shelter**

ALLOWED and the Inspector quashed the Enforcement Notice on a technicality. It will, however, be re-issued early in the New Year.

Morning Dawn Cottage Ringlestone Road Hollingbourne  
Maidstone Kent ME17 1QL

---

There is an error in the list of appeal decisions; MA/11/0804 was DISMISSED.

# Agenda Item 25

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted