

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 6 June 2013
Time: 6.00 p.m.
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Ash, Chittenden, Collins, Cox,
Harwood, Hogg, Lusty (Chairman),
Moriarty, Nelson-Gracie, Paine,
Paterson, Mrs Robertson and
J.A. Wilson

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1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - 13 June 2013

Continued Over/:

Issued on 29 May 2013

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Alison Broom

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

6.	Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting	
7.	Disclosures by Members and Officers	
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9.	To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
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27. Report of the Director of Change, Planning and the Environment 275 - 282
- Tree Preservation Order No.1 of 2013 - Trees on Land at
Lenham Square, Lenham, Kent
28. Chairman's Announcements

PLEASE NOTE

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

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

Agenda Item 10

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 16 MAY 2013

Present: Councillor Lusty (Chairman) and
Councillors Butler, Chittenden, Collins, Cox, Garland,
Harwood, Hogg, Moriarty, Nelson-Gracie, Paine,
Paterson and Mrs Wilson

Also Present: Councillors McLoughlin, D Mortimer,
Munford and Thick

1. APOLOGIES FOR ABSENCE

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

2. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:-

Councillor Butler for Councillor J A Wilson
Councillor Garland for Councillor Ash
Councillor Mrs Wilson for Councillor Mrs Robertson

3. NOTIFICATION OF VISITING MEMBERS

Councillor McLoughlin indicated his wish to speak on the report of the Head of Planning relating to application MA/12/0602.

Councillor D Mortimer indicated his wish to speak on the report of the Head of Planning relating to application MA/12/0232.

Councillor Munford indicated his wish to speak on the report of the Head of Planning relating to application MA/12/1835.

Councillor Thick indicated his wish to speak on the report of the Head of Planning relating to application MA/12/1229.

4. ELECTION OF CHAIRMAN

RESOLVED: That Councillor Lusty be elected as Chairman of the Committee for the Municipal Year 2013/14.

5. ELECTION OF VICE-CHAIRMAN

RESOLVED: That Councillor Collins be elected as Vice-Chairman of the Committee for the Municipal Year 2013/14.

6. ITEMS WITHDRAWN FROM THE AGENDA

MA/12/1541 - ERECTION OF FOUR BLOCKS OF TWO AND THREE-STOREY TERRACED HOUSES COMPRISING 12 TWO-BEDROOM AND 12 THREE-BEDROOM HOUSES FOR AFFORDABLE RENT WITH ASSOCIATED PRIVATE AMENITY SPACE AND CAR PARKING – LAND OFF TOVIL GREEN, TOVIL, MAIDSTONE

The Committee considered the urgent update report of the Head of Planning recommending that this application be withdrawn from the agenda to enable further consideration to be given to the Heads of Terms of the proposed S106 legal agreement, and, in particular, the percentage of affordable housing to be provided.

RESOLVED: That agreement be given to the withdrawal of application MA/12/1541 from the agenda to enable further consideration to be given to the Heads of Terms of the proposed S106 legal agreement.

7. URGENT ITEMS

Update Report

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

8. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Harwood stated that, with regard to the report of the Head of Planning relating to application MA/12/1691, members of his family lived in Windmill Hill, Ulcombe, and both the applicants and the objectors were known to him. However, he did not believe that he had an interest in the application, and intended to speak and vote when it was discussed.

Councillor Paine stated that, with regard to the report of the Head of Planning relating to application MA/12/0602, he was, until recently, a non-executive member of the Medway River Users' Association which had been consulted on the proposal. However, he had not renewed his membership, did not believe that he had an interest in the application, and intended to speak and vote when it was discussed

9. EXEMPT ITEMS

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

10. MINUTES OF THE MEETING HELD ON 25 APRIL 2013

RESOLVED: That the Minutes of the meeting held on 25 April 2013 be approved as a correct record and signed.

11. APPOINTMENT OF POLITICAL GROUP SPOKESPERSONS

RESOLVED: That the following Members be appointed as Spokespersons for their respective Political Groups for the Municipal Year 2013/14:-

Councillor Nelson-Gracie – Conservative Group
Councillor Harwood – Liberal Democrat Group
Councillor Moriarty – Independent Group

12. PRESENTATION OF PETITIONS

There were no petitions.

13. MA/12/0232 - 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 - LAND AT STATION APPROACH AND GEORGE STREET, STAPLEHURST, KENT

All Members stated that they had been lobbied.

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

Mr Staunton-Lambert, an objector, Councillor Perry of Staplehurst Parish Council (against), Mr Timothy, for the applicant, and Councillor D Mortimer, a Visiting Member (against), addressed the meeting.

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

Voting: 6 – For 5 – Against 2 – Abstentions

14. MA/12/1229 - RETROSPECTIVE APPLICATION FOR THE CHANGE OF USE OF LAND FOR THE STATIONING OF A MOBILE HOME FOR RESIDENTIAL OCCUPATION BY A GYPSY FAMILY AND THE ERECTION OF A DAY ROOM AND INCLUDING THE PROPOSED CREATION OF A NEW ACCESS ONTO THE HIGHWAY - NEVEREND LODGE, NEVEREND FARM, PYE CORNER, ULCOMBE, MAIDSTONE, KENT

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

Mr Deeprise, the applicant, and Councillor Thick, a Visiting Member, addressed the meeting.

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

If a shower/toilet is installed, the dayroom should be built under the supervision of Building Control.

The details pursuant to condition 6 should show the provision of chestnut spile fencing around the margins of the ponds to prevent access by horses.

Voting: 13 – For 0 – Against 0 – Abstentions

15. MA/12/1691 - ERECTION OF PART TWO STOREY PART SINGLE STOREY SIDE AND REAR EXTENSION AND FRONT PORCH - FORGE HOUSE, WINDMILL HILL, ULCOMBE, MAIDSTONE, KENT

All Members except Councillors Butler, Harwood and Moriarty stated that they had been lobbied.

The Committee considered the report of the Head of Planning.

Councillor Titchener of Ulcombe Parish Council (in support) and Mrs Turner, the applicant, addressed the meeting.

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

Voting: 9 – For 1 – Against 3 – Abstentions

16. MA/12/2303 - CHANGE OF USE AND WORKS TO CONVERT THE EXISTING BUILDING TO 73 RESIDENTIAL UNITS WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING - CONCORDE HOUSE, 10 LONDON ROAD, MAIDSTONE, KENT

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

RESOLVED: That subject to the prior completion of a S106 legal agreement in such terms as the Head of Legal Services may advise to secure the provision of a minimum of 40% affordable housing and the following contributions towards education provision, healthcare, open space and other community facilities:-

- A contribution of £114,975 for Maidstone Borough Council Parks and Open Space (being £1,575 per dwelling) towards the improvement of the open space provision within one mile of the application site;
- A contribution of £29,016 for the NHS Kent and Medway towards the improvement of the existing healthcare facilities within one mile of the application site;
- A contribution of £119,793.20 for Kent County Council towards the construction of a new primary school within two miles of the application site (this includes a contribution for land acquisition to

be returned if a site is transferred into the County Council's ownership at nil or nominal cost);

- A contribution of £34,217.10 for Kent County Council towards the extension of an existing secondary school within Maidstone;
- A contribution of £6,309.71 for Kent County Council towards the provision of book stock at Maidstone Library;
- A contribution of £2,095.74 for Kent County Council towards new/expanded facilities and services at Maidstone Adult Education Centre and outreach community learning facilities in Maidstone local to the development; and
- A contribution of £3,380.90 for Kent County Council towards the provision of adult social services in Maidstone - four identified projects being integrated dementia care, provision of linked care needs and assessment suite, changing place facility and assistive technology (telecare),

the Head of Planning be given delegated powers to grant permission subject to the conditions and informatives set out in the report as amended by the urgent update report.

Voting: 13 – For 0 – Against 0 – Abstentions

17. MA/12/0602 - APPLICATION FOR A NEW PLANNING PERMISSION TO REPLACE EXISTANT PLANNING PERMISSION MA/07/2296 (CHANGE OF USE OF LAND AND ENGINEERING WORKS TO CREATE A 200 BERTH MARINA WITH ASSOCIATED SERVICE PONTOON, FOOTBRIDGE, MEANS OF ACCESS AND CAR PARKING) TO ALLOW A FURTHER THREE YEARS IN WHICH TO IMPLEMENT THE DEVELOPMENT - LITTLE VENICE COUNTRY PARK, HAMPSTEAD LANE, YALDING, MAIDSTONE

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

Mr Chris Hawkins, Principal Planning Officer, stated that he knew Mr Elvidge, who had registered to speak on behalf of the applicant, through previous employment. However, he had not discussed the application with him.

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

Councillor Brown of Yalding Parish Council (against), Mr Elvidge, for the applicant, and Councillor McLoughlin, a Visiting Member, addressed the meeting.

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

report, with the amendment of condition 4 and an additional informative as follows:-

Condition 4 (amended)

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 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 or in such a position as to preclude its use.

Reason: In the interests of highway safety and in accordance with the guidance contained in the National Planning Policy Framework 2012.

Additional Informative

A register of occupancy (including length of stay) should be maintained and made available for inspection by the Local Planning Authority at their request.

Voting: 12 – For 0 – Against 1 – Abstention

18. MA/12/2106 - ERECTION OF 53 RESIDENTIAL DWELLINGS INCORPORATING ACCESS, FOUL WATER PUMPING STATION, DRAINAGE INFRASTRUCTURE, NATURE CONSERVATION AREA, OPEN SPACE AND LANDSCAPING - LAND TO THE SOUTH OF OLIVER ROAD, STAPLEHURST, KENT

All Members stated that they had been lobbied.

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

Mrs Hubbard, for objectors, Councillor Perry of Staplehurst Parish Council (against) and Mr Anderson, for the applicant, addressed the meeting.

RESOLVED:

1. That subject to:-

- A. The prior completion of a S106 legal agreement in such terms as the Head of Legal Services may advise to secure the following:-
- The provision of 40% affordable residential units within the application site;
 - A contribution of £39,750 for Maidstone Borough Council Parks and Open Space towards the provision of allotments in Staplehurst, the provision of outdoor sports facilities in

Staplehurst and for improvements, maintenance and replacement of play equipment at the Surrenden Road play area;

- A contribution of £1,472 for Kent County Council towards books, staff and extended hours at Staplehurst Library;
- A contribution of £1,160 for Kent County Council towards new/expanded facilities and services for community learning covering the Staplehurst area, both in adult education centres and through outreach community learning facilities;
- A contribution of £819 for Kent County Council for adult social services to be spent on assistive technology and the enhancement of local community facilities to ensure full DDA access;
- A contribution of £37,296 for the Primary Care Trust towards the improvement of the existing healthcare facilities within the locality; and
- The proposed public space as open to the public in perpetuity and its long term management,

AND

- B. A review of condition 11 (Reptile Mitigation Strategy) to address Members' concerns that the proposed receptor site is not of a suitable standard to receive translocated animals and to give consideration to using the southern part of the application site as an alternative receptor site,

the Head of Planning be given delegated powers to grant permission subject to the conditions and informatives set out in the report, as amended by the urgent update report, with the amendment of condition 11 if necessary and the following additional conditions:-

The proposed rooflights to the north elevation of plots 50/51 shall be installed such that they are a minimum of 1.7m above the finished floor level of the room in which they are installed at their lowest point.

Reason: To preserve residential amenity for neighbouring properties, in accordance with the National Planning Policy Framework 2012.

The development shall be constructed such that equipment is integrated into the dwellings so as to enable a broadband service to be provided to future occupiers of the dwellings hereby permitted.

Reason: To facilitate high quality communication for the local community, in accordance with the National Planning Policy Framework 2012.

2. That Councillors Chittenden, Harwood, Hogg and D Mortimer are to be involved in the discussions regarding condition 11.

Voting: 12 – For 0 – Against 1 – Abstention

19. MA/12/1835 - RETENTION OF BREEDING PENS, BIRD RUNS, REARING UNIT, AVIARY AND FEED STORE; TEMPORARY STATIONING OF A MOBILE HOME AND TOURING CARAVAN (OFFICE); AND THE SITING OF NEW BROODING AND REARING SHEDS - PLOT 4, LAND WEST OF CHURCH HILL, BOUGHTON MONCHELSEA, KENT

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

Councillor Munford addressed the meeting on behalf of Boughton Monchelsea Parish Council and as a Visiting Member (against).

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

Voting: 12 – For 1 – Against 0 – Abstentions

20. APPEAL DECISIONS

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

RESOLVED: That the report be noted.

21. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that he wished to draw Members' attention to the following training sessions:-

Members' Briefing and Workshop – Town Centre - 20 May 2013 at 6.30 p.m. at the Town Hall.

Planning Training Part I – 5 June 2013 at 6.30 p.m. at the Town Hall.

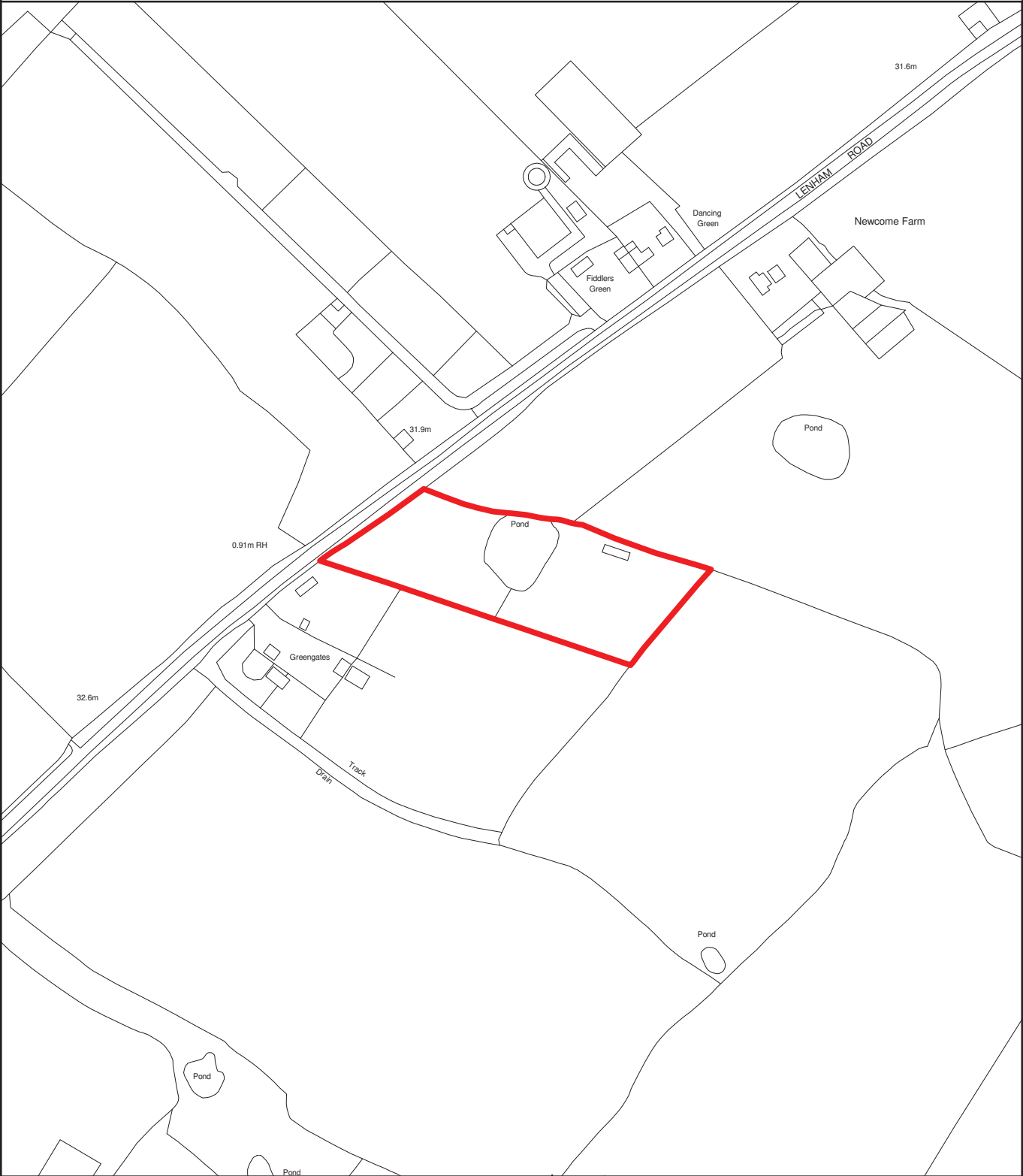
22. DURATION OF MEETING

6.00 p.m. to 10.20 p.m.

Agenda Item 13

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/10/1522 GRID REF: TQ8545/8546
OAK TREE FARM, LENHAM ROAD,
HEADCORN.



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Rob Jarman
Head of Planning

APPLICATION: MA/10/1522 Date: 1 September 2010 Received: 13 September 2010

APPLICANT: Ms K Dignam

LOCATION: OAK TREE FARM, LENHAM ROAD, HEADCORN, ASHFORD, KENT, TN27 9LG

PARISH: Headcorn

PROPOSAL: Retrospective planning application for the change of use of land from agriculture to mixed use for agriculture, keeping of horses, the stationing of two mobile homes for residential use and storage of one touring caravan with operational development being hard standing, paths, decking, fencing, entrance gates, cess tanks, sheds, greenhouse and horse shelters as shown on site location plan, site layout plan, and two photographs received 3 September 2010.

AGENDA DATE: 6th June 2013

CASE OFFICER: Joanne Alexander

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: ENV6, ENV26, ENV28, ENV34, ENV46
- Village Design Statement: N/A
- Government Policy: National Planning Policy Framework (2012), Planning Policy for Traveller Sites (2012)

2. HISTORY

Planning History

MA/09/0684 – full planning permission for the stationing of 2 no. mobile homes for residential purposes, storage of 1 no. touring caravan with associated works and keeping of horses, including hardstanding, boundary treatment, septic tank and 6 no outbuildings for utility/storage and animal shelters – REFUSED

MA/05/0739 – change of use of land to residential and stationing of 1 no. mobile home – REFUSED – APPEAL DISMISSED Jan 2006

MA/95/0418 – change of use of land from agricultural to land for the stationing of a caravan, creation of a hardstanding and siting of a hut – REFUSED – APPEAL DISMISSED

Enforcement History

There have been various investigations into the residential occupation of the land and the operational development. Prior to the personal circumstances of the occupant changing, authorisation was given to consider prosecution action in respect of failure to comply with a historic Enforcement Notice. This action is held in abeyance pending the outcome of this current application.

There are a total of 5 enforcement notices on the site issued between 1991 and 1994.

3. CONSULTATIONS

- 3.1 Parish Council – **Headcorn Parish Council** wish to see the application refused on the following grounds:
- the site is within the Wealden special landscape area ... and the placing of two caravans and ancillary building would be harmful to the countryside
 - overdevelopment of the site ... the British Horse Society recommends that each horse have a minimum of 1 hectare of grazing. The area for grazing for both horses and chickens will become weed invested and muddy and will have an adverse affect on the animals as well as on the character and appearance of the countryside. The site is visible from footpath KH331B
 - will result in a further consolidation of development in the Lenham Road which effectively creates a ribbon development. There is now a very high proportion of gypsy pitches along Lenham Road which now clearly outweighs the number of settled residential properties.
 - will not be well served by public transport and transport to facilities would rely on use of the motor car – not a sustainable situation.
 - two of the grandchildren are not minors and should therefore no longer be deemed as being dependants
 - previous application MA/05/0739 was refused on visibility splays. The gates to the entrance are not traditional and are out of keeping with the countryside.
- 3.2 Environment Agency – no comment, noting that the application has a low environmental risk.
- 3.3 Environmental Health – Grant approval subject to comments

3.4 KCC Highways – raise no objection

4. REPRESENTATIONS

4.1 Neighbours – no responses received

4.2 CPRE – 2 mobile homes for residential purposes would be inappropriate along with the decking, sheds, essentially domestic paraphernalia. The development would harm the character and appearance of the countryside within the Low Weald SLA, especially as they would be among many other gypsy/traveller residential caravan settlements in a small area. The site is not convenient for regular attendance (by the grandchildren) in Chatham except by private car, which is not a sustainable situation. Pasture deterioration by the grazing of animals on the site would have an adverse effect on the character and appearance of the countryside.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site relates to a parcel of land on the east side of Lenham Road within the parish of Headcorn. The site, for the purposes of planning, is located within the open countryside and in an area designated as part of the Low Weald Special Landscape Area. Public footpath KH331B runs parallel to the site to the south east, approximately 200 metres from the site boundary.

5.1.2 The site is generally flat in nature and extends approximately 65m back from Lenham Road. The frontage to Lenham Road is approximately 25m in width. There is a relatively large pond located in the central portion of the site. There is a sparse mixed hedge to the front of the site, with an amount of mature vegetation to the south eastern boundary and a fairly well established fir hedge to the southern boundary.

5.1.3 The site is open to farmland to the north and east, and bounds a gypsy site known as 'Three Acres' to the south east which has a temporary, personal permission. Adjacent to this to the south is a further gypsy site known as 'Greenacres' which was given permanent, personal permission at appeal (under MA/05/0518) for one caravan, but has more recently been given permission for 7 caravans on a temporary and personal basis for the new owner. There is a track to the western side of Greenacres which leads to a further gypsy site known as 'Long Lane' which has permission on a personal and temporary basis. On the opposite side of the road there is another gypsy site known as 'The Meadows' and behind this a large temporary gypsy site for up to 30 caravans.

There are other gypsy sites within the vicinity in Lenham Road as well as sporadic permanent development, including residential.

5.2 Proposal

- 5.2.1 The application is retrospective and seeks permission for the change of use of land from agriculture to mixed use for agriculture, keeping of horses, the stationing of two mobile homes for residential use and storage of one touring caravan. The application also seeks to regularise the operational development being hard standing, paths, decking, fencing, entrance gates, cess tanks, sheds, greenhouse and horse shelters.

5.3 Principle of Development

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

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

ENV28 then outlines the types of development that can be permitted. This does not include gypsy development as this was previously covered under housing Policy H36 but this is not a 'saved' policy.

- 5.3.2 A key consideration in the determination of this application is central Government guidance contained within 'Planning Policy for Traveller Sites' (PPTS) 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.
- 5.3.3 Work on the Local Plan is progressing; however there is, as yet, no adopted Local 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 procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). The GTAA concluded the following need for pitches over the remaining Local Plan period:-

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
April 2026 – March 2031	30 pitches
Total Oct 2011 – March 2031	187 pitches

These figures were agreed by Cabinet on the 13th March 2013 as the pitch target to be included in the next consultation version of the Local Plan.

5.3.4 Draft Policy CS12 of the Regulation 18 version of the Local Plan approved by Cabinet on 13th March 2013 that the Borough need for gypsy and traveller pitches will be addressed through the granting of permanent planning permissions and through the allocation of sites.

5.3.5 The timetable for the Local Plan's adoption is July 2015.

5.3.6 Issues of need are dealt with below but, in terms of broad principles 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 the PPTS 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 confirms that Mrs Dignam is an Irish Traveller born in Dublin. She has been living on the site since 2005, and is in her mid 60's. She lived on the site with her partner, her daughter and her daughters 3 children until 2009 when unexpectedly her partner and daughter both passed away. She now resides on the site with her three grandchildren. Much of Mrs Dignams family remain in Ireland. The applicant's three grandchildren were brought up by their grandmother for long periods due to their mother's health, although have lived on and off in housing when their mother was alive; and in their older years stopped on the application site at weekends. Since their mothers death in 2009, they have been residing on the site with Mrs Dignam.

5.4.3 The Council had evidence at one point that due to the fact that the applicants name was as a licensee at a public house that she was living in housing. This matter has since been clarified. From the evidence provided, I consider that Mrs Dignam complies with the definition of a gypsy as outlined in Government guidance in Planning Policy for traveller sites.

5.6 Need for Gypsy Sites

5.6.1 The PPTS gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.

5.6.2 As stated above, the projection of accommodation requirements is as follows –

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
April 2026 – March 2031	30 pitches
Total Oct 2011 – March 2031	187 pitches

5.6.3 Taking into account this time period, since 1st October 2011 the following permissions for pitches have been granted (net):

35 Permanent non-personal permissions

6 Permanent personal permissions

0 Temporary non-personal permissions

21 Temporary personal permissions

Therefore a net total of 41 permanent pitches have been granted since 1st October 2011. And hence a shortfall of 64 remains.

5.6.4 It must be noted that 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. However, the latest GTAA clearly reveals an ongoing need for pitches.

5.7 Visual Impact

5.7.1 Planning permission was previously refused in June 2009 under MA/09/0684 which sought permission for the stationing of 2no. mobile homes for residential purposes, storage of 1no. touring caravan with associated works and keeping of horses, including hardstanding, boundary treatment, septic tank and 6no. outbuildings for utility/storage and animal shelters. This application was refused (with no appeal being lodged) on the grounds that the proposal would result in a loss of openness to the site harming the character and appearance of the open countryside and the quality of the Low Weald Special landscape Area; however, the proposal at that time was to site the caravans to the rear part of the site, as

opposed to the front part. The decision also noted that the combined use of the site together with other gypsy in the vicinity would result in harm to the character and appearance of the of the open countryside and they quality of the SLA; and that the use of the site for residential occupation would lead to an unsustainable form of development that due to the distance from Headcorn, would have a heavy reliance on the private car. On this second point, consideration has to be given to legislation change, decisions given by the Council and appeal decisions by The Planning Inspectorate which leads me to conclude that the combined use of this site and the other gypsy sites in the vicinity neither overdominates the settled community, nor results in unacceptable harm to the character and appearance of the countryside. Further, it has been accepted that whilst there would be some reliance on the private car, the site is not unsustainable.

- 5.7.2 The latest guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in open countryside (paragraph 23) but goes on to state that where sites are in rural areas, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact is outlined, however, this is addressed in the NPPF and clearly under Local Plan policy ENV28.
- 5.7.3 At present on the application site, one mobile home is positioned on site adjacent to the front boundary with Lenham Road. Given its location and the existing planting both on the front boundary, and the eastern side boundary, this caravan is not particularly visible; however, the solid green metal gates to some 2.5 metres in height at the entrance, together with the high fencing to the north eastern corner of the site creates a harsh appearance to the site that results in unacceptable harm to the character and appearance of the area.
- 5.7.4 The second mobile home is currently positioned in the rear section of the site, to the far end of the pond, together with a small summerhouse with decking, and a small field shelter. It is in this part of the site where the siting of two mobiles were previously proposed under application MA/09/0684. The mobile home, decking and summerhouse in this location appear as an alien features in the attractive rural environment and whilst the site is currently in a tidier state than previously noted, it could result in further domestication of this part of the site which stretches back into the rural landscape. This was the same conclusion that was reached in the previous application at the site.
- 5.7.5 During the consideration of the application, the agent has confirmed that her client is willing to relocate this second mobile home, together with the summer house and decking, to the front part of the site, potentially adjacent to the existing mobile. This will alleviate the visual impact that results from the original

scheme and could be dealt with by way of a condition requiring submission of a site development scheme.

- 5.7.6 Negotiations have also been undertaken regarding the gates and fencing to the front of the site and written confirmation has been received that the applicant is content to accept a planning condition, should permission be forthcoming, which requires the gates to be reduced to PD height of 2m. I consider that to reduce their visual impact, the appearance of the existing metal gates should be altered to reflect their rural location. Again, this is something that can be dealt with by way of planning condition.
- 5.7.7 As stated above, the site is location within the open countryside with policies within the development plan seeking to protect the character and appearance of such areas. The proposed development in the form of the siting of two mobile homes, the utility room, summerhouse and decking in the part of the site adjacent to Lenham Road will not be readily visible from public vantage points outside the site. On approach along Lenham Road from either direction, the site is relatively well screened. The timber field shelter in the bottom paddock will be visible from approach along Lenham Road. However, it is small in size and is a typical equestrian building which will not result in significant detriment to the visual appearance of this part of the countryside. The site is visible from Footpath KH331B, however, if the proposed development was located in the front part of the site, its visual impact to the rural area would be somewhat reduced.
- 5.7.8 In its current form, I consider the gates and part of the fencing to the north of the gates and the trellis on part of the front fence serving the site to be excessive in height and result significant visual detriment to this part of Lenham Road. The applicant has confirmed that she is content to accept a condition to require the gates to be reduced to 2m, together with the reduction of the fence to the north of the gates to 2m and the removal of the trellis on the part of the fence which fronts Lenham Road to the south of the gates. This will reduce the visual impact of this part of the development.
- 5.7.9 The siting of two mobiles and one touring caravan, together with the utility building, summerhouse, fencing, gates and the associated domestic paraphernalia is harmful to the area, however given the existing screening to the site on approach along Lenham Road in both directions, and the lack of medium to long range views, the harm to visual amenity is somewhat localised.

5.8 Personal Circumstances

- 5.8.1 This application is seeking permission for a site for Mrs Dignam and her three grandchildren. The grandchildren have been brought up by the applicant on and

off given their late mothers health; and since her death in 2009, have been dependant upon Mrs Dignam. No specific health reasons to live at this site have been put forward, other than that Mrs Dignam suffers with high blood pressure and is being seen by her doctor in Headcorn and that this has been Mrs Dignam's home since 2005.

5.8.2 This application is for a single gypsy woman who lives on the site with her 3 grandchildren who have lost their mother, who prior to her death was raising her children as a single mother. Whilst the grandchildren are grown-up, their dependant living relative is their grandmother, the applicant, Mrs Dignam.

5.8.3 I consider that these unusual personal circumstances should be given significant weight.

5.9 Residential Amenity

5.9.1 There are neighbouring residential gypsy sites, including an adjacent site to the south (Acers Place). There is boundary treatment between the two sites so sufficient privacy is provided. The nearest houses are some 160m away and hence, I do not consider there would be any harm to the amenity of those occupiers.

5.10 Highways

5.10.1 KCC Highways and transportation have been consulted on the application, raising no objection. They note that there have been no reported injury crashes during the latest 3 year period, and that the proposal will not lead to any significant increase in traffic movements.

5.11 Other Matters

5.11.1 There is a large, well maintained pond on the site. In terms of impact on ecology, the site has been in existence for some 8 years and so any implications for ecology occurred at that time. The continued use of the site is unlikely to impact further on any protected species on or near the site.

5.11.2 Sustainability of the site has been raised and I also note that one of the reasons for refusal of the 2009 application was that the use of the site for residential occupation would lead to an unsustainable form of development that due to the distance from Headcorn, would have a heavy reliance on the private car. Since the refusal of that application, policy has changed somewhat and consideration must also be given to the outcome of the many subsequent decisions for similar development at other sites in the vicinity. Permission has been given at land to the rear of The Meadows, Greenacres, Acers Place, Long

Lane and Martins Gardens. As such, I do not consider that the proposed residential use of this site can be considered unsustainable.

5.10.3 The number of sites on Lenham Road has been raised. The PTTS states that sites should not dominate the nearest settled community. This was an issue discussed in the Public Inquiry appeal decision into the land to the rear of The Meadows which is the site almost opposite the subject site and proposed 10 mobiles and 19 tourers (56 people) in 2011. Here the Inspector considered that the communities of Headcorn and Ulcombe were too large and too distant from the appeal sites for them to be dominated by the proposed developments. In terms of Lenham Road, he considered that the site would not be so large or so close as to harmfully dominate the settled community which, he stated, includes a significant number of Gypsy and Travellers. For this reason, I do not consider that 2 mobiles for 4 people proposed to live on the application site could be said to dominate the nearest settled community.

5.10.4 CPRE has raised the issue of pasture deterioration by the grazing of animals on the site stating that this would have an adverse effect on the character and appearance of the countryside. The application includes the keeping of horses however, whilst on site recently I have not noted an excessive number of horses being kept on the field; nor significant harm to the grass. Whilst in the past I have noted excessive grazing by horses on parts of the site, I understand that Mrs Dignam would only look to keep a limited number and is not a horse dealer.

5.10.5 A completed Foul Drainage Assessment Form accompanies the application. The application proposes continued use of the installed cess pits. Environmental Health raise no objection on this issue.

6. CONCLUSION

- 6.1 The site is located in the countryside and Special Landscape Area, however, gypsy sites can be accommodated in the countryside.
- 6.2 It is considered that the applicant is a gypsy and complies with the definition contained within the Planning Policy for Gypsy Sites.
- 6.3 Other sites in the vicinity have been given planning permission on varying basis. The subject site is located on the eastern side of Lenham Road, being at a lower level than the road. It enjoys good screening on the approach along Lenham Road and good existing screening to the front of the site. The existing position of the second mobile in the rear part of the site, together with the summer house, is unacceptable in terms of visual harm; however, the applicant has agreed that the second mobile and summerhouse with the decking could be moved to the front part of the site and this could be subject to a planning condition. It has also

been agreed that the high metal entrance gates would be reduced in height and appearance and parts of the fencing adjacent to the road reduced.

- 6.4 Given the specifics of the subject site – its location, topography, screening, amount and layout is such that its visual impact is arguably less intrusive than other sites along this stretch of Lenham Road.
- 6.5 The application development, when combined with other gypsy sites in the vicinity, and in relation to the existing authorised development, does not dominate the settled community.
- 6.6 The application site is considered to be in a sustainable location that is not so remote from services and facilities to justify a refusal.
- 6.7 The application development does not have any adverse impact on residential amenity.
- 6.8 The application development does not lead to any increased risk to highway safety.
- 6.9 The site has been in existence for some 8 years and so any implications for ecology occurred at that time. The continued use of the site is unlikely to impact further on any protected species on or near the site.
- 6.10 The relocation of the second caravan, summerhouse and decking which are currently located to the rear of the site, to the front of the site can be secured by planning condition; as can the change to the existing metal entrance gates and some of the fencing.
- 6.11 There is a current need for Gypsy and Traveller sites as identified by the revised GTAA.
- 6.12 There are no other significant planning issues that would warrant refusal of the application.
- 6.13 Taking all the above into account, and having given consideration to the unusual personal circumstances of the applicant, to the site specifics, and to the ongoing need for gypsy sites, has lead me to conclude that a permanent personal permission should be granted in this instance.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The occupation of the site hereby permitted shall be carried on only by Ms Kay Dignam and her resident dependants and when the site ceases to be occupied by Ms Kay Dignam the use hereby permitted shall cease and all materials and equipment brought onto the land in connection with the use, including hardstandings, fencing and gates, sheds, greenhouses, utility room, outbuildings hereby approved shall be removed and the land restored to its former condition.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to reflect the personal need of the named person and her family; and to safeguard the character and appearance of the countryside in accordance with Policy ENV28 and ENV34 of the Maidstone Borough Wide Local Plan 2000.

2. No more than two static residential caravans, as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 198 and one touring caravan, which shall not be used for habitation purposes, shall be stationed on the site at any one 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.

3. Within 1 month of the date of this decision, a site development scheme shall be submitted to the Local Planning Authority for approval. This scheme shall include the relocation of the caravan, summerhouse and associated decking in the rear of the site to the front of the site, a change to the entrance gates and fencing.

Reason: In the interests of visual amenity in accordance with Policy ENV28 and ENV34 of the Maidstone Borough Wide Local Plan 2000.

4. Within 3 months of the approval of the site development scheme, the works within that scheme shall be carried out to the satisfaction of the Local Planning Authority.

Reason: In the interests of visual amenity and in accordance with Policy ENV28 and ENV34 of the Maidstone Borough Wide Local Plan 2000.

5. Within 1 month of the date of this decision, details of the means of storage prior to disposal and the method of disposal of faecal, bedding or other waste arising from the animals housed within the development shall be submitted to the Local Planning Authority for approval. Such waste material arising from the animals so housed shall be disposed of solely in accordance with the approved details.

Reason: No such details have been submitted and to safeguard the enjoyment of

their properties by adjoining residential occupiers and the amenities of the surrounding area in accordance with Policy ENV46 of the Maidstone Borough Wide Local Plan 2000.

6. No commercial activity shall take place on the land, including the storage of materials.

Reason: To accord with the terms of the application and in accordance with Policy ENV28 and ENV34 of the Maidstone Borough Wide Local Plan 2000.

7. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: To accord with the terms of the application and in accordance with Policy ENV28 and ENV34 of the Maidstone Borough Wide Local Plan 2000.

8. No external lighting shall be installed 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 Policy ENV28 and ENV34 of the Maidstone Borough Council Local Plan 2000.

Informatives set out below

The applicant is advised that it will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the Act as caravan sites cannot operate without a licence. The applicant is advised to contact the Environmental Health Project Manager on 01622 602145 in respect of a licence.

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.

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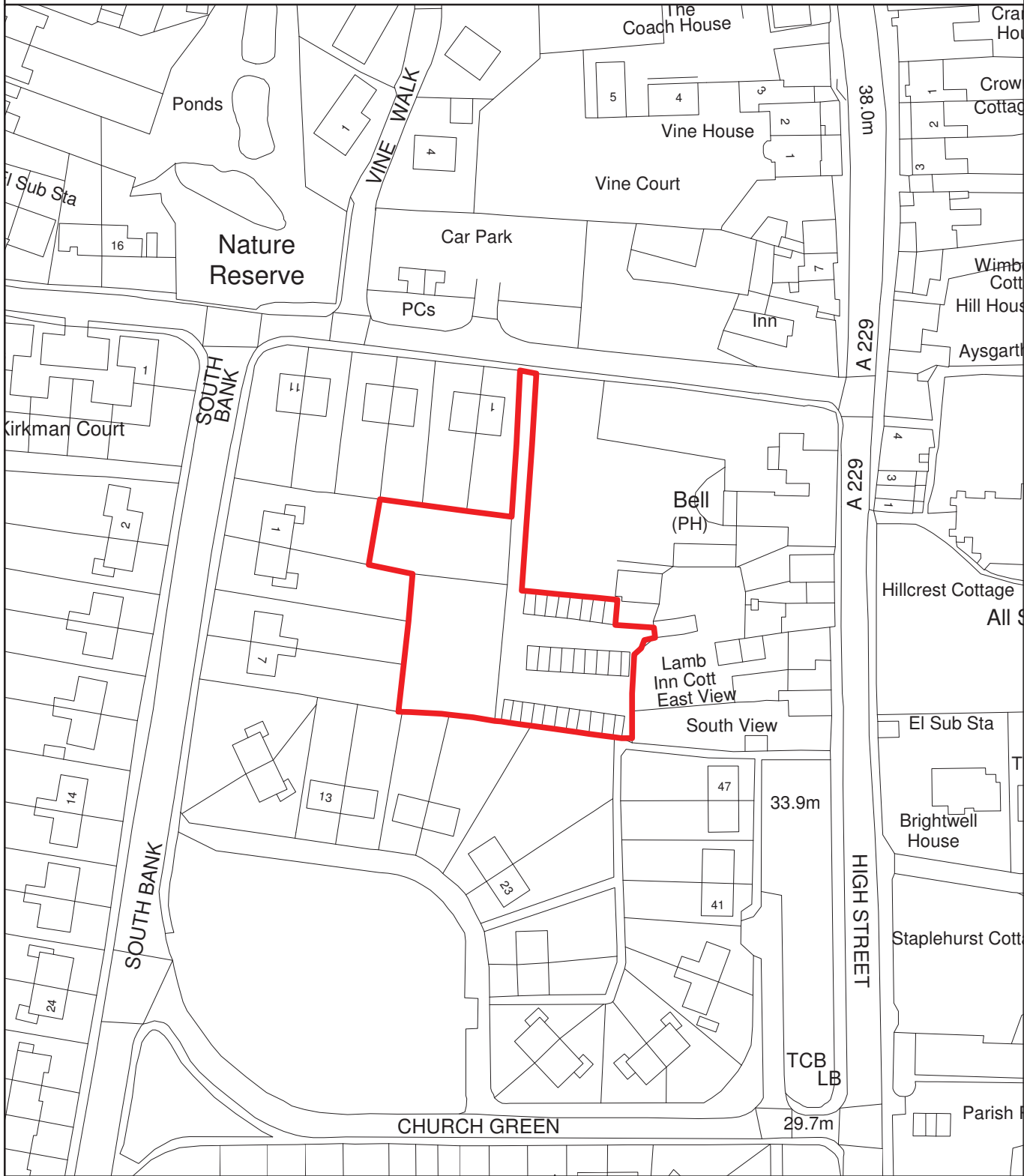


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THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/1481 GRID REF: TQ7842
LAND SOUTH OF 1 BELL LANE,
STAPLEHURST.



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Rob Jarman
Head of Planning

APPLICATION: MA/11/1481 Date: 18 August 2011 Received: 22 December 2011

APPLICANT: Golding Homes

LOCATION: LAND SOUTH OF 1, BELL LANE, STAPLEHURST, KENT, TN12 0BA

PARISH: Staplehurst

PROPOSAL: Demolition of existing garage blocks and the erection of six two-bedroom elderly persons bungalows with associated parking and private amenity space, together with the alteration/improvement of the existing vehicular access from Bell Lane as shown on drawing nos. BL/01, K10/0176/001/B, K10/0176/014/A, K10/0176/015/A, design and access statement, extended phase 1 habitat survey and Great Crested Newt and Reptile Survey received 30/08/2011, drawing K10/0176/011/B and transport statement received 10/10/2011 and drawing nos. K10/0176/12revH, K10/0176/013revC, arboricultural implications assessment and method statement and Great crested newt mitigation strategy received 24/05/2012.

AGENDA DATE: 6th June 2013

CASE OFFICER: Steve Clarke

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

- it is contrary to views expressed by Staplehurst Parish Council
- it is a departure from the Development Plan and one new representation has been received as a result of the advertisement

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV25, T13, T23, CF1
- Government Policy: NPPF 2012

2. BACKGROUND

- 2.1 At the meeting of the Committee on 14 March 2013, Members resolved to grant the Head of Planning delegated powers to grant planning permission for the above application subject to the expiry of the Departure Advertisement and the receipt of no representations raising new issues. However, this has happened.

- 2.2 My previous reports are appended.
- 2.3 The Departure Advertisement expired on 31 March 2013 and one further letter of representation was received.

3. HISTORY

- 3.1 There is no previous relevant planning history on the site.

4. CONSULTATIONS

- 4.1 No additional responses from consultees have been received since those set out in the appended previous reports were published.

5. REPRESENTATIONS

- 5.1 The letter received during the departure advertisement period raises objections on two issues:
 - 1: The loss of allotments. (This issue has previously been addressed).
 - 2: The loss of the 28 garages and a potential resultant impact on parking in a village which has a parking problem and in a locality where a number of properties do not have off-street parking facilities and where on-street parking restrictions are in place. This has meant long-term parking in the Bell Lane Car Park thus reducing space for visitors. (This is an issue not previously raised and therefore needs to be considered by Members).
- 5.2 Previous representations are summarised in the appended reports.

6. CONSIDERATIONS

- 6.1 In the light of the previous resolution of the Committee on 14 March 2013 and the receipt of the additional representations that have been received, the only issue for consideration before Members is the new issue that was raised in those representations; the loss of the garaging.
- 6.2 In respect of the loss of the garages, at the time the application was submitted, only 7 of the 28 garages were being rented out by the applicants.
- 6.3 Of these 7; inspections revealed that 4 were not being used for the parking of vehicles but most probably for long-term storage, with the remaining 3 appearing to be in current use for their intended purpose.

- 6.4 The site access road also serves one further garage and two vehicular accesses relating to properties outside the application site.
- 6.5 The applicants also undertook a speed and classification survey along the access to the site at the time the application was submitted which included all vehicular movements relating to the 28 garages and the adjoining garage and two vehicular accesses. Over the survey period (7 days), there were a total of 45 car movements equating to just over 6 movements or 3 car journeys in and out of the site per day.
- 6.6 Since the application was submitted, I would inform Members that the applicants have advised the remaining tenants have now been given notice to quit.
- 6.7 Members will note from the previous reports that Kent Highway Services have not objected to the loss of the garages.
- 6.8 On the basis of the survey information and the situation as exists on the site, I do not consider that the loss of the garages would result in unacceptable increased demand for parking spaces elsewhere outside the site.

7. CONCLUSION

- 7.1 I consider that having assessed the impact of the loss of the garages, the scheme remains acceptable. I also remain of the view that the provision of elderly persons' affordable housing accommodation on this site is a balancing factor weighing in support of the proposals.
- 7.2 I would request Members to reaffirm their previous decision to grant planning permission subject to conditions having considered the additional representations as set out and analysed above.

8. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions and informatives:

- 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 buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved

materials;

The submitted details shall include the use of plain clay tiles rather than the interlocking tiles indicated on the submitted drawings.

Reason: To ensure a satisfactory appearance to the development pursuant to the advice in the NPPF 2012.

3. The development shall not commence until, details of the proposed slab levels of the buildings 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 pursuant to the advice in the NPPF 2012.

4. 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.

5. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development 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. The submitted details shall include:

i) the provision of additional hedgerow and tree planting on the site's western boundary to maintain a continuous hedgerow along that boundary.

Reason: No such details have been submitted and to ensure a satisfactory external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

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

7. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Design Demolition and Construction- Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. 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 siting 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 to ensure a satisfactory setting and external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

8. The development shall not commence until details of the method of construction of the access road have been submitted and approved by the local planning authority. The submitted details shall include the use of a no-dig construction method in the vicinity of the retained Ash tree (Tree 3 of Duramen Consulting Report). The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To safeguard existing trees to be retained and 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 development hereby permitted shall not be occupied until the visibility splays shown on the submitted plan KH/10/0176/12revH have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason: In the interests of highway safety pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

10. The development hereby permitted shall not be occupied until the section of footpath identified on drawing no. K10/0176/012/revH has been provided.

Reason: In the interests of highway and pedestrian safety pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

11. Prior to the commencement of any works which may affect reptiles or their habitat, and great crested newts and their habitat, the a detailed mitigation strategy shall be submitted to, and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the approved strategy unless any amendments are agreed in writing by the local planning authority. The submitted details shall include the provision of two hibernacula located outside the plot boundary of Plot 6 within the site in the location shown on drawing K10/0176/012revH.

Reason: In the interests of ecology and biodiversity pursuant to the advice in the NPPF 2012.

12. The development shall not commence until details of enhancement measures within the site for birds and bats 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: In the interests of ecology and biodiversity pursuant to the advice in the NPPF 2012.

13. Before any of the dwellings hereby approved are first occupied, a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed, details of which shall have been submitted to and approved by the Local Planning Authority.

Reason: In the interests of pedestrian and highway safety pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

14. The development hereby permitted shall be carried out in accordance with the following approved plans:
K10/0176/001/B, K10/0176/014/A, K10/0176/015/A received 30/08/2011,
K10/0176/011/B received 10/10/2011, K10/0176/12revH and
K10/0176/013revC received 24/05/2012.

Reason To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with the advice in the NPPF 2012.

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.

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

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

No vehicles in connection with the construction of the development 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.

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

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

The developer may be required to produce a Site Waste Management Plan in accordance with Clean Neighbourhoods and Environment Act 2005 Section 54. This should be available for inspection by the Local Authority at any time prior to and during the development

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 encouraged to include the provision of suitably located bat bricks within the development.

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 would be contrary to the provisions of policy ENV25 of the Maidstone Borough-wide Local Plan 2000, however, given the time period that the site

has not been in use as allotments and the history of the use of the land, it is not considered reasonable for alternative provision to be sought in this case. The development would also result in the provision of elderly persons' affordable housing accommodation a balancing factor weighing in support of the proposals. The development would, also not have an unacceptable impact on ecology or biodiversity or trees to be retained. Subject therefore to the imposition of suitable safeguarding conditions, the development is considered acceptable and there are no reasonable grounds to refuse planning permission.

APPENDIX ONE

303. MA/ 11/ 1481 - DEMOLITION OF EXISTING GARAGE BLOCKS AND THE ERECTION OF SIX TWO-BEDROOM ELDERLY PERSONS BUNGALOWS WITH ASSOCIATED PARKING AND PRIVATE AMENITY SPACE, TOGETHER WITH THE ALTERATION/IMPROVEMENT OF THE EXISTING VEHICULAR ACCESS FROM BELL LANE - LAND SOUTH OF 1 BELL LANE, STAPLEHURST, KENT

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

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

Mrs Morgan, an objector, and Councillor Butcher of Staplehurst Parish Council addressed the meeting.

RESOLVED: That, subject to the expiry of the departure advertisement and the raising of no new issues, the Head of Planning be given delegated powers to grant permission subject to the conditions and informatives set out in the report with the following additional informative:-

You are encouraged to include the provision of suitably located bat bricks within the development.

Voting: 10 – For 1 – Against 1 – Abstention

304. MA /12 /2090 - ERECTION OF A SINGLE STOREY FRONT EXTENSION, FIRST FLOOR SIDE AND TWO STOREY REAR EXTENSION - 5 BATHURST CLOSE, STAPLEHURST, TONBRIDGE, KENT

Councillor Lusty stated that he had been lobbied.

The Committee considered the report of the Head of Planning.

Councillor Butcher of Staplehurst Parish Council addressed the meeting.

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

Voting: 13 – For 0 – Against 0 – Abstentions

Note: Councillor Hogg arrived in the meeting at the start of this item.

305. MA /12 /2138 - ERECTION OF AN ATTACHED NEW DWELLING - 33 REEVES CLOSE, STAPLEHURST, TONBRIDGE, KENT

Councillor Lusty stated that he had been lobbied.

The Committee considered the report of the Head of Planning.

Mr Atkinson, an objector, Councillor Butcher of Staplehurst Parish Council, and Mr Court, for the applicant, addressed the meeting.

Item no. 15

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Address

Reference no. MA/11/1481

**Land south of 1 Bell Lane
Staplehurst**

Representations

Further representations have been received from the occupiers of a property in South Bank to the west of the site.

They raise objections to Plot 5, the plans for which show a door and patio area facing their property and express concern about associated activity and also a loss of privacy to their garden but also rear facing first floor bedroom windows.

Officer comment

Plot 5 is located 4m from the western site boundary with numbers 1-7 (odd) South Bank. This provides an overall separation distance of 31m between what is the flank wall of Plot 5 and the rear walls (and ground and first floor windows) of the dwellings in South Bank including the objector's property.

The distances involved are thus considerably in excess of the normally accepted 21m 'rule of thumb' guidance for rear wall to rear wall separation. I repeat the view set out in paragraph 6.5.3 of the report that there will be no adverse impact on residential amenity sufficient to warrant or sustain an objection on these grounds.

Amendments to recommendation

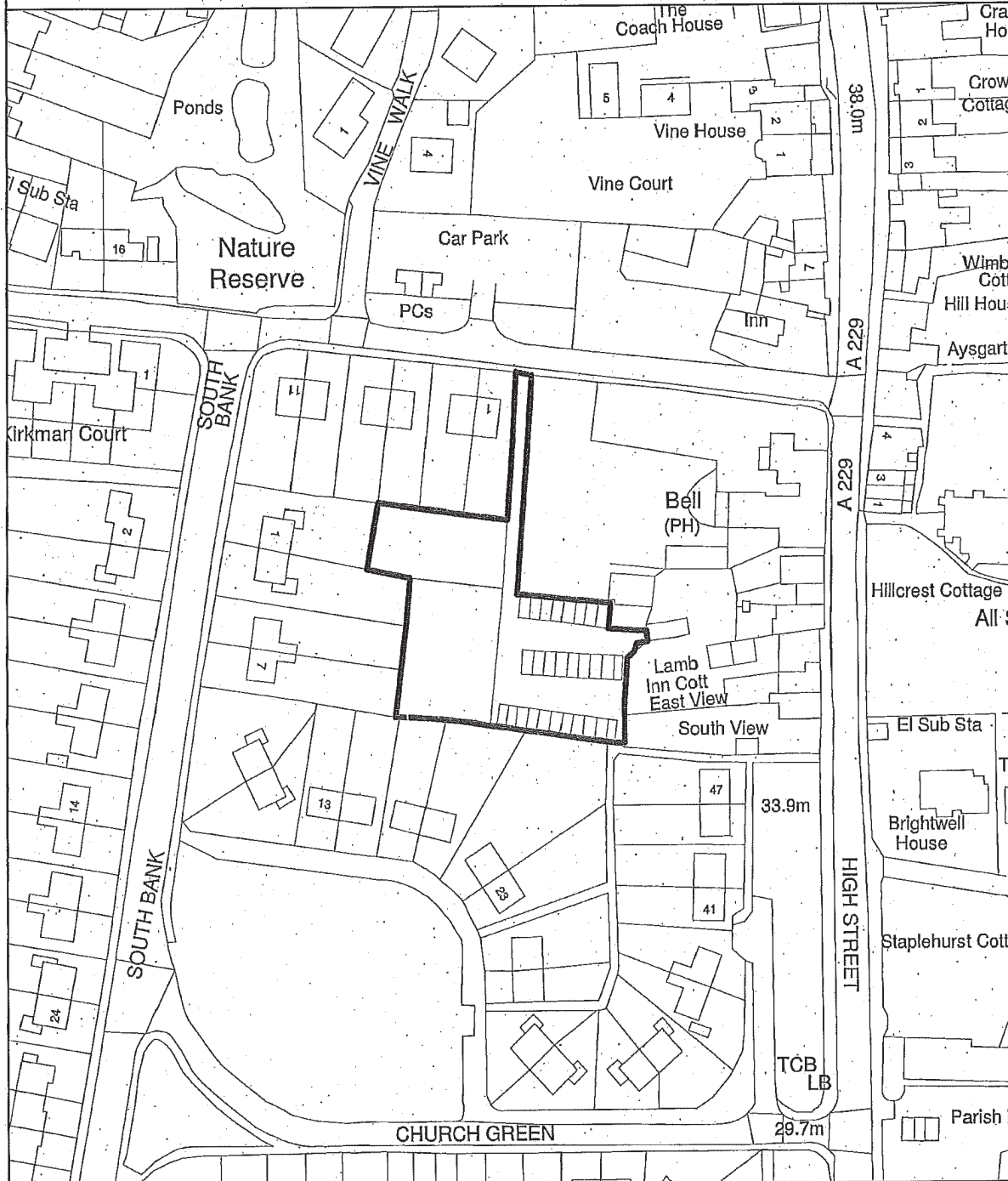
None

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/1481

GRID REF: TQ7842

LAND SOUTH OF 1 BELL LANE,
STAPLEHURST.



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Rob Jarman
Head of Planning

RD 06/03/13

APPLICATION: MA/11/1481 Date: 18 August 2011 Received: 22 December 2011

APPLICANT: Golding Homes

LOCATION: LAND SOUTH OF 1, BELL LANE, STAPLEHURST, KENT, TN12 0BA

PARISH: Staplehurst

PROPOSAL: Demolition of existing garage blocks and the erection of six two-bedroom elderly persons bungalows with associated parking and private amenity space, together with the alteration/improvement of the existing vehicular access from Bell Lane as shown on drawing nos. BL/01, K10/0176/001/B, K10/0176/014/A, K10/0176/015/A, design and access statement, extended phase 1 habitat survey and Great Crested Newt and Reptile Survey received 30/08/2011, drawing K10/0176/011/B and transport statement received 10/10/2011 and drawing nos. K10/0176/12revH, K10/0176/013revC, arboricultural implications assessment and method statement and Great crested newt mitigation strategy received 24/05/2012.

AGENDA DATE: 14th March 2013

CASE OFFICER: Steve Clarke

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

- It is contrary to the views expressed by Staplehurst Parish Council
- It is a Departure from the Development Plan

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV25, T13, T23, CF1
- South East Plan 2009: SP2, SP3, CC1, CC4, CC6, H3 H4, H5, T4, NRM5, S6, BE1, BE4, BE6, AOSR6, AOSR7
- Government Policy: NPPF 2012

2. BACKGROUND

- 2.1 This application was reported to the Planning Committee on 30 August 2012. A copy of the previous report urgent update and approved minute is attached at Appendix One.

2.2 At the meeting on 30 August 2012, Members resolved to give delegated powers to the Head of Planning to grant planning permission subject to the prior completion of a s106 agreement or the receipt of a satisfactory s106 unilateral undertaking to secure:

- The provision of an alternative allotment land site "near at hand" to the development site and within the Parish of Staplehurst.

2.3 Discussions have taken place with the applicant since the Committee and it has not been possible to identify a suitable area of land for inclusion within the agreement. The application is therefore being brought back to this Committee for re-consideration.

3. HISTORY

3.1 There is no previous relevant planning history on the site

4. CONSULTATIONS

4.1 No additional responses from consultees have been received since those set out in the appended previous report was published

5. REPRESENTATIONS

5.1 No additional representations have been received since those set out in the appended previous report and urgent update reports were published

6. CONSIDERATIONS

6.1 Site Description

6.1.1 The site comprises an area of some 0.21ha and is located on the south side of Bell Lane. It is accessed via an existing access road that passes to the east side of 1 Bell Lane and to the west of the garden of The Bell Public House. (The Bell PH is currently closed and has ceased trading). The access road runs southwards from Bell Lane and serves a group of 28 lock-up garages and associated hardstanding areas. These are located on the eastern side of the site. On the western side of the site is an area of former informal allotments located to the rear of 1-7(odd) South Bank. The dwellings in Bell Lane and South Bank that back onto the site are all two-storeys in height.

6.1.2 The site lies within the defined settlement boundary of Staplehurst and adjoins on its eastern side the Staplehurst Conservation Area. The site itself has no specific designation on the Maidstone Borough-wide Local Plan 2000.

6.1.3 Land levels on the site and the access road fall to the south away from Bell Lane. A footpath link (not a registered Public Right of Way) runs southwards from the south east corner of the site towards the dwellings in Church Green/South Bank and also connects to the High Street.

6.1.4 The former allotments have not been used for a number of years (since 2007) and are now somewhat overgrown.

6.1.5 There are a number of trees within and adjoining the site that have been the subject of an arboricultural assessment and report. It is proposed to retain all the trees.

6.2 Proposal

6.2.1 The application is a full application and seeks permission to demolish the existing lock-up garages and for the erection of 6 elderly persons' bungalows on the site of the garages and the former allotment land to the west.

6.2.2 The bungalows would be formed in a terrace of five along the southern side of the site with the sixth unit located in the north-west corner of the site behind 1-5 (odd) Bell Lane.

6.2.3 The units would be 2-bedroomed. They would be 6m to ridge and between 2.3m and 3m to eaves. Plot 5 at the western end of the terrace would be set forward some 2m to leave a larger gap to a retained Oak tree located just beyond the southern site boundary, the patio (and access to it from the lounge/dining room) for this unit has also been moved to the west elevation to reduce the impact of shadowing from the oak tree.

6.2.4 Other than plot 5 the units on the southern side of the site are located 7m in from the site boundary, Plot 5 is located 7m from this boundary. Plot 5 is also located 4m in from the site's western boundary at the rear of 1-7 (odd) South Bank leaving a distance of approximately 31m between the flank wall of plot 5 and the rear walls of the dwellings in South Bank. The roofs on the front elevations of plots 1-5 would extend forward to provide a canopy over the entrances.

6.2.5 Plot 6 is a detached unit located approximately 19.2m south of the existing dwellings in Bell Lane and 28m from the properties in South Bank. It is 5.5m to the ridge and 2.2m to eaves.

6.2.6 Indicated materials include brickwork plinth with a snapped header course and render for the walls, timber boarding under interlocking roof tiles. Plot 6 would

additionally have some timber boarding to a gable feature. The units would also be provided with solar panels on the south facing roof slopes.

6.2.7 A total of 6 allocated parking spaces, 2 dedicated visitors' spaces and 3 unallocated parking spaces would be provided resulting in a total of 11 car parking spaces.

6.2.8 The site access road would be maintained at a width of 3.75m for the first 8m adjacent to Bell Lane then narrowing to 3.5m and then to 3m for a 17m section before widening again to 4.8m. The turning head would be 6m in width. The junction of the access with Bell Lane would be provided with 33m x 2.4m x 33m visibility splays. A new short section of footway along Bell Lane would be provided to the east of the access.

6.2.9 Due to the overgrown nature of part of the site, reptile and great crested newt surveys have been undertaken and mitigation measures proposed. The Bell Lane Local Nature Reserve (LNR) will be used as receptor site and enhanced to accommodate any Great Crested Newts found on the site. No newts were found during the survey in 2011 however. It is also proposed and considered necessary by the KCC Biodiversity Team to provide 2 hibernacula on the site. These would be located outside the garden area of plot 6. A pond is also to be restored further along Bell Lane.

6.3 Principle of Development

6.3.1 This is the key determining issue for this application.

6.3.2 The demolition of the lock-up garages and the erection of residential development on the site of these; is acceptable in principle as the site is located in a defined settlement boundary and the development would take place on previously developed land.

6.3.3 In relation to the former allotments, the development should be assessed against saved Borough-wide Local Plan policy ENV25 which states:-

POLICY ENV25: DEVELOPMENT OF ALLOTMENTS FOR OTHER USES WILL NOT BE PERMITTED UNLESS ALTERNATIVE PROVISION IS MADE NEAR AT HAND, AND GROUND CONDITIONS ARE FULLY APPROPRIATE.

6.3.4 Policy ENV25 makes no distinction between statutory and non-statutory allotments and neither does it make allowance for allotment land no longer in active use. In addition, Staplehurst is an area where according to the Green Spaces Strategy Provision Tables 2007 there is a shortage of allotment land.

Green Space Tables 2007							
Allotments and Community Gardens (Hierarchy: Middle Order)							
Ward Name	PMP Analysis Area	Total Population	Current Provision (ha)	Hectares per 1000 pop	Local Minimum Standard	Above / Below standard per 1000/pop	Above / below standard (ha)
Staplehurst	Southern	5900	0.11	0.02	0.18	-0.16	-0.94

6.3.5 Attempts have been made since the Planning Committee on 30 August in conjunction with the applicants to identify a potentially suitable plot of land in the vicinity of the site, including land at the end of Chapel Lane and further to the west of the site at the far end of Bell Lane. None of the Chapel Lane sites are considered suitable due to access problems and existing uses. In the case of the Bell Lane land in addition to the access being potentially unsuitable as narrow, un-made and also being a Public Right of Way (KM302A), there are also potential ecological issues due to the presence of nearby ponds and also the need to remove parts of an established hedgerow and potentially some trees to physically gain access to the land. On this basis none of the potential sites have been pursued further.

6.3.6 I also understand that the Parish Council allotment group are still seeking to find potentially suitable land in the Parish without success to-date.

6.3.7 Additionally, I have also looked again at the application site and its previous use.

6.3.8 Members will note that the land has not been used as allotments since 2007. Prior to this they were only used as such under licence from the landowner (the applicants). Physically, the land is not divided into plots and does not have the characteristics of an allotment site. In addition, there is no prospect of the land reverting to its former use, the applicants having made this clear.

6.3.9 Given the length of time that has now passed since the land was last used as allotments and the change in characteristics of the land that has also occurred, it is my view that seeking to refuse permission solely on the grounds of the application being contrary to policy ENV25, with all other elements of the application being acceptable as set out below, is unlikely to be sustainable at appeal.

6.3.10 On this basis and on this occasion, based solely on the time period that has passed and the history of the use of the land, whilst approval of the development would be a departure from the Development Plan, I do not consider that such an approval would be unacceptable in principle. I no longer consider it reasonable therefore for alternative provision to be sought in this instance.

6.3.11 Balanced with this, is the fact that the development would provide affordable housing for elderly persons which is a further factor weighting in favour of the development in this instance.

6.4 Design and layout

6.4.1 The application site is located largely behind existing development away from the public realm. Glimpses of the bungalows would be available from Bell Lane along the access road and from the existing footpath to the south of the site. The development itself would have little impact on the character of the adjacent Conservation Area. This has been confirmed by the Conservation Officer.

6.4.2 It is acknowledged that the site is in a backland location. However the site is already subject to built development in the form of the lock-up garages and the access road that serves these. The density as proposed equates to approximately 28 dwellings/ha, which is acceptable. The proposed development also comprises single-storey bungalows of a maximum of 6m in height, which will not be unduly visually intrusive from public vantage points given the fall in land levels away from Bell Lane.

6.4.3 The design of the dwellings themselves is simple and unfussy and is of an acceptable quality. The indicated materials are also acceptable with the provision that plain clay tiles are used for the roofs to address the sole concern of the Conservation Officer.

6.4.4 I consider the appearance of the site overall will be improved as a result of the demolition of the existing garages and that there will be better surveillance of the existing footpath as a result of the development taking place.

6.5 Residential Amenity

6.5.1 The proposed dwellings are all single-storey and are sited with adequate separation from the adjacent dwellings.

6.5.2 Plot 5 is located 4m in from the site's western boundary at the rear of 1-7 (odd) South Bank leaving a distance of approximately 31m between the flank wall of plot 5 and the rear walls of the dwellings in South Bank. Plot 6 is located approximately 19.2m south of the existing dwellings in Bell Lane and 28m from the properties in South Bank. On the southern side of the site the gardens of properties in Church Green are some 19m in length giving a separation of 26m between the dwellings. Given these distances and the fact that the dwellings are single storey no unacceptable loss of privacy or overshadowing will occur.

6.5.3 The concerns of the occupiers of a property in South Bank in relation to the potential disturbance of the use of the patio area to Plot 5 are noted. However, the separation distances are such that no unacceptable impact sufficient to warrant and sustain objection this ground is likely to occur.

6.5.4 I also do not consider that the use of the Beer Garden of The Bell, if the public house is re-opened in the future, is likely to result in complaints from future occupiers given the separation and relationship involved. Likewise any impact from construction would be of a temporary nature and is controlled through Environmental Health legislation if a statutory nuisance occurs.

6.5.5 The side garden of 1 Bell Lane is to be fenced by a new 1.8m high close boarded fence and is also already partially enclosed by a 2.5m high garage wall. Given the potential use of the access to serve the existing garages, I do not consider that the development as proposed would result in unacceptable levels of noise and disturbance to the occupiers of 1 Bell Lane.

6.5.6 No objections are raised to the development on grounds of residential amenity.

6.6 Highways

6.6.1 The initial reservations of Kent Highway Services have been addressed through additional information and revised plans. There are no longer any objections to the suitability of the access to accommodate traffic associated with the development or the visibility at the junction of the access with Bell Lane. The provision of the footpath and dropped kerb crossing point in Bell Lane can be secured through a 'Grampian' condition as it involves works within the highway.

6.6.2 The level of car parking provision proposed is also considered acceptable.

6.6.3 Subject to the securing of the necessary improvements and the visibility splays by condition no objections are raised to the development on highway grounds.

6.7 Landscaping and ecology

6.7.1 Appropriate ecological and arboricultural site investigations have been undertaken on the site.

6.7.2 The arboricultural survey shows that all existing trees can be retained, including the use of a no-dig construction method in the vicinity of an Ash tree along the access road.

6.7.3 As discussed earlier, plot 5 has been re-sited further forwards to move it away from a retained Oak tree on the southern boundary of the site, the patio doors have also been moved to the west elevation to lessen the potential for concerns regarding overshadowing of the lounge/dining room from the tree. The Landscape officer is satisfied that these measures will assist in the long term retention of the tree and that it will not be adversely affected by the development.

6.7.4 There is scope within the site of the development for additional tree planting within the site and along the site boundaries. This can be secured by means of an appropriate landscaping condition.

6.7.5 Given the fact that the allotments have been used since 2007, they have become overgrown and have the potential to act as a suitable habitat for reptiles/great crested newts. Great crested newts occupy the ponds in the LNR on the north side of Bell Lane close to the site entrance. Ecological surveys have been undertaken and the need for a protected species licence for Great Crested Newts identified (due to the change to the site and the loss of a potential foraging area) and so a mitigation strategy has been drawn-up, because of the potential impact. No great crested newts have been found on the site during the surveys.

6.7.6 The mitigation proposed includes improvements to the LNR and its use as a potential receptor site as required, together with the provision of two refugia on the site itself and the improvement of a pond elsewhere on Bell Lane. The strategy is considered acceptable by the KCC biodiversity team and its implementation can be secured by means of an appropriate condition.

6.7.7 No objections are raised to the development on landscape or ecological grounds subject to the imposition of suitable safeguarding conditions.

7. CONCLUSION

7.1 The scheme is of an acceptable design and will not result in an unacceptable impact on residential amenity or highway safety.

7.2 Appropriate mitigation for potential ecological impacts has been identified and could be secured by means of an appropriate condition.

7.3 Whilst the development would be contrary to policy ENV25 of the Borough-wide Local Plan 2000, given the time period that the site has not been in use as allotments and the history of the use of the land, I no longer consider it reasonable for alternative provision to be sought in this case. The development

would also result in the provision of elderly persons' affordable housing accommodation a balancing factor weighing in support of the proposals.

- 7.4 Subject to the expiry of the departure advertisement and the raising of no new issues delegated powers are sought to grant permission subject to appropriate conditions.

8. RECOMMENDATION

Subject to the expiry of the departure advertisement and the raising of no new issues; The Head of Planning be given DELEGATED POWERS 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 buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

The submitted details shall include the use of plain clay tiles rather than the interlocking tiles indicated on the submitted drawings.

Reason: To ensure a satisfactory appearance to the development pursuant to policy CC6 of the South East Plan 2009.

3. The development shall not commence until, details of the proposed slab levels of the buildings 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 pursuant to policy CC6 of the South East Plan 2009.

4. 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.

5. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development 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. The submitted details shall include:

i) the provision of additional hedgerow and tree planting on the site's western boundary to maintain a continuous hedgerow along that boundary.

Reason: No such details have been submitted and to ensure a satisfactory external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

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

7. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Design Demolition and Construction- Recommendations'. No work shall take place on site until full

details of protection have been submitted to and approved in writing by the Local Planning Authority. 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 siting 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 to ensure a satisfactory setting and external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

8. The development shall not commence until details of the method of construction of the access road have been submitted and approved by the local planning authority. The submitted details shall include the use of a no-dig construction method in the vicinity of the retained Ash tree (Tree 3 of Duramen Consulting Report). The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To safeguard existing trees to be retained and 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 development hereby permitted shall not be occupied until the visibility splays shown on the submitted plan KH/10/0176/12revH have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason: In the interests of highway safety pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

10. The development hereby permitted shall not be occupied until the section of footpath identified on drawing no. K10/0176/012/revH has been provided.

Reason: In the interests of highway and pedestrian safety pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

11. Prior to the commencement of any works which may affect reptiles or their habitat, and great crested newts and their habitat, a detailed mitigation strategy shall be submitted to, and approved in writing by the Local Planning

Authority. All works shall then proceed in accordance with the approved strategy unless any amendments are agreed in writing by the local planning authority. The submitted details shall include the provision of two hibernacula located outside the plot boundary of Plot 6 within the site in the location shown on drawing K10/0176/012revH.

Reason: In the interests of ecology and biodiversity pursuant to policy NRM5 of the South East Plan 2009.

12. The development shall not commence until details of enhancement measures within the site for birds and bats 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: In the interests of ecology and biodiversity pursuant to policy NRM5 of the South East Plan 2009.

13. Before any of the dwellings hereby approved are first occupied, a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed, details of which shall have been submitted to and approved by the Local Planning Authority.

Reason: In the interests of pedestrian and highway safety pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

14. The development hereby permitted shall be carried out in accordance with the following approved plans:
K10/0176/001/B, K10/0176/014/A, K10/0176/015/A received 30/08/2011,
K10/0176/011/B received 10/10/2011, K10/0176/12revH and
K10/0176/013revC received 24/05/2012.

Reason To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with Policy CC6 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.

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

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

No vehicles in connection with the construction of the development 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.

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

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

The developer may be required to produce a Site Waste Management Plan in accordance with Clean Neighbourhoods and Environment Act 2005 Section 54. This should be available for inspection by the Local Authority at any time prior to and during the development

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.

The proposed development would be contrary to the provisions of policy ENV25 of the Maidstone Borough-wide Local Plan 2000, however, given the time period that the site has not been in use as allotments and the history of the use of the land, it is not considered reasonable for alternative provision to be sought in this case. The development would also result in the provision of elderly persons' affordable housing

accommodation a balancing factor weighing in support of the proposals. The development would, also not have an unacceptable impact on ecology or biodiversity or trees to be retained. Subject therefore to the imposition of suitable safeguarding conditions, the development is considered acceptable and there are no reasonable grounds to refuse planning permission.

APPENDIX ONE

RESOLVED: That subject to negotiations to achieve a suitable alternative surface to the car park, the Head of Planning be given delegated powers to grant permission subject to the following condition:-

The surface hereby permitted shall be constructed within....months of the date of this permission (the period of time to be 2 or 3 months, depending upon the time of year at which permission is granted).

Reason: In order to preserve the visual amenity of the countryside in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

Voting: 9 - For 0 - Against 4 - Abstentions

115. MA/11/1187 - CHANGE OF USE OF BUILDING TO HOLIDAY LET - THE OLD COACH HOUSE, SPENNY LANE, YALDING

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

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

Voting: 13 - For 0 - Against 0 - Abstentions

116. MA/11/1481 - DEMOLITION OF EXISTING GARAGE BLOCKS AND THE ERECTION OF SIX TWO-BEDROOM ELDERLY PERSONS BUNGALOWS WITH ASSOCIATED PARKING AND PRIVATE AMENITY SPACE, TOGETHER WITH THE ALTERATION/IMPROVEMENT OF THE EXISTING VEHICULAR ACCESS FROM BELL LANE - LAND SOUTH OF 1 BELL LANE, STAPLEHURST

All Members except Councillor Hogg stated that they had been lobbied,

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

Mr Mandy addressed the meeting on behalf of the applicant.

RESOLVED: That subject to the prior completion of a Section 106 legal agreement or the receipt of a satisfactory Section 106 unilateral undertaking to secure the provision of an alternative allotment land site "near at hand" to the development site and within the Parish of Staplehurst, the Head of Planning be given delegated powers to grant permission subject to the conditions and informatives set out in the report with the amendment of the second informative as follows:-

There shall be no burning of waste materials on site.

Voting: 12 - For 0 - Against 1 - Abstention

117. MA/11/2108 - CHANGE OF USE OF EXISTING DORMITORY BUILDING INTO 10 RESIDENTIAL BEDSITS WITH ALTERATIONS AND THE

Item no. 13

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**Address: Land south of 1 Bell Lane
Staplehurst**

Reference no. MA/11/1481

Officer Comment

I have reconsidered the issue of the Policy ENV25 and the offered contribution. I now consider that it would be most appropriate and in accordance with the wording of the policy to secure physical alternative provision to comply with the terms of the policy rather than a contribution which has uncertainty as to its use. I would additionally advise Members that if it has not been possible to complete the agreement within a four month period that I intend to bring the matter back before the Committee.

Amendments to recommendation

Amend the Head of Term to read

A: The prior completion of a s106 legal agreement or the receipt of a satisfactory s106 Unilateral Undertaking, to secure;

- The provision of an alternative allotment land site within Staplehurst Parish

Item no. 13

Page no. 20

**Address: Land south of 1 Bell Lane
Staplehurst**

Reference no.

MA/11/1481

Representations

Enterprise Inns (freehold owners of The Bell PH) have withdrawn their objections to the application.

Officer Comment

I wish to apologise to Members and to correct an error in the report. The site is adjoined to the east of the access road by the beer garden of The Bell PH and not the Kings Head PH. For the avoidance of doubt, the representations were received from the landlord and the freehold owners of The Bell PH.

The considerations set out in the report on the issue of residential amenity and the potential impact on the users of the beer garden remain as set out in the report at paragraph 5.5.4 and are unchanged.

Amendments to recommendation

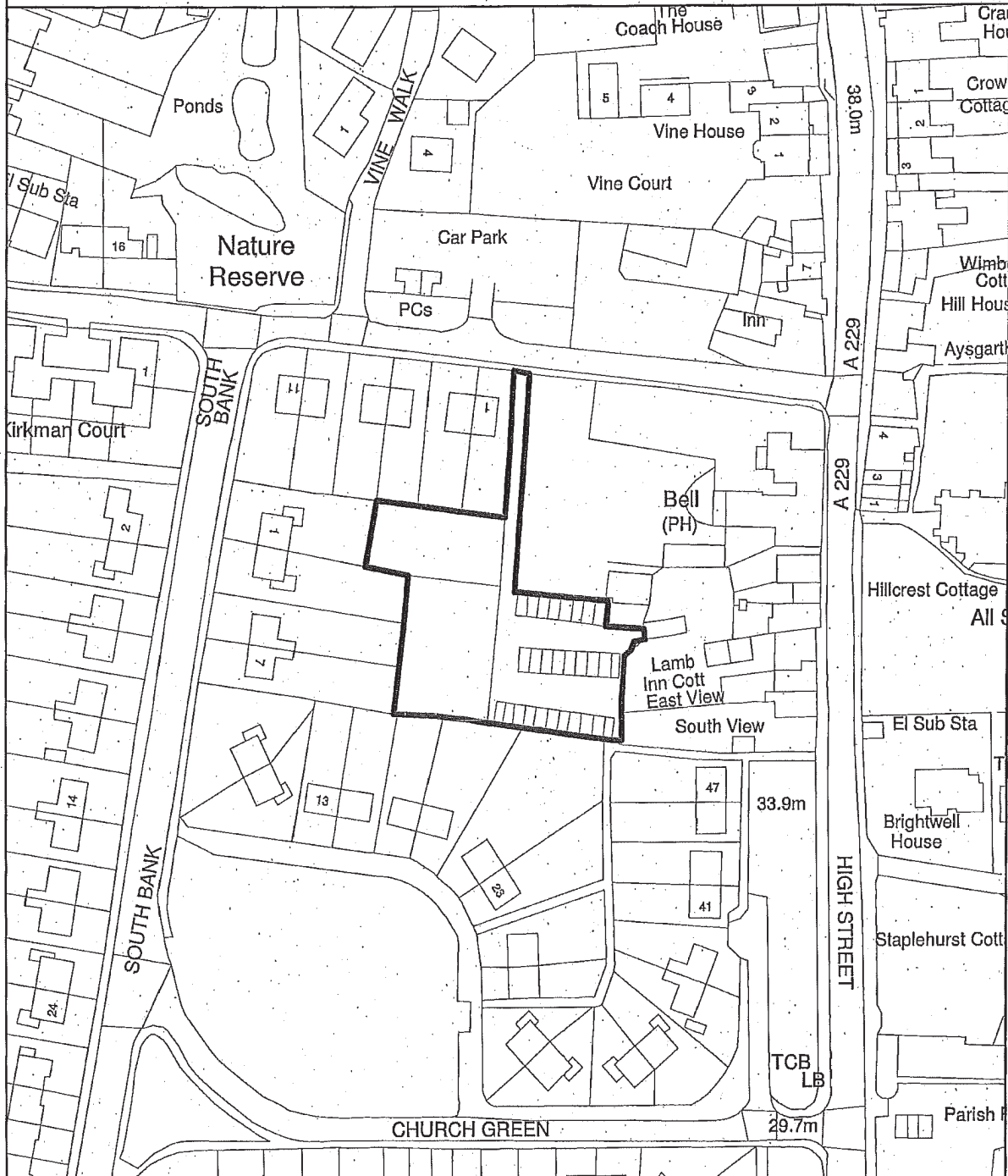
None

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/11/1481

GRID REF: TQ7842

LAND SOUTH OF 1 BELL LANE,
STAPLEHURST.



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Rob Jarman
Head of Planning

APPLICATION: MA/11/1481 Date: 18 August 2011 Received: 22 December 2011

APPLICANT: Golding Homes

LOCATION: LAND SOUTH OF 1, BELL LANE, STAPLEHURST, KENT, TN12 0BA

PARISH: Staplehurst

PROPOSAL: Demolition of existing garage blocks and the erection of six two-bedroom elderly persons bungalows with associated parking and private amenity space, together with the alteration/improvement of the existing vehicular access from Bell Lane as shown on drawing nos. BL/01, K10/0176/001/B, K10/0176/014/A, K10/0176/015/A, design and access statement, extended phase 1 habitat survey and Great Crested Newt and Reptile Survey received 30/08/2011, drawing K10/0176/011/B and transport statement received 10/10/2011 and drawing nos. K10/0176/12revH, K10/0176/013revC, arboricultural implications assessment and method statement and Great crested newt mitigation strategy received 24/05/2012.

AGENDA DATE: 30th August 2012

CASE OFFICER: Steve Clarke

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

- It is contrary to views expressed by Staplehurst Parish Council

1. POLICIES

Maldstone Borough-Wide Local Plan 2000: ENV6, ENV25, T13, T23, CF1
South East Plan 2009: SP2, SP3, CC1, CC4, CC6, H3 H4, H5, T4, NRM5, S6, BE1, BE4, BE6, AOSR6, AOSR7
Government Policy: National Planning Policy Framework 2012

2. HISTORY

2.1 No previous relevant planning history on the site

3. CONSULTATIONS

3.1 Staplehurst Parish Council: Wish to see the application REFUSED and commented originally as follows:

'After much discussion Councillors agreed to recommend REFUSAL for the following reasons:- Onsite lighting was insufficient, there was no pavement for pedestrians beside the access road and the gradient of the access road was too steep for wheelchair users. Concern was expressed regarding the close proximity of the site to two public houses that regularly had live outside music. The local sewage pumping stations were considered to be already at or beyond their capacity and would need upgrading if this development went ahead. Councillors requested this application be considered by MBC Planning Committee. However, should MBC be minded to approve this application without further reference to this Council, it would wish to see planning conditions imposed or at least informatives applied in respect of the following issues; Concern was expressed regarding the potential damage to verges and roads around the site by construction vehicles due to the narrow site access and narrow width of Bell Lane. Good management of the project would be needed together with restitution of offsite damage. It should be noted that egress from Bell Lane onto the High Street was also very difficult. With reference to Page 10 of the Design Statement, this Council requested to be consulted regarding an appropriate contribution to compensate for the loss of allotments. Clear marking and signing along the site access road would be needed to make it clear that priority should be given to pedestrians. It was recommended that the gradient of the access road should be eased to assist wheelchair users, particularly if a pavement beside the access road was not to be provided. The existing alleyway to the south of the site (also in the ownership of the applicant) would need to be made fit and proper as a useful and additional access to the site.'

The Parish Council have reiterated these comments on consideration of the most recent amendments.

3.2 Kent Highway Services:

3.2.1 Originally had several concerns:

'A Transport Statement has been provided to accompany the planning application. Modifications are to be made to the access to provide a width of 3m along its length widening to 3.75m at its junction with Bell lane. A passing bay is provided approximately 35m from the junction.

Please could details of the traffic generation data be provided as the traffic generation calculations appear to be low; usually between 6 - 8 movements per day are expected for each dwelling.

The vision splay of 2.4m x 33m could be reduced by using the formula contained in IGN2 if the speed of traffic along Bell Lane is known.

The tracking diagram indicates that Bell Lane is over 6m in width near the site access however a site visit has been made and the width of Bell Lane was found to be less than 6m: 4.8m in width on the eastern side of the site access and 5m in width on the western side of the site access. This is less than the dimensions shown on the drawing and I am

therefore concerned that refuse vehicles, deliveries and emergency services are able to turn in and out of the access safely. Please could this issue be addressed.

A short section of footway should be provided along Bell Lane to the east of the access with a dropped kerb crossing allowing pedestrians to leave the shared access and cross Bell Lane to the existing footway adjacent to the Kings Head PH car park.

3.2.2 Following the submission of revised details addressing the above concerns the following comments were received and no objections were raised to the development.

'The site currently comprises 28 garages served from an access onto Bell Lane. The access is between 2.3m and 2.9m in width and also serves 2 other properties. A pedestrian access to the High Street is located at the south eastern corner of the site.

The proposal is to replace the 28 garages with 6 new two bedroom bungalows. The access is to be upgraded in width to 3m widening to 3.75m near its junction with Bell Lane and this would provide a shared surface access for the development. A passing bay is provided within 40m of the highway and tracking diagrams indicate that a refuse vehicle and fire appliance is able to turn round within the site.

A short section of footway is to be provided on Bell Lane to the east of the site access and a dropped kerb crossing to provide a pedestrian link from the access to the existing footway on the opposite side of Bell Lane. This work should be completed by way of a Section 278 Agreement.

Vision splays from the access are acceptable.

11 Independently accessible parking spaces are proposed to serve the 6 dwellings of which 6 are allocated, 3 unallocated and 2 are visitor spaces. This is considered adequate for this development. In view of the above I confirm that I have no objections to the proposals in respect of highway matters subject to the following conditions being attached to any permission granted:-

1 There should be no occupation of the development site until a footway and dropped kerb crossing has been provided on the south side of Bell Lane to the east of the site access in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

2 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.

3 The area shown on the submitted layout as vehicle parking space or garages 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.

4 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.

5 Before the dwelling(s) hereby approved is first occupied, a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed, details of which shall have been submitted to and approved by the Local Planning Authority.

6 The development hereby permitted shall not be occupied until the visibility splays shown on the submitted plan have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall thereafter be maintained free of obstruction at all times.

7 Pedestrian visibility splays 2 m x 2 m with no obstruction over 0.6 m above the access footway level shall be provided prior to the commencement of any other development in this application and shall be subsequently maintained.

3.2.3 Of the suggested conditions Condition 2 is more appropriate as an informative and conditions 3 and 4 can be combined.

3.3 **English Heritage:** Were consulted due to the size of the site being in excess of 1000m² and the potential impact on the adjacent Conservation Area. They do not wish to offer any comments and state that the application should be considered against national and local policies and the Council's specialist conservation advice.

3.4 **KCC Biodiversity Team:**

3.4.1 Originally commented as follows

'We are satisfied with the level and quality of ecological survey effort undertaken to establish the potential for ecological impacts as a result of the proposed development.'

The *Great Crested Newt and Reptile Survey* report details the findings of the two surveys; no reptiles were observed on the site, although there is suitable habitat present. While there is suitable habitat on the site there remains the potential for reptiles to 'move in'. If permission is granted but works do not begin within two years of the reptile survey, we advise that an updated survey should be undertaken and any necessary mitigation implemented at that stage.

The great crested newt survey of the nearby ponds confirmed their presence and there is therefore the potential that great crested newts will be using the available terrestrial habitat on the development site. The proposed development as it stands will result in the loss of terrestrial great crested newt habitat and has the potential to kill any animals present on the site.

The *Great Crested Newt and Reptile Survey* report advises that a great crested newt licence will be necessary and proposes the creation of hibernacula within the development and removal of any animals present. However, this is insufficient to satisfy Maidstone BC that the proposed mitigation will:

- Ensure no net loss of habitat in terms of quantity and quality;
- Maintain habitat links;
- Secure long-term management of the site for benefit of newts.

We recommend that further information is sought regarding the receptor site for any translocated animals. Once satisfied on these points, we would recommend that a detailed mitigation strategy is required as a condition of planning, if granted.

We note the intention of the applicant to provide a contribution to provision of allotments and suggest that it may be appropriate for Maidstone BC and the applicant to ensure that the area selected for new allotments may also serve as replacement great crested newt and/or reptile habitat.

The *Extended Phase One Habitat Survey* report makes additional recommendations in respect of nesting birds and bats (section 5.3 recommendations 3 and 4). These must be implemented to further minimise potential for harm, either as planning conditions in their own right, or through incorporation within a wider ecological mitigation strategy. The key principles of PPS9 are not only to avoid, mitigate or compensate for harm to biodiversity but also to incorporate ways to enhance and restore it.

3.4.2 Further comments were received following additional work on identifying receptor sites and appropriate mitigation measures. No objections are raised to the development.

'We have previously provided comments to this applicant (dated 18th October 2011), in which we advised that additional information was required to ensure that Maidstone BC can be satisfied that the proposed mitigation will:

- Ensure no net loss of habitat in terms of quantity and quality;
- Maintain habitat links;

Secure long-term management of the site for benefit of newts.

In response to our advice, it has now been confirmed that the Bell Lane Local Nature Reserve (LNR) will be used as the receptor site for any great crested newts found on the site, and that the LNR will be enhanced to improve its suitability.

In addition, a hibernaculum will be created on the development site. Drawing K10-0176-012 Rev F describes this as 'possible', but we consider this measure an essential part of the aim to ensure no net loss of biodiversity as a result of planning decisions. We therefore advise that the implementation of this measure is secured, including the requirement that the hibernaculum created is not included within the gardens of the proposed houses.

There is also the intention to undertake works to recreate a nearby 'lost' pond. We are satisfied that these measures adequately address our request for additional information and that their implementation will minimise the potential for ecological impacts as a result of the proposals.

Our previous comments regarding the implementation of recommendations relating to nesting birds and bats within the *Extended Phase One Habitat Survey* report still stand.

3.5 **Environment Agency:** No objections

3.6 **Southern Water:** Have advised that there are no public surface water sewers in the vicinity and have recommended a condition requiring details of surface water drainage to be submitted. They also request an informative to the applicant advising of the need to formally apply for a connection to the public sewer.

3.7 **Southern Gas Networks:** have advised of the presence of a low-pressure gas main that runs along the south side of Bell Lane past the site access road.

3.8 **UK Power Networks:** No objections

3.9 **MBC Conservation Officer:** No objections

'Whilst architecturally this scheme is not of any great merit, it is low-key and will have little impact on the setting of the conservation area. It will, however, be important to maintain or strengthen existing planting on the northern boundary of the site. Also, roof tiles should be plain clay tiles, not interlocking tiles, which would be out of character with the village.'

Recommendation

It is, therefore, recommended that:

- on heritage/design* grounds NO OBJECTION IS RAISED subject to the following conditions. Landscaping and materials samples

3.10 **MBC Landscape:**

'The revised scheme, which now shows the house in plot 5 moved a further 2m from the tree and relocation of the patio is more acceptable in arboricultural terms although there is still likely to be future shade issues as the tree continues to grow.

However, on balance this alone is not sufficient reason to refuse the scheme on arboricultural grounds. Should you be minded to approve development on the site all the recommendations as set out in the arboricultural reports by Duramen Consulting are to be taken into consideration and suitable tree protection and landscaping conditions are to be attached.

In conclusion,

- I **RAISE NO OBJECTION** to this application on landscape and/or arboricultural grounds and recommend conditions as detailed above.'

3.11 MBC Environmental Health: No objections

'This site is surrounded on 3 sides by buildings, hence there is unlikely to be a traffic noise issue. There is a site registered on the contaminated land prioritised list within 100 metres, but this is considered low-risk. However it is likely that the garage blocks contain asbestos, so the usual Informatives will apply, as will those concerning demolition and construction.'

4. REPRESENTATIONS

4.1 Five letters from properties adjoining the site have been received (including from Enterprise Inns the owners of the Kings Head PH). Objections are raised on the following (summarised) grounds:-

- Unacceptable noise and disturbance to adjacent properties in South Bank to the west through the use of the relocated patio area for plot 5
- The access is too narrow
- Occupiers are likely to complain about the noise from the Beer Garden at the Kings Head and thus potentially affect the viability of the business
- Likewise construction noise and dust will have an adverse impact on users of the Beer Garden and also affect the business
- The public footpath to the south of the site should be removed as representing a security hazard

5. CONSIDERATIONS

5.1 Site description

5.1.1 The site comprises an area of some 0.21ha and is located on the south side of Bell Lane. It is accessed via an existing access road that passes to the east side of 1 Bell Lane and to the west of the garden of the Kings Head Public House. The access road runs southwards from Bell Lane and serves a group of 28 lock-up garages and associated hardstanding areas. These are located on the eastern side of the site. On the western side of the site is an area of former

Informal allotments located to the rear of 1-7(odd) South Bank. The dwellings in Bell Lane and South Bank that back onto the site are all two-storeys in height.

5.1.2 The site lies within the defined settlement boundary of Staplehurst and adjoins on its eastern side the Staplehurst Conservation Area. The site itself has no specific designation on the Maidstone Borough-wide Local Plan 2000.

5.1.3 Land levels on the site and the access road fall to the south away from Bell Lane. A footpath link (not a registered Public Right of Way) runs southwards from the south east corner of the site towards the dwellings in Church Green/South Bank and also connects to the High Street.

5.1.4 The former allotments have not been used for a number of years (since 2007) and are now somewhat overgrown.

5.1.5 There are a number of trees within and adjoining the site that have been the subject of an arboricultural assessment and report. It is proposed to retain all the trees.

5.2 Proposal

5.2.1 The application is a full application and seeks permission to demolish the existing lock-up garages and for the erection of 6 elderly persons' bungalows on the site of the garages and the former allotment land to the west.

5.2.2 The bungalows would be formed in a terrace of five along the southern side of the site with the sixth unit located in the north-west corner of the site behind 1-5 (odd) Bell Lane.

5.2.3 The units would be 2-bedroomed. They would be 6m to ridge and between 2.3m and 3m to eaves. Plot 5 at the western end of the terrace would be set forward some 2m to leave a larger gap to a retained Oak tree located just beyond the southern site boundary, the patio (and access to it from the lounge/dining room) for this unit has also been moved to the west elevation to reduce the impact of shadowing from the oak tree.

5.2.4 Other than plot 5 the units on the southern side of the site are located 7m in from the site boundary; Plot 5 is located 7m from this boundary. Plot 5 is also located 4m in from the site's western boundary at the rear of 1-7 (odd) South Bank leaving a distance of approximately 31m between the flank wall of plot 5 and the rear walls of the dwellings in South Bank. The roofs on the front elevations of plots 1-5 would extend forward to provide a canopy over the entrances.

5.2.5 Plot 6 is a detached unit located approximately 19.2m south of the existing dwellings in Bell Lane and 28m from the properties in South Bank. It is 5.5m to the ridge and 2.2m to eaves.

5.2.6 Indicated materials include brickwork plinth with a snapped header course and render for the walls, timber boarding under interlocking roof tiles. Plot 6 would additionally have some timber boarding to a gable feature. The units would also be provided with solar panels on the south facing roof slopes.

5.2.7 A total of 6 allocated parking spaces, 2 dedicated visitors' spaces and 3 unallocated parking spaces would be provided resulting in a total of 11 car parking spaces.

5.2.8 The site access road would be maintained at a width of 3.75m for the first 8m adjacent to Bell Lane then narrowing to 3.5m and then to 3m for a 17m section before widening again to 4.8m. The turning head would be 6m in width. The junction of the access with Bell Lane would be provided with 33m x 2.4m x 33m visibility splays. A new short section of footway along Bell Lane would be provided to the east of the access.

5.2.9 Due to the overgrown nature of part of the site, reptile and great crested newt surveys have been undertaken and mitigation measures proposed. The Bell Lane Local Nature Reserve (LNR) will be used as receptor site and enhanced to accommodate any Great Crested Newts found on the site. No newts were found during the survey in 2011 however. It is also proposed and considered necessary by the KCC Biodiversity Team to provide 2 hibernacula on the site. These would be located outside the garden area of plot 6. A pond is also to be restored further along Bell Lane.

5.3 Principle of Development

5.3.1 The demolition of the lock-up garages and the erection of residential development is acceptable in principle as the site is located in a defined settlement boundary and the development would take place on previously developed land.

5.3.2 However, whilst the former allotments were not statutory allotments and have not been used since 2007, it is however necessary to consider the proposals against saved Borough-wide Local Plan policy ENV25.

POLICY ENV25: DEVELOPMENT OF ALLOTMENTS FOR OTHER USES WILL NOT BE PERMITTED UNLESS ALTERNATIVE PROVISION IS MADE NEAR AT HAND, AND GROUND CONDITIONS ARE FULLY APPROPRIATE.

Staplehurst is an area where according to the Green Spaces Strategy Provision Tables 2007 there is a shortage of allotment land.

Green Space Tables 2007							
Allotments and Community Gardens (Hierarchy: Middle Order)							
Ward Name	PMP Analysis Area	Total Population	Current Provision (ha)	Hectares per 1000 pop	Local Minimum Standard	Above / Below standard per 1000/pop	Above / below standard (ha)
Staplehurst	Southern	5900	0.11	0.02	0.18	-0.16	-0.94

5.3.3 The applicants have offered to make a payment of £1575/unit relating to the three units that would be located on the land formerly constituting the allotments. This would be earmarked to provide alternative provision in the Parish. I understand that the Parish Council has an allotments group looking for land and the some land has provisionally been identified. This would satisfy the requirements of Policy ENV25.

5.3.4 No objections are therefore raised to the principle of development.

5.4 Design and layout

5.4.1 The application site is located largely behind existing development away from the public realm. Glimpses of the bungalows would be available from Bell Lane along the access road and from the existing footpath to the south of the site. The development itself would have little impact on the character of the adjacent Conservation Area. This has been confirmed by the Conservation Officer.

5.4.2 It is acknowledged that the site is in a backland location. However the site is already subject to built development in the form of the lock-up garages and the access road that serves these. The density as proposed equates to approximately 28 dwellings/ha, which is acceptable. The proposed development also comprises single-storey bungalows of a maximum of 6m in height, which will not be unduly visually intrusive from public vantage points given the fall in land levels away from Bell Lane.

5.4.3 The design of the dwellings themselves is simple and unfussy and is of an acceptable quality. The indicated materials are also acceptable with the provision that plain clay tiles are used for the roofs tiles to address the sole concern of the Conservation Officer.

5.4.4 I consider the appearance of the site overall will be improved as a result of the demolition of the existing garages and that there will be better surveillance of the existing footpath as a result of the development taking place.

5.5 Residential Amenity

5.5.1 The proposed dwellings are all single-storey and are sited with adequate separation from the adjacent dwellings.

5.5.2 Plot 5 is located 4m in from the site's western boundary at the rear of 1-7 (odd) South Bank leaving a distance of approximately 31m between the flank wall of plot 5 and the rear walls of the dwellings in South Bank. Plot 6 is located approximately 19.2m south of the existing dwellings in Bell Lane and 28m from the properties in South Bank. On the southern side of the site the gardens of properties in Church Green are some 19m in length giving a separation of 26m between the dwellings. Given these distances and the fact that the dwellings are single storey no unacceptable loss of privacy or overshadowing will occur.

5.5.3 The concerns of the occupiers of a property in South Bank in relation to the potential disturbance of the use of the patio area to Plot 5 are noted. However, the separation distances are such that no unacceptable impact sufficient to warrant and sustain objection this ground is likely to occur.

5.5.4 I also do not consider that the use of the Beer Garden of the Kings Head is likely to result in complaints from future occupiers given the separation and relationship involved. Likewise any impact from construction would be of a temporary nature and is controlled through Environmental Health legislation if a statutory nuisance occurs.

5.5.5 The side garden of 1 Bell Lane is to be fenced by a new 1.8m high close boarded fence and is also already partially enclosed by a 2.5m high garage wall. Given the potential use of the access to serve the existing garages, I do not consider that the development as proposed would result in unacceptable levels of noise and disturbance to the occupiers of 1 Bell Lane.

5.5.6 No objections are raised to the development on grounds of residential amenity.

5.6 Highways

5.6.1 The initial reservations of Kent Highway Services have been addressed through additional information and revised plans. There are no longer any objections to the suitability of the access to accommodate traffic associated with the development or the visibility at the junction of the access with Bell Lane. The

provision of the footpath and dropped kerb crossing point in Bell Lane can be secured through a 'Grampian' condition as it involves works within the highway.

5.6.2 The level of car parking provision proposed is also considered acceptable.

5.6.3 Subject to the securing of the necessary improvements and the visibility splays by condition, no objections are raised to the development on highway grounds.

5.7 Landscaping and ecology

5.7.1 Appropriate ecological and arboricultural site investigations have been undertaken on the site.

5.7.2 The arboricultural survey shows that all existing trees can be retained, including the use of a no-dig construction method in the vicinity of an Ash tree along the access road.

5.7.3 As discussed earlier, plot 5 has been re-sited further forwards to move it away from a retained Oak tree on the southern boundary of the site, the patio doors have also been moved to the west elevation to lessen the potential for concerns regarding overshadowing of the lounge/dining room from the tree. The Landscape officer is satisfied that these measures will assist in the long term retention of the tree and that it will not be adversely affected by the development.

5.7.4 There is scope within the site of the development for additional tree planting within the site and along the site boundaries. This can be secured by means of an appropriate landscaping condition.

5.7.5 Given the fact that the allotments have been used since 2007, they have become overgrown and have the potential to act as a suitable habitat for reptiles/great crested newts. Great crested newts occupy the ponds in the LNR on the north side of Bell Lane close to the site entrance. Ecological surveys have been undertaken and the need for a protected species licence for Great Crested Newts identified (due to the change to the site and the loss of a potential foraging area) and so a mitigation strategy has been drawn-up, because of the potential impact. No great crested newts have been found on the site during the surveys.

5.7.6 The mitigation proposed includes improvements to the LNR and its use as a potential receptor site as required, together with the provision of two refugia on the site itself and the improvement of a pond elsewhere on Bell Lane. The strategy is considered acceptable by the KCC biodiversity team and its implementation can be secured by means of an appropriate condition.

5.7.7 No objections are raised to the development on landscape or ecological grounds subject to the imposition of suitable safeguarding conditions.

6. CONCLUSION

- 6.1 The scheme is of an acceptable design and will not result in an unacceptable impact on residential amenity or highway safety.
- 6.2 Appropriate mitigation for potential ecological impacts has been identified and can be secured by means of condition.
- 6.3 The development will secure the redevelopment of a run-down area of lock up garages and provide additional elderly persons accommodation.
- 6.4 Subject to appropriate conditions no objections are raised to the development

7. RECOMMENDATION

SUBJECT TO:

A: The prior completion of a s106 legal agreement or the receipt of a satisfactory s106 Unilateral Undertaking, to secure;

- The payment of a contribution of £4725 towards allotment provision within Staplehurst Parish

B: The Head of Planning be given DELEGATED POWERS 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 buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

The submitted details shall include the use of plain clay tiles rather than the

interlocking tiles indicated on the submitted drawings.

Reason: To ensure a satisfactory appearance to the development pursuant to policy CC6 of the South East Plan 2009 .

3. The development shall not commence until, details of the proposed slab levels of the buildings 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 pursuant to policy CC6 of the South East Plan 2009.

4. 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.

5. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development 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. The submitted details shall include:

i) the provision of additional hedgerow and tree planting on the site's western boundary to maintain a continuous hedgerow along that boundary

Reason: No such details have been submitted and to ensure a satisfactory external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

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

7. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. 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 siting 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 to ensure a satisfactory setting and external appearance to the development pursuant to policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

8. The development shall not commence until details of the method of construction of the access road have been submitted and approved by the local planning authority. The submitted details shall include the use of a no-dig construction method in the vicinity of the retained Ash tree (Tree 3 of Duramen Consulting Report). The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To safeguard existing trees to be retained and 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 development hereby permitted shall not be occupied until the visibility splays shown on the submitted plan KH/10/0176/12revH have been provided with no obstruction to visibility at or above a height of 600mm above the

nearside carriageway level. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason: In the interests of highway safety pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

10. The development hereby permitted shall not be occupied until the section of footpath identified on drawing no. K10/0176/012/revH has been provided.

Reason: In the interests of highway and pedestrian safety pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

11. Prior to the commencement of any works which may affect reptiles or their habitat, and great crested newts and their habitat, a detailed mitigation strategy shall be submitted to, and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the approved strategy unless any amendments are agreed in writing by the local planning authority. The submitted details shall include the provision of two hibernacula located outside the plot boundary of Plot 6 within the site in the location shown on drawing K10/0176/012revH.

Reason: In the interests of ecology and biodiversity pursuant to policy NRM5 of the South East Plan 2009.

12. The development shall not commence until details of enhancement measures within the site for birds and bats 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: In the interests of ecology and biodiversity pursuant to policy NRM5 of the South East Plan 2009.

13. Before any of the dwellings hereby approved are first occupied, a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed, details of which shall have been submitted to and approved by the Local Planning Authority.

Reason: In the interests of pedestrian and highway safety pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

14. The development hereby permitted shall be carried out in accordance with the following approved plans:
K10/0176/001/B, K10/0176/014/A, K10/0176/015/A received 30/08/2011,
K10/0176/011/B received 10/10/2011, K10/0176/12revH and

K10/0176/013revC received 24/05/2012.

Reason To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with Policy CC6 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.

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

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

No vehicles in connection with the construction of the development 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.

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

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

The developer may be required to produce a Site Waste Management Plan in accordance with Clean Neighbourhoods and Environment Act 2005 Section 54. This should be available for inspection by the Local Authority at any time prior to and during the development

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.

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

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7. 3. 2013







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Agenda Item 15

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/1541

GRID REF: TQ7554

LAND OFF TOVIL GREEN,
TOVIL.



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Rob Jarman
Head of Planning

APPLICATION: MA/12/1541 Date: 22 August 2012 Received: 28 August 2012

APPLICANT: United House

LOCATION: LAND OFF, TOVIL GREEN, TOVIL, MAIDSTONE

PARISH: Tovil

PROPOSAL: Erection of four blocks of two and three-storey terraced houses comprising 12 two-bedroom and 12 three-bedroom houses for affordable rent with associated private amenity space and car parking as shown on drawing nos., K11/0367/001, 100revA, 101revB, 102revB, 200revA, 201revB, 202revB, 300revA, 301revB, 302revA, 400revA, 401revA, 402revD, 403revD JKK6700/1revA, SJA/TCP/11136-01 (tree constraints plan), arboricultural implications report, Design and Access Statement and Planning Statement, Bat survey report, Ecological Assessment, Viability Statement, Code for Sustainable Homes Pre-Assessment and Desk-based contamination assessment received 22/08/2012, drawing no. K120413/ES001revA received 28/08/2012, letter received 22/10/2012, drawing no K11-0367010revA, Tovil Green Site Crossing Map, and drawing no.TD578/02revD received 19/12/2012.

AGENDA DATE: 6th June 2013

CASE OFFICER: Steve Clarke

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

- It is a departure from the Development Plan
- Its is contrary to the views of Tovil Parish Council
- Councillor Derek Mortimer has requested it be reported for the reason set out in the report

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV22, ENV49, ED1, T13, CF1
- Government Policy: NPPF2012

2. Background

- 2.1 This application was recommended to be withdrawn from consideration at the meeting of the Planning Committee on 16 May 2013 by officers, as concern had

been raised with regards to the level of affordable housing provision (40%) in relation to the fact that no contributions were being provided. Further time was sought to fully consider the viability of the development, should 40% of affordable housing be provided.

3. HISTORY

- 3.1 Other than the current application, the present application site has no directly relevant planning history.
- 3.2 Land to the east comprises a development of extra care apartments approved under the following application (on which MBC was a consultee) by Kent County Council on 22/02/2007.

MA/06/1933: A consultation with Maidstone Borough Council by Kent County Council for clearance of land to allow the erection of a detached three storey block of 40 extra care apartments for people with learning difficulties, with associated communal facilities together with access, car parking and landscaping: MBC decision RAISE NO OBJECTIONS 21/11/2006

- 3.3 MBC raised objections to the following application:

MA/05/2199: A consultation with Maidstone Borough Council by Kent County Council for the clearing of land for erection of new buildings to accommodate 40 No. extra care apartments and communal areas for the elderly and 6 No. supported apartments with communal areas for those with learning difficulties, with associated parking to be provided: MBC decision RAISE OBJECTIONS 26/01/2006

The application was subsequently permitted by Kent County Council on 09/06/2006

4. CONSULTATIONS

4.1 Tovil Parish Council:

- 4.1.1 Wish to see application refused.

'Cllrs **agreed** to recommend refusal on the grounds of highway safety. If MBC's Planning Committee is minded to approve, then the following Conditions should be applied:

A footpath on land in the developer's ownership should be installed towards Farleigh Hill and landscaping treatments should be introduced to the rear of site.'

4.2 **Natural England:**

4.2.1 Have commented as follows:-

'The protected species survey has identified that bats, a European protected species may be affected by this application.

Our Standing Advice Species Sheet: Bats provides advice to planners on deciding if there is a "reasonable likelihood" of bats being present. It also provides advice on survey and mitigation requirements.

The standing advice has been designed to enable planning officers to assess protected species surveys and mitigation strategies without needing to consult us on each individual application. The standing advice was issued in February 2011 and we recognise that it will take a little while for planners to become more comfortable with using it and so in the short-term will consider species surveys that affect European protected species against the standing advice ourselves, when asked for support by planners.

We have not assessed the survey for badgers, barn owls and breeding birds¹, water voles, widespread reptiles or white-clawed crayfish. These are all species protected by domestic legislation and you should use our standing advice to assess the impact on these species.

How we used our standing advice to assess this bat survey and mitigation strategy

We used the flowchart on page 10 of our Standing Advice Species Sheet: Bats beginning at box (i) and came to the following conclusion:

- Box (i)-Using Nature on the Map we determined that **No**, the application is not within/close to a SSSI or SAC notified for bats. This took us to Box (v).
- Box (v)-We looked at the survey report and determined that **Yes**, it did highlight that there are suitable features for roosting within the application site (eg buildings, trees or other structures) that are to be impacted by the proposal. This took us to Box (iv).
- Box (iv)-We determined that **No**, whilst detailed visual inspections (internal and external where appropriate) had been undertaken no evidence of a roost was found although foraging corridors were. This took us to Box (vii).

- Box (vii)–We determined that **No**, the application does not involve a medium or high risk building as defined in our standing advice. This took us to Box (iii).
- Box (iii) advises the authority that “Permission could be granted (subject to other constraints)” and that the authority should “Consider requesting enhancements”.

Natural England supports the recommendations and habitat enhancement measures as outlined in the bat survey report.’

4.3 **KCC Ecology:**

4.3.1 Originally expressed concerns regarding the potential impact of the development on reptiles and commented as follows:-

‘The phase 1 survey details that the site contains suitable habitat for reptiles but no survey was required as the site is isolated from the surrounding habitats. While we do agree that currently the site has limited connectivity in the past connectivity to the site was much better. As a result please provide additional information on the potential of reptiles being present.’

4.3.2 Following receipt of further ecological information final comments raising no objections to the development subject to enhancement measures being secured were received.

‘We have reviewed the information submitted with the planning application and we are satisfied with the information which has been submitted. We require no additional information to be provided prior to determination of the planning application.

Reptiles

We had some concerns that the site was suitable for reptiles and a reptile survey was not carried out. However the additional information which has been provided by the applicant has satisfied us that the site has limited potential to be suitable for reptiles. As a result we require no additional information to be provided for comment.

Bats

The bat activity survey highlighted that bats are foraging and commuting within the site. Lighting can be detrimental to roosting, foraging and commuting bats. The recommendations detailed within the bat survey must be considered when designing the lighting plan. 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). The landscape plan

indicates that there is a woodland area within the south west corner of the site. We recommend that any lighting within the woodland area is kept to a minimum.

Birds

The site contains suitable habitat for breeding birds. If planning permission is granted, the vegetation must be removed outside of the breeding bird season (March – August). If that is not possible an ecologist must examine the site prior to works starting on the site – if any nesting birds are identified all work must cease in that area until all the young have fledged.

Enhancements

One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity in and around developments should be encouraged”. The survey has provided recommendations of enhancements which can be incorporated in to the site. A detailed ecological enhancement plan should be submitted for comment, incorporating enhancements which are suitable for the site, as a condition of planning permission, if granted.’

4.4 **Kent Highway Services:** Have no objections to the development and have commented as follows:

4.4.1 ‘This proposal is likely to generate in the region of 10 traffic movements in the morning peak hour and 15 during the evening peak hour and whilst there is concern regarding traffic capacity at the nearby junction of Burial Ground Lane/Farleigh Hill a scheme to provide a ghosted right turn lane is to be provided by KCC in the near future.

30 car parking spaces are provided which is considered to be adequate for this development.

The development is likely to increase the number of pedestrian movements along Tovil Green/Burial Ground Lane to Farleigh Hill and therefore a footway is required along the site frontage with best endeavours made to provide a continuous footway between the site and Farleigh Hill. Additionally, bus stops are located on Tovil Green within close proximity to this site and the provision of bus boards would ease accessibility for the mobility impaired.

Please could the provision of the footway be investigated by the applicant and relevant drawings be provided.’

4.4.2 Following investigation by the applicants of the feasibility/cost of providing a footway along Burial Ground Lane to Farleigh Hill, the applicants advised that the

costs of providing the footpath and the bus boarders would be in excess of £218,000, which would not be affordable given the already outlined position with regard to s106 contributions submitted as part of the application documents. The applicants were happy to dedicate a proportion of the site to enable the provision of a footpath on the site frontage to Tovil Green if the opportunity to extend it further southwards towards Farleigh Hill arose in the future.

4.4.3 Kent Highway Services made the following further comments in the light of this information.

'I am of the view that there is justification for the bus stop improvements in order that they are DDA compliant and accessible to all residents from the new development site. With regards to the footway, I realise that the costs are extremely high, but I would expect to see a footway provided along the site frontage at the very least, with dropped kerb crossing provided where appropriate.'

- 4.5 **KCC Mouchel:** Have requested contributions **totalling £8169.82** comprising **£4973.81** for **Libraries** (bookstock, additional staff and extended hours for Maidstone libraries and mobile service)
£ 373.18 for **Youth facilities** (Additional staff and equipment for Maidstone Borough Youth Outreach Services)
£1026.47 for **Community Learning** (Maidstone Adult Education Centre and outreach community learning facilities)
£1796.36 for **Adult Social Services** (Co-location with health, Changing Place facility, Assistive Technology (Telecare)
- 4.6 **NHS Property Services (formerly West Kent PCT):** Are not seeking s106 contributions as the dwellings are 100% affordable.
- 4.7 **Southern Water:** Have advised that there is capacity to provide foul sewage disposal to service the development. The applicant is advised to contact them to make a formal application to connect to the sewer. However, they advise that there is currently inadequate capacity in respect of surface water disposal thus requiring an alternative means of disposal to be found or to ensure sufficient capacity requisitioned in the form of a new sewer. The applicant is advised to contact Southern Water to discuss available solutions.
- 4.8 **Southern Gas Networks:** Have provided a plan showing a low-pressure main running along the eastern side of Tovil Green opposite the site and also running along the verge on the north side of Tovil Green Lane which serves Tovil Green Court and Pine Court to the east of the site along the area.
- 4.9 **UK Power Networks:** No objections

4.10 **MBC Landscape Officer:** No objections

4.10.1 Have commented as follows:-

'There are no protected trees on this site and it is not designated as Ancient Woodland. The arboricultural implications report produced by Simon Jones Associates is considered acceptable and it is agreed that the retention of the Ash tree in the southwest corner of the site and a strip of trees along the boundary of Burial Ground Lane is achievable. I therefore raise no objections on arboricultural/landscape grounds. If you are minded to grant consent I would like to see the following condition attached:-

Approved landscape scheme- Implementation

'Landscaping shall be implemented in accordance with the approved landscape scheme and associated landscape and arboricultural details unless the local planning authority gives written consent to any variation.'

4.11 **MBC Environmental Health:** No objections

4.11.1 Have commented as follows:

'According to the December 2011, Desk based assessment report, ref E07787-23 DTS 16Dec11 V2 rmewcc; supplied with this application; WYG carried out intrusive investigation works during four phases of work between December 2005 and September 2007, on an area including both the area of site plus adjacent land to the north and west. Based on the evidence submitted we accept this reports conclusions that "mitigation measures are likely to be required in the private garden areas comprising a substantial thickness of imported clean soils over an impermeable cap and marker layer" and that "consultation be undertaken with the Regulators and a remediation strategy applied to address contaminated ground prior to development". The MBC Pollution team would welcome a consultation with WYG in order to develop their remediation method statement. We recommend that as part of that method statement a watching brief be maintained on site during works by a suitably qualified member of the consultant's team to monitor for unforeseen contamination hotspots.

The site is in a mixed residential area and traffic noise is unlikely to be a significant problem, but there is the possibility that local industry could noise impact the site and so an assessment should be carried out with regard to this.

The site is within the Maidstone Town Air Quality Management Area and is 1.5km from a known air quality hotspot at the Loose Rd – Sutton Rd junction. I consider the scale of this development warrants air quality conditions. Any

demolition or construction activities may have an impact on local residents and so the usual informatives should apply in this respect. Any buildings to be demolished should be checked for the presence of asbestos and any found must only be removed by a licensed contractor.

There is no indication from the latest British Geological Survey maps that there is a significant chance of high radon concentrations.

A section of the clean neighbourhoods Act has come into force which requires the developer to produce a site waste management plan for any development which is over £300,000. The plan must be held on site and be freely available for view by the local Authority at any time.'

- 4.11.2 They recommend a contamination condition, noise condition and air quality conditions and informatives governing conduct and hours of operation on site during construction.

4.12 **MBC Parks and Leisure:**

'There is no provision of any form of meaningful open or green space within the development and as such we would request a contribution to be made.

We understand that planning officers may need to negotiate on this due to it being 100% affordable housing, but 24 houses will bring in a number of new residents and families to the area which will put an added increase on usage of surrounding parks and open spaces, and as such it would be a requirement from the Parks department that a contribution is sought in order to improve, maintain and repair existing areas that will no doubt see extra usage over a number of years.

Woodbridge Drive and Bridgemill Way play areas are both within 400m of the development in opposing directions and are the closest play areas to the development and we would expect new families moving into the area to use these facilities.

We would seek £1575 per dwelling, which would therefore amount to £37800.'

5. **REPRESENTATIONS**

- 5.1 **Cllr Derek Mortimer** has requested the application be reported to Committee if recommended for approval for the following reasons:-

'I have received many objections and concerns from residents, their families and the management who reside at the care centre 'Tovil Green Court' and 'Pine

Court', adjacent to the proposed development. Some of the residents are not able to comment or object in the usual written way so I am arranging with the staff a statement which I will forward when complete.

My own concerns are that this development will impact and harm the pleasant environment currently enjoyed by residents in this 'specialist care' setting. I am also very surprised that United House are actually proposing this type of development next to their own care centre, who's clients are Housing 21 and KCC. From the plans (although noted for housing benefit purposes) there could be up to 106 new residents living on the development. This would obviously cause a significant impact upon the whole area.

One of my main concerns is for the safety of pedestrians in Burial Ground lane. I note that KCC highways are being consulting on a small strip of land to provide some safety at the junction of the access road, but in my view this will be totally inadequate and shows that there is obviously a safety concern here. Many residents from the Tovil Green area currently walk to Tesco / Lidl on Farleigh Hill and have to dodge traffic on a daily basis, due to the lack of footpaths in Burial Ground Lane. They also have to negotiate the recycling site traffic queues by walking in the middle of the road. I cannot emphasis enough the serious road safety concerns I have for this patch, which I observe on a daily basis. I have made a number of enquiries to try to get an access footpath from this site into Tesco / Farleigh Hill but due to security concerns this has never materialised. Some of my concerns would be reduced if a solution could be found to this problem.

Another concern is the additional traffic which will be created on the access road. The care centre has regular ambulance visits, along with staff and family vehicles visiting the site. It should also be noted that some residents are wheelchair users with attendants. Some residents of the care centre also use mobility scooters and power chairs which again are safety concerns. Vehicles regularly park on the access road at night and weekends which causes a single file traffic situation and will obstruct the proposed new development access point. With the possibility of 100 new residents, the car ownership level will be at least 50 and the proposed parking only allows for 30 spaces with no visitor parking bays. There will be always be an overspill onto local roads or into the care centre parking area with the obvious related problems. Car use will probably be quite high due to the poor bus service, especially into town. The bus service is also has many interruptions from traffic queuing at the recycling site which discourages existing residents from using the buses.

Although I agree there is a demand for social housing within the Borough as stated in the S106 statement by the applicant, but Tovil already has a high level of affordable housing and I feel this development will again add to the pressures

in the community. Also I am disappointed that the applicant does not wish to contribute to the community through S 106 contributions. Should we get another possible 100 residents we will still not have any additional facilities, or help, locally. Tovil does not have any of its own GP's, clinics or health care in general, we lack all other facilities across the board. Hence travelling into and out of town is a necessity for all services.

The proposed lighting on the new development does not compliment the area or match the current lighting on the existing care home area. This I believe should be addressed by using a less urban low level style.

The Bat survey report shows a high level of activity; however I feel that the proposed protection measures do not go far enough. The proposed planted buffer and protection measures should be increased in width and density, on the south of the site. The bank on this south side of the site also provides a degree of noise and dust protection for residents down in Tovil Green from the recycling centre. Increasing the density and width by better natural screening would also protect the new development from the heavy loading and regular vehicle movements at the recycle centre.'

5.2 **Twenty-three** representations including a petition signed by 22 people from the adjacent development at Tovil Green Court have been received. All object to the application on the following (summarised) grounds:-

- Unacceptable impact on the occupiers of the immediately adjacent elderly persons and vulnerable adults accommodation by the occupiers of the new housing and associated vehicular traffic and noise;
- Too many houses;
- Insufficient parking;
- Poor pedestrian access;
- Unacceptable impact on existing traffic flows in Tovil Green and Burial Ground Lane that are already very busy;
- No play area and any children will therefore play in the car park by Pine Court/Tovil Green Court causing noise and disturbance;
- Loss of existing greening and impact on wildlife.

6. CONSIDERATIONS

6.1 Site Description

6.1.1 The application site is located on the east side of Tovil Green/Burial Ground Lane some 175m north of its junction with Farleigh Hill. It is designated as employment land on the proposals map of the Maidstone Borough-wide Local Plan 2000 under saved policy ED1(iii). As such, any proposal for residential use

has to be advertised as a departure, and has been done so. However it is currently not in employment use; part of the larger designated area is occupied by Tovil Green Court a residential development, granted planning permission by Kent County Council, and the remainder is currently an unmanaged area of tree cover with some hardstanding areas within it.

- 6.1.2 The site amounts to some 0.54 ha in area and roughly rectangular in shape. It is bounded to the west by Tovil Green, to the north by Tovil Green Lane serving the adjacent development to the east (Pine Court and Tovil Green Court), to the east by Pine Court and Tovil Green Court and their associated car parking area and to the south by a private dwelling (no.20 Tovil Green), Tovil Green Business Park and part of the car parking area for the Tesco store on Farleigh Hill.
- 6.1.3 The site falls eastwards by approximately 2.76m from Tovil Green to the car park for Tovil Green Court the site's eastern boundary. It also falls some 8.5m from south to north, although the south west corner of the site is a steeply sloping bank. Away from the banking, the fall south to north is a more modest 3m or so.
- 6.1.4 The site is currently partly tarmac, partly grass and is also covered by a significant number of close growing often multi-stemmed trees with the exception of a significant Ash Tree in the southwest corner of the site which does contribute to the amenity of the area. There is some evidence that the site has been tipped in the past. The site is not classified as Ancient Woodland in the 2012 Inventory of the Borough, but does contribute to the character and appearance of the locality.

6.2 Proposal

- 6.2.1 Full planning permission is sought for the erection of four terraces of two and three storey terraced houses comprising 12 Two-bedroom and 12-three-bedroom houses for affordable rent with associated private amenity space and car parking.
- 6.2.2 The development is proposed to be managed and let in accordance with a local lettings plan and the properties will be let on an Affordable Rent basis. The plan will be monitored by the RSL (Orbit South) and by the Borough Council who will be able to exercise nomination rights through choice based lettings.
- 6.2.3 The proposed development is arranged with two rows of six terraced dwellings with front gardens fronting Tovil Green Lane. A centrally located access road cuts between these blocks and serves two further blocks of 7 terraced (north facing towards the rear of the houses fronting the existing access road to Tovil Green Court) and 5 terraced units (facing southwards with rear garden areas facing the

apartments to the north) and also provides access to the 30 parking spaces provided for the development. Two covered cycle stores are also to be provided.

- 6.2.4 Each unit would have a private rear amenity area of 10m or more in depth and a shed.
- 6.2.5 The blocks fronting Tovil Green Lane would be faced externally with stock brickwork (brown) under a plain through-coloured brown roof tile. Plot 1 adjacent to Tovil Green would have a projecting first floor oriel window in its south flank elevation. Plot 6 adjacent to the access road serving the rear part of the site is shown to project further forward than the rest of the terrace and additionally would have a weather-boarded first floor elevation to the front, rear and side. East of the access road the elevational treatment and design is mirrored in Block 2 (plots 7-12). The boundaries of plots 6 and 7 with the access road would be formed by a 1.8m high brick wall.
- 6.2.6 Block 3 which is located in the eastern site boundary and has rear gardens facing towards the existing parking area of Tovil Green Court/Pine Court would comprise 5 units. The external materials proposed are the same, but with the central unit having projecting front and rear gables and a weather-boarded first floor to the front elevation. The north facing flank of Plot 20 would have a projecting oriel window.
- 6.2.7 Block 4 comprises 7 terraced units. The units are staggered with two units being stepped forward from the remainder of the terrace to break the terrace into three sections. The north elevation also has projecting gable feature to break up the roof line of the front elevation. The north facing elevation is indicated as having three floors and the rear two floors as the terrace is set into the bank to the rear. The block of 7 terraced units thus provides split level accommodation to take account of the land levels in the south east corner of the site. The proposed materials have been revised to provide the stepped-out section of the terrace with a contrasting brown multi-stock brick to the front and rear elevations in contrast to the remainder of the block which would be finished with a red medium multi-stock brick. A plain-tiled roof is proposed.
- 6.2.8 A detailed landscaping plan has been submitted as part of the application which seeks to provide a landscaped framework to the site boundaries and the car park to the existing development at Tovil Green Court/Pine Court. The raised land in the south west corner would be planted with replacement native trees and shrubs and a log retaining wall provided. Part of this area would be fenced-off with access for maintenance only. The fence would be placed on the top of the timber retaining wall and would be partially for security and partially due to the drop in levels at this point. However, currently a palisade fence is shown but I

consider that a weld-mesh fence would be more appropriate. An existing mature Ash tree in this part of the site is shown to be retained.

- 6.2.9 The parking bays and the internal access road would be surfaced in brick paviors. There would be a total of 31 car parking spaces to be provided within the site. These would all be serviced from within the application site – within the proposed 'courtyard,' with no parking spaces served directly from the existing road into the site.
- 6.2.10 The applicant has submitted a viability appraisal with the application, which demonstrates that there is no ability to provide any contributions as part of this proposal, due to the costs associated with redeveloping the site, and the provision of a high level of social rented accommodation. This matter is considered fully later within the report.

6.3 Principle of Development

- 6.3.1 The site is part of a larger area designated as an employment site under saved policy ED1 of the MBWLP 2000. No interest has been shown in developing the site for employment purpose. In fact, the majority of the designated site has previously been developed for residential purposes, as extra care apartments for the elderly following a permission granted by Kent County Council in 2006. No marketing information has been submitted as part of this application which demonstrates that the land is unsuitable for employment use. However, I am of the view that due to both the proximity, and relationship of this parcel of land to the existing residential units (previously permitted on allocated employment land), it would be likely to be an un-neighbourly use to provide employment uses on this land. As such, in this instance, I do not consider that it is inappropriate to depart from policy in this instance.
- 6.3.3 With the existence of the immediately adjacent residential development and the fact that there are existing dwellings to the north and south of the site and the permissions granted in the wider area, I consider that residential development on this site would be acceptable in principle. In addition the development will provide 24 units of affordable housing accommodation which is a factor weighing heavily in its favour.
- 6.3.4 The application has therefore been advertised as a departure from the development plan and no representations have been received as a result of this advertisement procedure.
- 6.3.5 The site is also a currently undeveloped space, largely occupied, as stated earlier, by an unmanaged group of trees. Whilst the trees are not worthy of a Tree Preservation Order, the loss of this area and the visual impact of the

proposals also needs to be carefully considered. Policy ENV22 of the Borough-wide Local Plan does refer to proposals to develop existing open areas and requires an assessment of the visual contribution such areas make to their surroundings.

6.4 Visual Impact and Design

- 6.4.1 The site in its current state does provide a screen for the existing development at Tovil Green Court/Pine Court from Tovil Green. Views of this development are available from Tovil Green along Tovil Green Lane however. The arboricultural assessment has carefully considered the quality of the trees and the majority are classified as 'C' or 'U' with a short life expectancy and of poor, hazardous or indifferent form. The area has also been classified as having limited ecological potential in the surveys that have been undertaken.
- 6.4.2 The proposals would result in the clearance of the existing trees with the exception of the mature Ash in the SW corner of the site. In the short term this would clearly have a significant visual impact. However, a detailed landscaping scheme has been submitted, which provides for replacement native species and for the proper management of the land, to a significant part of the site and which would re-instate this sylvan character over time. Tree planting is proposed both within the site, and to the rear, although much of this would be screened by the front terrace. Nonetheless, a significant level of planting is proposed along the boundary with the existing residential units, which would provide a softer edge, and gap between the two developments. The loss of the trees would have an immediate impact but this impact would be, in part, mitigated over time as the proposed landscaping matures. The existing landscaping on the north side of Tovil Green Lane opposite the site will not be affected by the development and will be retained. Whilst it is regrettable that the character would change by virtue of this proposal, this needs to be balanced against the provision of affordable housing within a sustainable location.
- 6.4.3 I do not consider that the partial permanent loss of this space would be so harmful to the character or the appearance of the area, as to warrant and sustain an objection on this ground.
- 6.4.4 The development has been designed to address Tovil Green Lane that leads to Pine Court/Tovil Green Court and does so effectively with the two terraces proposed fronting the road. The westernmost dwelling closest to Tovil Green (plot 1) does not present a blank flank elevation to that road through the use of a projecting oriel window at first floor level. The indicated materials, stock brick and plain tiles are appropriate for the area. The variation of the elevations on plots 6 and 7 (either side of the access to the rear of the site), these being

stepped forward and utilising horizontal boarding at first floor level also adds interest and vitality to the design.

- 6.4.5 The units to the rear are also of an appropriate design and appearance. The same pallet of materials is used, but the eastern terrace (block 3) has a projecting central unit to provide visual interest which is also boarded on its front elevation. Block 4 provides for split-level houses due to the topography of the site. The units in Block 4 are staggered and the north elevation has a projecting gable feature to break up the roof and the line of the front elevation. The north facing elevation is indicated as having three floors and the rear two floors as the terrace is set into the bank to the rear. The block of 7 terraced units thus provides split level accommodation to take account of the land levels in the south west corner of the site.
- 6.4.6 I consider that the proposed development will contribute to the character and appearance of the surrounding area and is sufficiently varied and detailed in terms of its design to provide vitality and interest.
- 6.4.7 Residential development on this site would not appear out of character with the surrounding development in the area, which has undergone a significant transition in recent years from an industrial character towards residential.
- 6.4.8 On balance I raise no objections to the visual impact of the development whilst noting the short to medium term impact of the loss of the trees.

6.5 Residential Amenity

- 6.5.1 Much concern has been raised regarding the potential impact of the development on the adjacent development to the east. The proposed dwellings would be sited with the car park serving Tovil Green Court/Pine Court in between. This would result in a separation distance of approximately 25m from the blank east flank wall of plot 12 to Pine Court across the car park area to Pine Court and some 35m or more from the rear walls of properties in Block 3 (plots 20-24) and the front of Tovil Green Court again with the intervening car park area. I do not consider that the development would result in any unacceptable loss of privacy to the existing occupiers in Pine Court/Tovil Green Court. No access is shown from the site to the car park area and landscaping has been strengthened along this boundary to reinforce this.
- 6.5.2 Each property has a useable and suitable private amenity area as befits family housing and as such I consider that the fears of local residents that the car park to Pine Court/Tovil Green Court will be used as a playground are unlikely to be realised. I consider the separation is such that noise will not be so unacceptable as to warrant and sustain a ground of refusal.

- 6.5.3 Appropriate internal separation in the scheme has been maintained between the dwellings fronting Tovil Green Lane and the units to the rear. I also consider that the development will be acceptably sited in relation to the Tovil Green Business Park and 20 Tovil Green to the south with separation distances in excess of 25m. The properties will have an acceptable outlook towards the south which will also be further mitigated over time as the proposed landscaping matures. Any potential impact from noise from the Tovil Green Business Park can appropriately be dealt with through a noise condition as recommended by the Environment Health section.
- 6.5.4 I also consider that the development will not have an unacceptable impact on 19 Tovil Green, the flank wall of which faces Tovil Green Lane and which would be sited some 35m from the closest of the new dwellings with a roadway and landscaped verge in between.
- 6.5.5 No objections are raised on the grounds of residential amenity

6.6 Highways

- 6.6.1 Kent Highway Services raise no objections to the development in terms of parking provision or the impact of the traffic likely to be generated on the local highway network.
- 6.6.2 Cllr Mortimer, Tovil Parish Council, Kent Highway Services and local residents have however, raised a number of concerns relating to pedestrian safety, and in particular the provision of a footpath along Tovil Green and towards the town centre. Internally, I do not consider that this proposal would impact upon the safety of existing residents of the care unit – the existing path is to be maintained, and the visibility splays etc within the proposed development are acceptable. The question is whether the additional dwellings proposed, tips the balance in so far as requiring a continuous footpath along Tovil Green and potentially Farleigh Hill. This matter has been fully considered.
- 6.6.3 As a result of the representations, investigation has taken place regarding the potential to provide improved footpath links from the site to Farleigh Hill. Any path due to land ownership constraints would not be continuous and would involve two crossings over Burial Ground Lane/Tovil Green, which is not ideal. The applicants also point to the significant cost (£218,000) of providing such a footpath and the recommended bus boarders in the light of the viability information submitted. They have indicated that they would be prepared to dedicate sufficient land within the site and transfer this to the highway authority at no cost to enable a footway to be constructed at a suitable date in the future if it became possible to provide a footpath on the remainder of the east side of

Burial Ground Lane towards Farleigh Hill. The provision of such a footpath would not adversely affect the proposed landscaping on the site. Kent Highway Services do not object to this approach.

- 6.6.4 As set out later in the report the applicants have demonstrated that the viability of this scheme is such that s106 contributions cannot be met without making the development unviable. Consideration therefore has to be made as to whether the development is unacceptable without this footpath. To my mind, it would be preferable to provide this facility, however, the lack of a footpath does not make this suite wholly unsustainable, nor would it result in severe highway safety concerns. I am mindful that there are a significant number of existing residential properties within the locality, and do not consider that the provision of 24 additional units would be the tipping point to see this provision made. It should also be noted that planning applications for land at Farleigh Hill, if brought forward on site, would see the provision of the footpath along Farleigh Hill – these are larger, more comprehensive developments than proposed in this instance. I therefore do not consider the proposal to be unsustainable or unsafe should the footpath not be provided, and this, together with the viability of the scheme, do not consider it appropriate to request such a provision.

6.7 Landscaping and ecology

- 6.7.1 The proposals will result in the clearance of the majority of the existing trees on the site, comprising sycamore, hazel, hawthorn, goat willow and silver birch. All of the trees with the exception of one Ash Tree (Category B) in the south west corner close to Tovil Green are classified as C or U in the arboricultural assessment and stated as being largely poor, hazardous or indifferent in terms of their structure. The Landscape Officer has raised no objections to the removal of the existing trees.
- 6.7.2 A detailed landscaping scheme has been submitted as part of the application. This shows the provision of a native species landscaping framework to the site boundaries, with hedgerows and a newly proposed native shrub and tree planting area to the south west corner and southern site boundaries.
- 6.7.3 Proposed specimen trees (Heavy Standard size) include Whitebeam, Field Maple, Small Leaved Lime, Bird Cherry, Silver Birch and Oak. The shrub planting mix proposed to the southern and south west boundaries comprises Hawthorn, Hazel, Holly, Blackthorn, Buckthorn and Guelder Rose. Adjacent to the houses (in their front gardens) more ornamental species are proposed.
- 6.7.4 The landscaping scheme is considered acceptable.

6.7.5 Ecological assessment of the site has been undertaken and the implications of the development assessed. The KCC Biodiversity team have raised no objections subject to appropriate enhancement measures being secured. These can be secured by means of an appropriate condition. In my view this can include the provision of swift/bat bricks, refugia and retention of a proportion of the cordwood. The fact that a part of the planted area is to be closed off except for maintenance access will assist with these proposed enhancement measures once secured. However, I am concerned that the proposed palisade fence would be particularly unsightly and would suggest that a weld-mesh fence be substituted. This can be secured by means of an appropriate condition.

6.7.6 No objections are raised on the grounds of ecology.

6.8 S106 obligations

6.8.1 The applicants have submitted a statement and some confidential financial information in relation to their proposals which seeks to demonstrate that the requested s106 contributions from MBC Parks and Leisure, Kent County Council or the footpath/bus boarder improvements cannot be afforded by the scheme. The statement shows abnormal costs to deliver the development due to the site's topography and required remediation amounting to some to £350,000 and that the scheme shows a negative Net Present Value (NPV) in excess of £12,000 without taking any potential s106 contributions into account which will clearly add to the negative value of the scheme. The statement shows that as submitted, the revenues from the development will not exceed costs until year 23 and will not be fully repaid until year 30. This report has been independently assessed by the Council's property section, and is considered to be correct.

6.8.2 The scheme as proposed is for rented accommodation let at Affordable Rent. I have requested and received further information from the applicant addressing the issue of whether a proportion of shared equity within the scheme would render it more viable and thus able to provide s106 contributions.

6.8.3 The applicants state that the inclusion of shared equity within the scheme would negatively affect viability. The applicants have indicated that the local housing market in the area does not generate a sufficient level of value to create an equity share of greater value than an affordable rented unit over the 30 year finance period for the scheme. As stated above there is a current negative NPV for the scheme in excess of £12,000. Any substitution of shared equity units will increase the negative NPV by £8-10,000. So even one shared equity unit would increase the negative NPV to around £20,000.

6.8.4 In addition, the applicants have demonstrated that the inclusion of even one shared equity unit will result in revenues not exceeding costs until beyond year

30. This would be outside the applicant's set and agreed financial parameters and would render the scheme unviable. Furthermore, funding from the Homes and Communities Agency is significantly lower for shared equity units so consideration would be required for reduction of grant rate pro-rata for any shared equity units that might be substituted for affordable rented units in the scheme. This matter has been discussed with the Council's Housing Manager who has confirmed that this is the case.

6.8.5 I am satisfied that the applicants have demonstrated that the requested contributions by MBC Parks and Leisure, Kent County Council and the construction of the bus borders and footpath are not affordable and would render the scheme unviable. As a result, 24 units of affordable housing would not be delivered.

6.8.6 The applicants have agreed in the light of this viability information that no financial contributions are affordable, to ensure that the scheme should provide 40% affordable housing secured through a s106 obligation.

6.8.7 I consider that such an obligation would meet the three tests set out in Regulation 122 of the CIL Regulations 2010 and para 204 of the NPPF 2012, that any obligation must be:-

- (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

6.8.8 It has been requested that a strip of land should also be provided along the boundary of the site, and retained through a S106 agreement to be available should funding for this footpath come forward – either through KCC or MBC. However, as there is no program of works in place and as this land is shown to be retained within the plans in any event, I do not consider it necessary to be included within a S106 legal agreement.

7. CONCLUSION

7.1 Whilst the scheme is on a designated employment site it is considered that in this instance it is acceptable for residential development to take place as a departure from the Development Plan, primarily due to the existing development adjacent to the site.

7.2 The scheme is acceptable in terms of its layout and design and impact on adjacent residents and the local highway network. A detailed landscaping scheme has been submitted and the appropriate ecological enhancement measures can be secured by means of appropriate conditions.

- 7.3 In this instance it is considered that the benefits of developing the site for affordable housing outweigh the fact that no contributions or highway improvements have been/can be secured.
- 7.4 Subject to the prior completion of the s106 agreement permission should be granted subject to appropriate conditions.

8. RECOMMENDATION

Subject to

A: The prior completion of a s106 agreement in such terms as the Head of Legal Services may advise to secure:

- i) The maintenance of the development as 40% affordable housing;

The Head of Planning be given Delegated Powers 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 buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development pursuant to the advice in the NPPF 2012.

3. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification)

or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

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

4. The development shall not commence until, details of the proposed slab levels of the buildings 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 pursuant to the advice in the NPPF 2012.

5. All planting, seeding or turfing comprised in the approved details of landscaping as shown on drawing no. TD578/02revD received 19/12/2012 shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

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

Reason: to ensure a sustainable and energy efficient form of development in accordance with Kent Design and the advice in the NPPF 2012.

7. Notwithstanding the provisions of 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) no development within Schedule 2, Part 1, Classes A, B, C, D, E and F and Part 2 Class A to that Order shall be carried out without the permission of the Local Planning Authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area pursuant to the advice in the NPPF 2012.

8. The development shall not commence until details of an ecological enhancement plan to include as appropriate;
- (i) the use of bat bricks/boxes and swift bricks,
 - (ii) the retention of a proportion of the cordwood within the site and;
 - (iii) the provision of refugia
- has been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To secure appropriate enhancement within the site in the interests of ecology and biodiversity pursuant to the advice in the NPPF 2012.

9. 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 pursuant to the advice in the NPPF 2012.

10. The development shall not commence until details of 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 pursuant to the advice in the NPPF 2012.

11. Notwithstanding the details on drawing no. K120413/ES001revA received 28/08/2012 the development shall not commence until details of the proposed lighting scheme have been submitted to and approved by the local planning authority. The details submitted for approval shall include;

- i) the submission of lighting contour plots showing the site and adjoining development;
- ii) sufficient detail to demonstrate that the proposed scheme complies with the recommendations of the Institute of Lighting Engineers 'Guidance Notes for reduction of Obtrusive Light' for sites located in Environmental Zone E3 and;
- iii) measures to demonstrate that light spillage into the proposed landscaped area has been minimised.

The development shall be carried out in accordance with the subsequently approved details and maintained thereafter.

Reason: In the interests of the character of the area, ecology and the amenity of nearby residents pursuant to policy ENV49 of the Maidstone Borough-wide Local Plan 2000 and the advice in the NPPF 2012.

12. No development approved by this permission shall commence until the applicant has submitted a report containing details of assessment of noise from nearby industrial activities and of any scheme necessary for the attenuation of audible sound affecting the residential amenity of occupiers of the dwellings.

The assessment of noise from the industrial activities should be judged against the guidance in BS 4142:1997 'Method for Rating Industrial Noise in mixed Residential and Industrial Areas.' This would provide a prediction of the expected noise rating levels, in order that the likelihood of complaints arising from the

adjacent industrial units may be assessed.

Any necessary attenuation scheme shall ensure that the rating level of noise, at the relevant time, does not exceed the pre-existing background noise level at the proposed dwellings.

The subsequently approved scheme shall be fully implemented prior to the first occupation of the affected dwellings and maintained thereafter.

Reason: In the interests of the amenity of the occupiers of residential properties pursuant to the advice in the NPPF 2012.

13. Notwithstanding the details shown on drawing no.s K11/0367/010revA and TD578/02revD the indicated 1.8m high pallisade fence shall be substituted with a green coloured weldmesh fence of 1.8m in height.

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

14. The development hereby permitted shall be carried out in accordance with the following approved plans:
K11/0367/100revA, 101revB, 102revB, 200revA, 201revB, 202revB, 300revA, 301revB, 302revA, 400revA, 401revA, 402revD, 403revD and SJA/TCP/11136-01received 22/08/2012 and drawing nos. K11-0367010revA and TD578/02revD received 19/12/2012.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with the advice in the NPPF 2012.

Informatives set out below

When designing the lighting scheme for the proposed development the recommendations by the Bat Conservation Trust must be considered (where applicable)

- a) Low-pressure sodium lamps or high-pressure sodium must be used instead of mercury or metal halide lamps where glass glazing is preferred due to its UV filtration characteristics.
- b) Lighting must be directed to where it is needed and light spillage avoided. Hoods must be used on each light to direct the light and reduce spillage.
- c) The times during which the lighting is on must be limited to provide some dark periods. If the light is fitted with a timer this must be adjusted to the minimum to reduce the amount of 'lit time'.

- d) Lamps of greater than 2000 lumens (150 W) must not be used.
- e) Movement sensors must be used. They must be well installed and well aimed to reduce the amount of time a light is on each night.
- f) The light must be aimed to illuminate only the immediate area required by using as sharp a downward angle as possible. This lit area must avoid being directed at, or close to, any bats' roost access points or flight paths from the roost. A shield or hood can be used to control or restrict the area to be lit. Avoid illuminating at a wider angle as this will be more disturbing to foraging and commuting bats as well as people and other wildlife.
- g) The lights on any upper levels must be directed downwards to avoid light spill and ecological impact.
- h) The lighting must not illuminate any bat bricks and boxes placed on the buildings or the trees in the grounds

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 in connection with the construction of the development hereby permitted 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.

The developer may be required to produce a Site Waste Management Plan in accordance with Clean Neighbourhoods and Environment Act 2005 Section 54. As per the relevant act and the Site Waste Management Regulations 2008, this should be available for inspection by the Local Authority at any time prior to and during the development.

The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside the normal working hours, cannot be stressed enough. Where possible, the developer shall provide the Council and residents with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work, for example scaffolding alarm misfiring late in the night/early hours of the morning, any over-run of any kind.

Attention is drawn to the COPA 1974 sections 60 & 61. The Council will normally expect contractors to adhere to the Guidance Note for Contractors contained in the Associated British Standard COP BS 5228:2009 for noise control on construction sites which includes such matters as hours of noisy working, working practices and public relation with local residents. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the EHM regarding noise control requirements.

No burning shall take place on site.

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 does not conform with policy ED1 of the Maidstone Borough-wide Local plan 2000, however given the lack of interest in employment redevelopment and the immediately adjacent residential development a departure from that policy would be likely to result in only minor harm. The provision of affordable housing within this site at this point in time is considered to be of overriding benefit to justify a departure from this policy of the Development Plan, subject to appropriate conditions.

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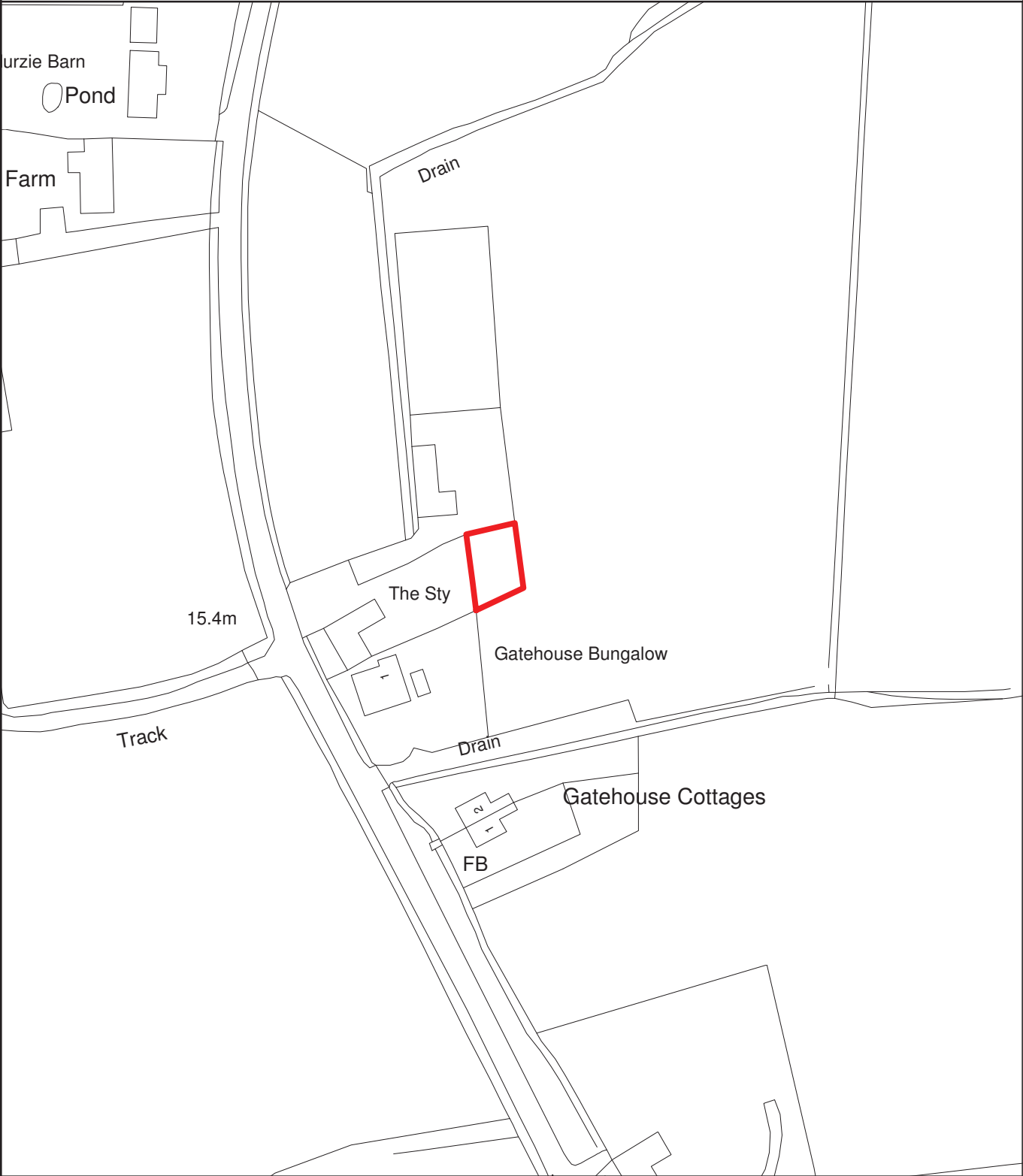
Agenda Item 16

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/1797

GRID REF: TQ7346

THE STY, HUNTON ROAD,
MARDEN.



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Rob Jarman
Head of Planning

APPLICATION: MA/12/1797 Date: 2 October 2012 Received: 15 March 2013

APPLICANT: Mr Mark Ansell

LOCATION: THE STY, HUNTON ROAD, MARDEN, TONBRIDGE, KENT, TN12 9SQ

PARISH: Marden

PROPOSAL: A retrospective application for the extension of garden land at The Sty, Hunton Road, Marden as amended by revised application site area on plan date stamped 15 March 2013.

AGENDA DATE: 6th June 2013

CASE OFFICER: Amanda Marks

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: ENV6, ENV28, H31
- Government Policy: The National Planning Policy Framework 2012

2. HISTORY

MA/11/1008 THE STY, HUNTON ROAD, MARDEN Variation of conditions 1 & 2 of planning permission MA/08/2029 (retrospective application for the change of use of land from mixed use for parking of a touring caravan and keeping of horses to parking of a touring caravan, a mobile and keeping of horses) REFUSED 11/08/2011 APPEAL DISMISSED

MA/08/2029 THE STY, HUNTON ROAD, MARDEN Retrospective planning application for the change of use of land from mixed use for parking of a touring caravan and keeping of horses to parking of a touring caravan, a mobile and keeping of horses

REFUSED 24/12/2008 APPEAL ALLOWED

MA/06/2183 THE STY, HUNTON ROAD, MARDEN Retrospective planning permission for tarmac surfacing of type 1 and fill, surfaced hard standing to garage and stable block APPROVED 1/02/07

MA/06/2182 THE STY, HUNTON ROAD, MARDEN Retrospective planning permission for extension to garage/stable block, insertion of roof vent to stable and addition of a security light to garage APP 24/1/07

MA/06/2136 THE STY, HUNTON ROAD, MARDEN Retrospective planning application for the change of use of land from keeping of horses to a mixed use for parking of a touring caravan and keeping of horses APP 17/1/07

MA/99/1726 THE STY, HUNTON ROAD, MARDEN Change of use of land to the keeping of horses, the erection of a private stable block and garage and the construction of a private sand ménage APP 4/2/00

SITE HISTORY CONSIDERATIONS

Deliberations of the Planning Inspectorate in Dismissing the appeal on application MA/11/1008

The application site has a fairly lengthy planning history as set out above. This application is for a different site area than previously considered and has been substantially scaled down since its original submission. The type of application also differs from previous submissions and therefore so does the planning policy which is needs to be considered against – this will be further explained in the main body of the report.

3. CONSULTATIONS

- 3.1 **Parish Council:** first set of comments; Councillors would like to see the application refused because:
- i) There is no justification included with the application
 - ii) The application is not valid because section 25 on the form has not been signed
 - iv) We understand that this application is retrospective and thus planning enforcement needs notifying.

Re-consultation: wish to see the application refused and request it be reported to planning committee. The PC consider this to be an encroachment into the open countryside and are concerned that no justification for the works being proposed has been given.

4. REPRESENTATIONS

- 4.1 One neighbour letter initially raising objection on the grounds that this application is retrospective. Further comments received after reconsultation from the same neighbour stating that if the applicant is granted planning permission to extend their residential curtilage then this will enable them to relocate an existing ancillary mobile home in their garden which will cause harm to the rural and general open character and appearance of the area. This would be in direct conflict with the development plan and as suggested by the Planning Inspector.

The same objector also raised issues relating to procedural matters relating to the planning application which have been responded to by the case officer.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site is located in the open countryside in the Parish of Marden. The site lies on the eastern side of Hunton Road to the north-west of Marden village centre. The main dwelling is a detached bungalow which is set back from Hunton Road by approximately 5metres. To the north/north east of the bungalow lies a ménage, stable block and garage. The site does not fall within any specific designation within the local plan, although it is within Flood Zone 3a.
- 5.1.2 To the south of the appeal site is a detached bungalow, and beyond this a pair of semi-detached cottages; to the north, east and west of the applicant's land are open fields and hedgerow boundaries of varying thickness and height. The rear curtilage of the bungalow contains a substantial amount of hard standing and it is not obvious where the lawful 'garden land' finishes and the other uses relating to the stabling start. Ariel photographs and Ordnance survey data has been relied upon to ascertain the lawful extent of the existing garden land.

5.2 Proposal & Site History

- 5.2.1 Planning permission is sought to extend the existing lawful garden land at the rear of the bungalow by an additional 10m in depth. The characteristics of the site at present already gives the appearance that this additional area of land

does form part of the garden. The additional area of land would be 17m wide initially and taper to 15m when reaching the end of the 10m length. The application originally proposed to change the use of an area roughly 'L' shaped and over double the size of the amended scheme. The original scheme also extended east beyond the rearmost line of the approved ménage and into the open field beyond.

- 5.2.2 Planning application MA/08/2029 was refused as the applicant's wished to site a mobile home in the open countryside on land to the east of the stables. The planning inspector allowed the appeal for a temporary period of two years as additional accommodation ancillary to the bungalow. The Council then refused permission to retain the mobile home permanently under application MA/11/2008; again the applicant appealed and this time the appeal was dismissed on the grounds of harm to the countryside.
- 5.2.3 An enforcement notice required the applicant to remove the mobile from the site and cap all services. This was duly done and checked on site by planning enforcement. The applicant moved the mobile to within their lawful garden where it does not require planning permission. However, this means that the mobile home is immediately adjacent to the neighbouring property on the southern boundary. In order to mitigate the impact on the neighbour and also to minimise the impact on the Sty, the applicant seeks a solution.
- 5.2.4 It is important to appreciate that this application is different to those previously considered as it is the first time that the applicant has sought a change of use to garden land.

5.3. Principle of Development

- 5.3.1 The main issue for consideration is the acceptability of the proposal when considered against Policy H31 of the Maidstone Borough Wide Local Plan 2000. This policy states:

"Planning permission will not be granted for the change of use of agricultural land to domestic garden if there would be:

- (1) Harm to the character and appearance of the countryside; and/or*
- (1) Loss of the best and most versatile agricultural land.*

- 5.3.2 In this instance the land in question does not form part of an agricultural holding, the parcel of land has been under hard core for a significant period of time and incorporated within the lawful garden for a number of years. With regard to the visual impact of the change of use, this in itself would be substantially unchanged from the existing site appearance. Views are also

limited to from the rear of the site and the neighbouring properties; there are no far reaching or public views of the site which is also well screened from Hunton Road by the existing dwelling.

5.3.3 Policy ENV28 of the MBWLP 2000 also affords protection to the countryside. Due to the characteristics of the site (further explored below) it is not considered that this policy would be compromised.

5.3.4 The parcel of land now being considered relates well to the existing garden land pertaining to the Sty. As an extension to the existing garden it follows the width of the existing and does not encroach beyond the field margin previously referred to.

5.3.5 In terms of the principal of the proposal this is considered to accord with Policy H31.

5.4 Visual Impact

5.4.1 As suggested already in this report, the application has limited visual impact within the locality. The change of use will not significantly encroach into the countryside. For the reasons stated, the mobile home is not for consideration as part of this application. However, the current position of the mobile is not ideal as in my opinion it does compromise the amenity of the neighbour at the gatehouse bungalow. It is my understanding that if this application is permitted, then the applicant will be moving the bungalow onto the extended garden area. I consider this a far more satisfactory arrangement than the previous location which did not relate well to the residential curtilage of the Sty.

5.4.2 The setting of the Sty and the land which belongs with it will not be compromised by this proposal. Along with the Sty, there is a fair amount of hardsurfacing which relates to the stables, ménage and agricultural use of the field beyond. This is immune from enforcement action and therefore will remain. The visual appearance of the overall site from close proximity is therefore clinical but cannot be altered through the planning process. With this in mind the visual appearance of the change of use is negligible.

5.4.3 Due to the existing 'lawful' hardstanding that remains elsewhere on the site, it is not realistic to require additional planting on the application site boundaries by way of condition. However, by way of an informative the applicant should be encouraged to break up some of the 'historical hardsurfacing' and provide a more attractive setting for his property.

5.5 Other Matters

- 5.5.1 With regards to the initial comments of the parish council, I advise as follows:
The applicant is not required to justify the reason for the planning application;
section 25 has now been signed on the application form; planning enforcement
are fully aware of this site and have undertaken recent site visits.
- 5.5.2 With regard to the second set of comments from the Parish, it is not considered
that the proposal would result in encroachment into the open countryside for the
reasons set out earlier in this report.
- 5.5.3 There has been planning history with this site as raised by the immediate
neighbour, but the current planning application must be considered on its merits
and against the relevant planning policy.
- 5.5.4 It is understood that since the case officer's most recent visit to the site, that the
applicant has undertaken some substantial boundary planting and initial works in
anticipation of moving the mobile home. The additional planting does not
require planning permission and until such time that this application is
determined it would not be appropriate to take enforcement action on any
'enabling' work.

6. CONCLUSION

- 6.1 In light of the above considerations I consider that the proposal to change the
use of the land to garden land is acceptable and in accordance with policy.

7. RECOMMENDATION

GRANT PLANNING PERMISSION:

Informatives set out below

The applicant is encouraged to improve the land outside the application site by
breaking up the hardstanding previously laid where the mobile home was
formerly sited and implementing a thorough landscaping scheme using native
species.

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 application was approved without delay.

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, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and there are no overriding material considerations to indicate a refusal of planning consent.



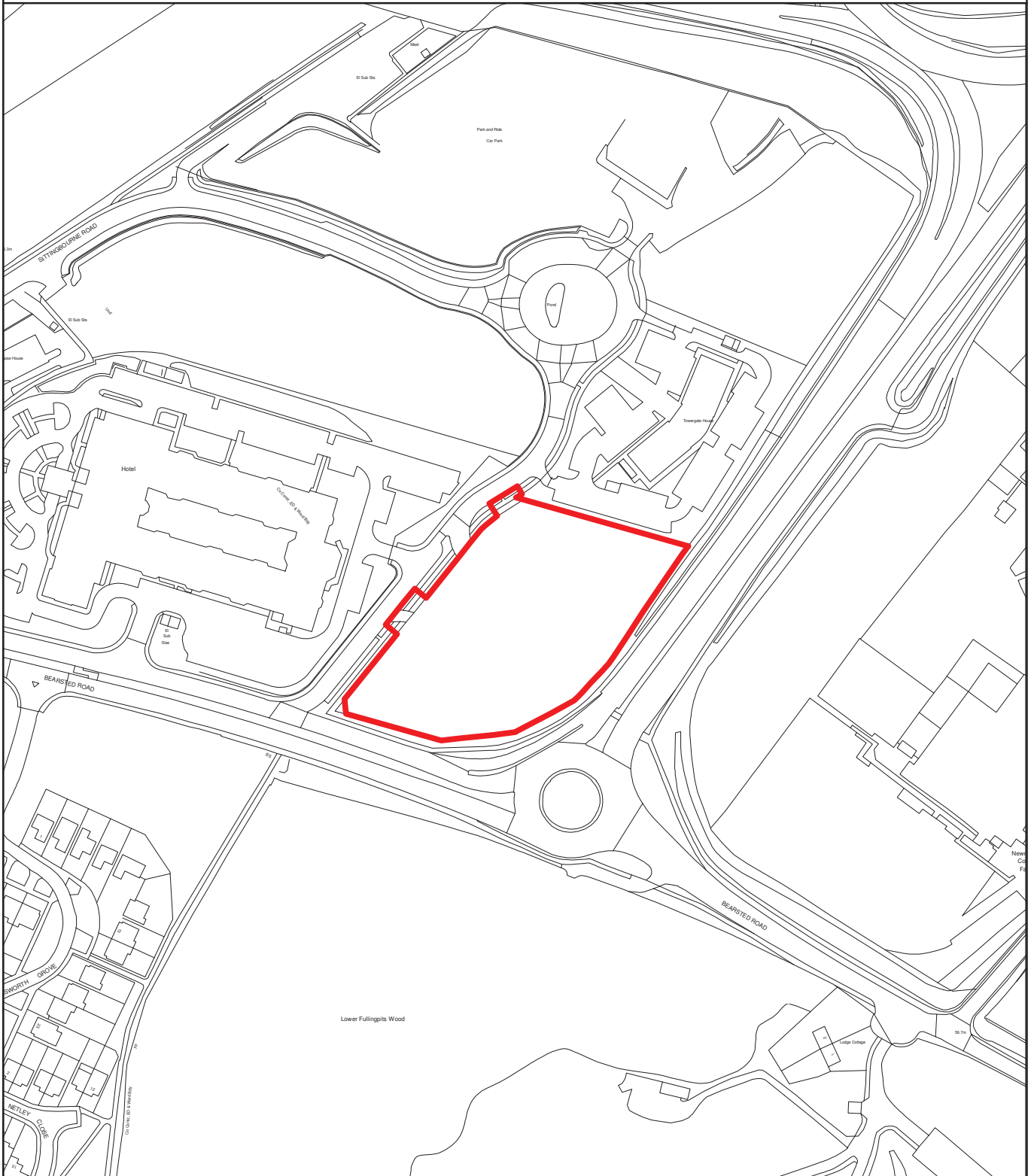
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THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/2314

GRID REF: TQ7757

PLOT 4 ECLIPSE PARK, SITTINGBOURNE ROAD,
MAIDSTONE.



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Rob Jarman
Head of Planning

APPLICATION: MA/12/2314 Date: 24 December 2012 Received: 2 January 2013

APPLICANT: Gallagher Props. Ltd & Next Group Plc.

LOCATION: PLOT 4, ECLIPSE PARK, SITTINGBOURNE ROAD, MAIDSTONE, KENT, ME14 3EN

PARISH: Boxley, Maidstone

PROPOSAL: Erection of Class A1 retail development (with ancillary cafe) and associated servicing, car parking, landscaping and access arrangements as shown on drawing nos. NEXT001revL (Floor plan), 2009/12/B/4 (location of viewpoints), 9504-500revP1 (Highways scheme plan), 9504-513revP2 (Highway sign marking 1 of 2), 9504-514revP6 (Highway sign marking 2 of 2), Retail Statement, Planning Statement, Transport Statement, Travel Plan revB, Phase One Habitat and Ecology Appraisal, Statement of Community Involvement, Land Contamination Preliminary Risk Assessment, Office Accommodation Supply and demand in Maidstone, CONFIDENTIAL Business Case Report received 02/01/2013 as amended by drawing nos. 5320/LP01revB (Site location plan), 5320/P21revB (Site layout plan), 5320/P101revG (Front and rear elevations), 5320/P102revG (East and West elevations), 5320/P108 (Artist views), 5320/P109revA (Artist views), 5320/P112revD (Cross section through site), Design and Access Statement, External Lighting statement, Transport Update Note, Foul and Surface Water Drainage Statement and drawing no. A1598-610revP6 (Drainage) received 15/02/2013 and further amended by drawing nos. 13-01-01revA (Illustrative Landscape Masterplan) received 07/05/2013 and 13-01-03 (Examples of planting) received 10/05/2013.

AGENDA DATE: 6th June 2013

CASE OFFICER: Steve Clarke

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

- It is a departure from the Development Plan. The site is allocated for Class B2 (general industrial) uses in the Maidstone Borough-wide Local Plan (2000). The application proposal is for Class A1 retail.
- It is a major/controversial application
- Councillor Naghi has requested it be reported for the reason set out in the report

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV49, ED1, T13, T17, R2, R3 Government Policy: NPPF 2012, Ministerial Planning for Growth Letter; Practice guidance on need, impact and the sequential approach (December 2009).

2. HISTORY

2.1 Previous planning history relevant to the current application site is as follows:-

- MA/13/0389: Application for a new permission to replace an extant planning permission MA/10/0389 in order to extend the time limit for implementation of the outline planning permission for B1 and B2 development to include the renewal of the extant reserved matters approvals for plots 6, 7 & 8 (MA/01/0249/05, MA/01/0249/06 and MA/01/0249/07 respectively): APPROVED 22/04/2013
- MA/12/0021: Application to remove condition 2 of planning permission MA/11/0242 (An application for new planning permission to replace extant planning permission in order to extend the time limit for implementing planning permission MA/08/1732 (outline planning permission for the erection of a B1a Office building with access to be considered at this stage and all other matters reserved for future consideration): UNDETERMINED (Subject to Holding Direction preventing determination from the Highways Agency)
- MA/11/0242: An application for new planning permission to replace extant planning permission in order to extend the time limit for implementing planning permission MA/08/1732 (outline planning permission for the erection of a B1a Office building with access to be considered at this stage and all other matters reserved for future consideration): APPROVED 05/04/2011
- MA/10/0389: An application for a new planning permission to replace an extant planning permission in order to extend the time limit for implementation of outline permission MA/05/1871 for B1 and B2 development: APPROVED 04/06/2010
- MA/08/1732: Outline planning permission for the erection of a B1a Office building with access to be considered at this stage and all other matters reserved for future consideration: APPROVED 22/01/2009
- MA/07/1851: Application to discharge the Section 106 Agreement dated 15th March 2002 attached to the outline planning permission reference MA/01/0249 (for the erection of buildings for use for the purposes of either class B1 or B2).

This would allow all new development on the premises to fall within use classes B1(a), B1(b), B2(c) and B2 of the use classes order without a stipulation on the quantitative split between these uses (currently no more than 40% B1(a) and at least 60% falling within classes B1(b) and B2(c) of the use classes order): APPROVED 07/08/2008

- MA/07/1776: Formation of a new one-way "in" access from Bearsted Road and reconfiguration of access arrangement to Hilton Hotel with associated landscaping: APPROVED 12/11/2007
- MA/07/0255: Erection of building for the use as regional offices, servicing (including MOT's) sale and display of motor vehicles, parts and other ancillary uses and laying out of parking, creation of new one way 'in' access off Bearsted Road and reconfiguration of hotel parking and access arrangement: WITHDRAWN 02/11/2007
- MA/07/0216: Erection of building for use as regional offices servicing (including MOT's) sale and display of motor vehicles, parts and other ancillary uses and laying out of parking: WITHDRAWN 02/11/2007
- MA/05/1871: Variation of condition 1 of planning permission MA/01/0249 (outline application for erection of buildings for employment purposes - class B1 and class B2 with access and car parking to extend the time within which the development may commence and for imposition of a revised condition 1 to allow a further period in which to submit details pursuant to the outline planning permission: APPROVED 15/11/2005
- MA/05/0869: Erection of a car show room and workshop, and associated parking and landscaping: WITHDRAWN 24/08/2005
- MA/04/0258: Variation of condition 11 of planning permission MA/01/0249 (outline application for the erection of buildings for employment purposes, class B1 and class B2, with access and car parking) to allow development to commence before a Section 278 Highways Agreement is completed: APPROVED 05/04/2004
- MA/01/0249: An outline application for erection of buildings for employment purposes (class B1 and class B2) with access and car parking, with all matters reserved for future consideration: APPROVED 15/03/2002

3. CONSULTATIONS

- 3.1 **Boxley Parish Council:** made the following comments in respect of the originally submitted proposals:

3.1.1 'Having carefully considered; the application; traffic issues; the employment that will be bought to the site which has been undeveloped for 10 years and the impact of such a prestigious development for a gateway route into the county town the parish council's response is

Do not wish to object however there are concerns about;

- The impact of traffic.
- Impact on the town centre.
- Light pollution impact on the AONB;
- Impact on the surrounding area.

If the planning officer was minded to grant permission then the following conditions/investigation should be considered;

- A robust examination of the green travel plan with a condition included in any permission granted to ensure that this plan is adhered to.
- It is requested that there is a change to the traffic layout being planned for the new junction as it is considered that the introduction of traffic lights will seriously impact on the current traffic flow adding to the considerable congestion experienced in the area. A one way flow system through Eclipse Park, possibly in from Bearsted Road out at Sittingbourne Road, would negate the need to have 'cross over traffic lights' at the proposed new junction utilise existing road infrastructure and reducing expenditure.
- Require a lighting design that compliments the area and negates light pollution.
- It is understood that there has been a change in the location of the store and that this will allow more perimeter landscaping and this is welcomed. It is requested that vertical green walls are introduced to soften the impact of the building.
- A condition should be introduced to ensure that the applicant cooperates with other local developers to look towards establishing and maintaining bus services to link said developments with the town centre and park and ride.
- A robust investigation into the Retail Impact Assessment to ensure that there is no substantial impact on the town centre retail.
- The issue of traffic and the possible development of plot 4 for retail should be referred to the Integrated Transport Strategy Consultation review.'

3.1.2 Following receipt of amended plans moving the location of the building within the site the following additional comments were made by Boxley Parish Council:-

'The amended details have been noted and the parish council makes the following comments.

No objection to the new position of the building.

The parish council has been made aware that there is a major issue concerning parking in the local residential area (East Ward) opposite the proposed development. This is due to the inadequate provision of car parking for the existing businesses on the site; it is also believed that many staff and visitors to Eclipse Park use spaces in the park and ride. It is noted that only four car parking spaces have been designated for staff at the

proposed NEXT development and the parish council would like assurances that this problem has been thoroughly investigated so to ensure that NEXT employees do not add to the problems of vehicles parked in the neighbouring residential areas; on verges in the old part of Sittingbourne Road and in the park and ride. It is acknowledged that there is a green travel produced for this site and it is requested that MBC ensures that it is adequate for the purpose and if so that it is rigorously enforced.'

3.2 Highways Agency: Offers no objection to the application having considered the transport assessment and the addendum to the transport assessment submitted by the applicants.

3.2.1 The Agency has considered, mitigation schemes, outputs in Passenger Car Units (PCUs), Trip generation, M20 Junction 7 modelling, A249 Bearsted Road/M20 link road roundabout modelling to ascertain the potential traffic impact on the adjacent section of the Strategic Road Network (the M20 Motorway) for which they are responsible.

3.2.2 The Agency's comments on traffic impact are as follows

1. As requested by the HA, the Addendum TA presents an analysis where the baseline models for M20 Junction 7 have been re-run to include the mitigation layout previously considered in the full TA. We have noted previously that the critical period in relation to the operation of M20 Junction 7 is the weekday PM peak hour (17:00 to 18:00 hours).
2. On the key M20 (West) arm, during the critical 2022 weekday PM peak hour the existing permitted development and the proposed retail development are seen to result in an increase in queue on the coast bound off slip, offside lane, from 56.0 PCUs to 103.8 PCUs. It is acknowledged that this is in part owing to committed development on the wider Eclipse Park site. The applicant sets out that the permitted offices are seen to extend the queue on this arm to 105.9 PCUs, whereas the proposed retail development would result in a lesser increase at 103.8 PCUs.
3. We are content to accept the applicant's argument that the proposed retail development is forecast to result in lesser impacts on the operation of the junction compared to the permitted office development on Plot 4.
4. For A249 Bearsted Road / M20 link Road roundabout, the Addendum TA also re-runs the baseline assessment assuming the infrastructure modifications committed through the Eclipse Park Hotel and Plot 4 permissions are in place. It is clear from the results that the benefit from the Plot 4 mitigation proposals are significant as in both the current and future years the junction is forecast to be operating largely within capacity.
5. We note also that the full TA shows that the committed development pushes the junction (with improvements) over capacity in all periods, although the retail development impacts are not material when compared to the permitted Plot 4

scenario. We can agree that the impacts of the proposals are satisfactorily mitigated through the introduction of the junction modification scheme already permitted.'

3.2.3 The Agency conclude as follows

'We are content that the Transport Assessment has been prepared in accordance with best practice, and presents a robust forecast of trips generated on the SRN.'

The applicant has set out that the total trip attraction from the retail development as a whole remains unlikely to exceed that generated by the permitted office development. Our checks on the trip generation used for the proposal suggest that this is an acceptable analysis. We have undertaken a review of the modelling work used to support the applicant's conclusions and have found the work to be generally satisfactory, with particular respect to the M20 J7.

With the Plot 4 mitigation proposals in place, we are satisfied that the revised proposals will not have a material effect on the operation of the SRN.'

3.2.4 No further comments were made on the revised details.

3.3 **Kent Highway Services:** Raise no objections

3.3.1 Detailed comments are as follows:

'The site has extant permission for 6,400m² of B1 office development but currently remains vacant. Access is gained via a left-turn in only route from the A249 Bearsted Road and egress via an internal route through Eclipse Park which links to the Chiltern Hundreds Roundabout.

Footways, with associated crossings and street lighting, are provided between the site and the local residential areas of Vinters Park, Grove Green, Bearsted and Penenden Heath. A Regional Cycle Route links the site to Maidstone Town Centre via Hampton Road.

Bus services can be accessed from Hampton Road, Bearsted Road or the nearby Park and Ride site. The northbound bus stop on Hampton Road is currently unsheltered and it is considered appropriate for the applicant to provide a shelter at this location to promote the use of public transport by Next employees and customers. It is also considered appropriate for the applicant to provide a contribution to the upgrading of bus stop infrastructure and information at the Park and Ride site to promote linked trips into Maidstone Town Centre by customers. It is recommended that both of these measures are secured by condition.

The installation of an all-movements signal junction at the existing left-turn in only access on Bearsted Road was approved with the previous Plot 4 office permission. This scheme has gained Stage 2 detailed technical approval and is therefore capable of being delivered in the near future, subject to the relevant highway works notifications. The Plot 4 proposal also includes improvements to the Chiltern Hundreds and Bearsted Road

Roundabouts, as well as a scheme of mitigation on the M20 Junction 7 coast-bound off slip, which is currently undergoing Stage 1 approval with the Highways Agency.

Three-year Personal Injury Accident data has been sourced for the area surrounding the application site and it is concluded that there is no existing road safety problem which could be exacerbated by the development proposals, which KCC Highways accepts.

The Transport Assessment has been based on a Gross Floor Area for the store of 5,885m²; however this has since been reduced to 5,748m², which has provided for a robust assessment of the proposals.

A total of 167 customer parking spaces are proposed, together with 4 employee only spaces within the service yard. A parking accumulation exercise has been undertaken to demonstrate that the proposed supply exceeds the envisaged peak demands. Nevertheless, it is recommended that the number of employee only spaces is increased if possible to further reduce the potential for overspill onto the public highway. A total of 14 cycle parking spaces, 9 motorcycle parking spaces and 10 mobility impaired parking spaces are proposed; all of which are in accordance with KCC standards.

A vehicle swept path analysis has been provided to demonstrate that both articulated and rigid service vehicles could enter, turn and leave the service yard in a forward gear.

The TRICS database has been used to forecast the trip attraction of the proposed development, using the parameters agreed with KCC Highways at pre-application stage.

The total development weekday trip attraction is presented as follows:-

Period	Arrivals	Departures	Total
AM Peak 08:00-09:00	22	10	33
PM Peak 17:00-18:00	51	55	106
Daily 07:00-19:00	749	777	1525

The total development weekend trip attraction is presented as follows:-

Period	Arrivals	Departures	Total
INTER 12:00-13:00	145	136	280
INTER 13:00-14:00	153	143	296
INTER 14:00-15:00	170	154	324
INTER 15:00-16:00	164	168	331
Daily 07:00-19:00	1179	1170	2348

Mode share data derived from TRICS indicates that 95% of trips to the site would be by car, which is consistent with the sale of bulk goods and the good level of accessibility to the strategic highway network. It is acknowledged in the Transport Assessment that the

development would draw mainly 'new' and 'pass-by' trips, along with a limited number of 'transferred' trips, given that there are no similar retailers in the near vicinity of the site. TRICS Research Report 95/2 – Pass-by and Diverted Traffic has been used to calculate the proportion of primary and non-primary trips that may be attracted to the site on weekdays and weekends respectively.

The total development weekday trip attraction by trip type is presented as follows:-

Period	Arrivals	Departures	Total
<i>Primary</i>			
AM Peak 08:00-09:00	22	10	33
PM Peak 17:00-18:00	32	34	66
Daily 07:00-19:00	546	567	1114
<i>Non-primary</i>			
AM Peak 08:00-09:00	0	0	0
PM Peak 17:00-18:00	19	21	40
Daily 07:00-19:00	202	210	412

The total development weekend trip attraction by trip type is presented as follows:-

Period	Arrivals	Departures	Total
<i>Primary</i>			
INTER 12:00-13:00	133	125	258
INTER 13:00-14:00	141	131	272
INTER 14:00-15:00	156	141	298
INTER 15:00-16:00	151	154	305
Daily 07:00-19:00	1084	1076	2160
<i>Non-primary</i>			
INTER 12:00-13:00	12	11	22
INTER 13:00-14:00	12	11	24
INTER 14:00-15:00	14	12	26
INTER 15:00-16:00	13	13	27
Daily 07:00-19:00	94	94	188

On the basis of the primary trips presented above, which would be new to the local highway network, the residual trip generation has been calculated by deducting the consented office trips from the primary retail trips, as follows:-

Period	Arrivals	Departures	Total
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Weekday			
AM Peak 08:00-09:00	-91	0	-91
PM Peak 17:00-18:00	18	-52	-35
Daily 07:00-19:00	174	222	396
Saturday			
INTER 12:00-13:00	133	125	258
INTER 13:00-14:00	141	131	272
INTER 14:00-15:00	156	141	298
INTER 15:00-16:00	151	141	298
Daily 0700:1900	1084	1076	2160

The development would generate fewer trips in the weekday morning and evening peak hours compared to the consented office use. There would be no residual offset at weekends, although these trips would occur at times when the local highway network would be less heavily trafficked relative to weekdays. The retail trip distribution and assignment has been calculated on the basis of the Retail Assessment for the application. This indicates that 64% of trips will route via M20 Junction 7, with the remainder routeing via local roads.

Junction capacity assessments have been carried out on the basis of fully classified turning count survey data. This data has been extrapolated to the horizon year of 2022 using TEMPROv.6.2 and consideration has been given to the committed developments at Eclipse Park, the KIMS Hospital at Newnham Park and the Maidstone Studios, in line with the previous Plot 4 and Hotel planning applications. The junction capacity assessments provide a direct comparison between the permitted but unimplemented Plot 4 office development and the proposed retail development.

The Transport Assessment demonstrates that all junctions other than the Chiltern Hundreds Roundabout would experience a reduction in weekday peak traffic relative to the permitted office development. There would be an increase in Saturday peak hour traffic as the offices would not be operational at this time. However, the local junctions are predicted to operate with no significant increase in average delay in all scenarios with the modifications already committed for Plot 4 in place and the introduction of a left filter arrow on the side road arm of the new Bearsted Road / Eclipse Park signal junction. This further improvement would need to be secured by condition.

KCC Highways has recently raised concerns with Gallagher Properties Ltd regarding the queue on the Bearsted Road east arm of the new Bearsted Road / Eclipse Park signal junction and its potential interaction with the Bearsted Road Roundabout.

However, the LinSig modelling output presented within the Transport Assessment demonstrates that the amount of available queuing space is approximately 12.0 Passenger Car Units (PCUs) and that the mean maximum queue in 2022 is not expected to exceed 7.9 PCUs (during the weekday morning peak hour).

A Draft Travel Plan has been submitted with the application; the success of which will be monitored by way of an annual or bi-annual travel survey using KCC's iTrace survey tool. A monitoring fee of £5,000 will be required by KCC for this purpose and should be secured by condition.

I can therefore confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority.'

- 3.3.2 The suggested conditions relate to the provision of parking for construction vehicles and site operatives/unloading and delivery space, measures to prevent discharge of surface water onto the highway, provision prior to the opening of the store and on-going maintenance of parking spaces to serve the development and the provision of the service yard/delivery area prior to the store opening and its ongoing maintenance, cycle parking provision, provision of a north-bound bus shelter on Hampton Road and improvements to bus stop infrastructure and information at the Sittingbourne Road Park & Ride Site, provision of the agreed package of highway mitigation works at the Bearsted Road Roundabout, Chiltern Hundreds Roundabout, the eastern Eclipse Park site access and the M20 Junction 7, as per the previously permitted Plot 4 development and submission of a Business Travel Plan, which shall include measures for its implementation, monitoring, review and subsequent enforcement, for approval by the local planning authority in consultation with the highway authority, along with a monitoring fee of £5,000.

3.4 **KCC Biodiversity:** Do not object and make the following detailed comments

- 3.4.1 'The Extended Phase 1 Survey and BREEAM Ecological Assessment report has been submitted in support of this application. The majority of the site has been classified in the report as arable grassland which has been recently scarified. However, the photographs within the report show short rough grassland cover across the site; the photographs may have been taken prior to the site visit as there is no evidence of bare earth, as stated in the report.

Given the status of the site at the time of survey, the conclusion that the 'arable grassland' area of the site is of limited ecological value is reasonable. The hedgerows and scrub woodland contain a range of flora and are of site value. They also have potential to support additional species, including those that are legally protected.

No plan of the ecological assessment findings has been included in the report so the extent of the identified habitats is unclear, as is the potential level of impact. We note the intention to retain existing trees and shrubs on the boundary of the site but advise that clarification is sought as to whether there will be any loss of habitat, particularly if these features encroach onto the proposed area of development.

There is a pond present to the north-west of the site which is not identified in the ecological assessment. We advise that this pond is assessed for its value, including the potential for it to support great crested newts.

While we agree with the conclusion that the potential for reptile use of the site is limited to the boundary features, we do not agree that there is insufficient connectivity from the site to other available habitat; aerial photographs of the site show that there is connectivity around the edges of the Eclipse Park complex and the Park and Ride site to the Heath Wood area where reptiles are known to occur.

The development appears to extend to almost the edges of the site, potentially resulting in some loss of edge habitat that supports reptiles. We advise that the potential for impacts to reptiles as a result of the proposals is reconsidered. The aim should be to retain areas of suitable habitat within the design of the proposed development to ensure that impacts to the local population of reptiles, if present, are minimised.

One of the principles of the National Planning Policy Framework is that "opportunities to incorporate biodiversity in and around developments should be encouraged". Some recommendations are provided, with a particular focus on retaining and enhancing the existing boundary features and incorporating bird and bat boxes into the design of the proposed building. Of additional benefit would be the provision of a rough grassland buffer strip around the site.

While the ecological report does not recommend the provision of a pond, one is included in the landscaping plan in the north-east corner of the site. If the purpose of this water-body is to provide ecological enhancement, we advise that the currently proposed large shrub/tree planting will limit the potential ecological value. We also query whether any planting is proposed for the pond itself. The pond is not shown on the proposed drainage strategy for the site, but it is immediately adjacent to a soakaway trench. We advise that confirmation is sought as to whether the pond is designed to provide some additional SuDS function, and whether it is appropriately located to avoid pollution if its core purpose is biodiversity enhancement.

There is a wide variety of species included in the proposed planting, many of which are native species, the inclusion of which we support.'

3.5 **Environment Agency:** No objections. The following comments were made:-

- 3.5.1 'The report has been written in line with relevant Environment Agency guidance. Based on the information which is provided, we agree with the conclusions that there are no apparent sources of contamination. Therefore we consider that planning permission could be granted for the proposed development as submitted if the following planning condition is included as set out below. Without this condition, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

Condition: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing

with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: The site is underlain by the Folkestone formation which is designated a principal aquifer and to be compliant with the NPPF.

Informatives

Drainage

The application indicates that foul sewage will be discharged to the mains supply. If this changes then we should be consulted.

The application also indicates that surface water will be disposed of by trench soakaways. The proposed soakaways at the above location are acceptable from a groundwater protection point of view but they will need to be constructed as shallow as possible, and at this site there should be 6m between the base of the soakaway and the groundwater level.

If you wish to reduce the distance between the base of the soakaway and the groundwater level, then a risk assessment should be submitted. The risk assessment should include site specific groundwater level information and indicate how groundwater quality will not be impacted. The site is sensitive because it's located within a source protection zone and groundwater in the area is likely to feed the nearby rivers.

There should be no discharge into land impacted by contamination or land previously identified as being contaminated. There should be no discharge to made ground. There must be no direct discharge to groundwater.

Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system. A series of shallow soakaways are preferable to deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater.

Pollution prevention

All precautions must be taken to avoid discharges and spills to the ground both during and after construction. For advice on pollution prevention, the applicant should refer to our guidance "PPG1 – General guide to prevention of pollution", which is available on our website at www.environment-agency.gov.uk.

Waste

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2)

provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste.

Please also note that contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore its handling, transport, treatment and disposal is subject to waste management legislation which includes:

- i. Duty of Care Regulations 1991
- ii. The Waste (England and Wales) Regulations 2011
- iii. Hazardous Waste (England and Wales) Regulations 2005
- iv. Pollution Prevention and Control Regulations (England and Wales) 2000
- v. Environmental Permitting (England and Wales) Regulations 2010'

3.6 **Southern Water:** Have advised that there is a foul sewer in the vicinity of the site and have enclosed a plan showing its location and specified their requirements regarding the siting of development and landscaping not within 3m of the centre line of the sewer or any soakaway to be sited with 5m of the centre line of the sewer and advise the plans show a proposed soakaway too close.

3.6.1 They have requested a condition requiring details of measures to protect the public sewer to be submitted and agreed. They wish the applicants to be advised by means of an informative of the need to make a formal application for connection to the public sewer. Lastly as they note there is no public surface water sewer in the vicinity, alternative means of the disposal of surface water needs to be made. They comment on the proposed use of SUDS and advise that as these will not be adopted plans for their long-term maintenance must be secured.

3.7 **UK Power Networks:** No objections

3.8 **MBC Environmental Health:** No objections and comment as follows:

3.8.1 'The Contaminated Land report follows current best practice and we recommend a watching brief condition.

The light report appears to follow current best practice and there are no affected neighbouring residences. We have no comments to make on AONB aspect and this maybe of interest to MBC's Heritage, Landscape & Design team.

The travel plan contains some good information but does not address delivery aspects or inclusion of EV charging for customers (i.e. where transport is required this should be encouraged towards low emission vehicles). This links to our comments regarding the air quality assessment.

Air Quality - A retail operation can influence local travel routes. The supporting transport data shows 36% of traffic will be derived locally and 64% from M20. The M20 is an area of air quality exceedance. However, it is unlikely that this development will cause significant impacts to known hotspots however it could play an important role in reducing

cumulative emissions in the local area. We recommend the inclusion of an emission reduction condition or aspect to the travel plan (suggested condition provided). The current proposed travel plan goes somewhat to addressing this but needs improving to be more than a congestion focused tool.'

- 3.8.2 Conditions are suggested relating to contamination if discovered on site during construction, details of measures to reduce transport related emissions and informatives governing the need for a site waste management plan and hours of operation and conduct on site during construction.

4. REPRESENTATIONS

- 4.1 **Cllr Naghi** has requested that in the event of a recommendation for approval the application be reported to Planning Committee for the following reasons:

- It is a major application which will change the type of development that has up to now been allowed on Eclipse Park and will be of serious concern to local residents.
- Approval of retail development here will inevitably lead to similar applications for this site leading to a major out of town shopping area resulting in a massive increase in disturbance, traffic, local congestion and air pollution along one of Maidstone's Pollution Hot-spots.
- It would seriously affect existing town centre shops and the viability of our town centre.
- The design of the proposed retail unit close to the perimeter of the local roads with minimum landscaping is totally unacceptable.
- It is unacceptable for a series of environmental reasons and it also sits in the foreground of the Kent Downs AONB.

- 4.2 **County Councillor Chittenden** has made the following comments:

'As the County Councillor for Maidstone North East Division I have received numerous emails and telephone calls from residents outlining their concerns in relation to this application.

I am also very concerned about this application and in particular how it will affect the local area, and also the serious risk it puts on the viability of the Town Centre.

My concerns are as follows:

- The application is clearly contrary to Council policy i.e. the Maidstone Local Plan designates the Eclipse Park site for office and high tech uses (use classes B1 and B2) not retail.

- Approval of retail development here will inevitably lead to further similar applications for this site and the evolution of a major out of town shopping area resulting in a substantial increase in disturbance, traffic and local congestion.
- The proposed new retail warehouse and associated traffic management will exacerbate current traffic congestion, air and noise pollution being experienced in our area.
- Approval of this application may damage the commercial viability of our town centre.
- The new Government National Planning Policy Framework document champions a "Town Centre First" ethos within its retail chapter and states that new out of town shopping locations must be sustainable in transportation terms – this scheme would be completely reliant upon the car.
- Ecological justification accompanying this proposal fails to acknowledge the presence of legally protected wildlife in close proximity to the application site and this is compounded by the recent levelling of the site and destruction of resident wildlife.
- The scale and design of the proposed retail warehouse is unacceptable so close to the roadside and in the foreground of the Kent Downs AONB.
- The urban design approach with a large building set in a huge expanse of car parking allows little space for landscaping to screen and soften the proposed development.
- The proposed car park area does not feature any trees to soften its visual impact landscaping – this is totally unacceptable in this sensitive location. The extent of car parking also risks exacerbating ongoing problems with run-off onto the adjacent Bearsted Road, which is already a known surface water flooding hotspot.
- The lack of soft landscaping within the proposed layout means that a Sustainable Urban Drainage solution appears practically unachievable.
- The proposed planting scheme contains non-native plants uncharacteristic of our area with little value for wildlife.
- The development brief prepared for this site called for "green roofs", to soften the impact of any development here in long views from the Downs and reduce run-off problems. This scheme does not utilise "green roof" technology.

4.3 **Eight** representations **in support** of the application have been received including a letter of support from Locate in Kent. Comments made are summarised as follows

- This is much needed retail space along the M20 at Maidstone
- It will bring jobs during its construction and when the store is open.
- The ongoing road improvements should solve any traffic problems
- Look forward to store opening
- Will bring much needed jobs after the closure of Comet, Blockbusters, Jessops and Whatman
- Will encourage people to come to Maidstone

4.3.1 **Locate in Kent** state that Eclipse Park is one of Kent's strategic sites offering grade A commercial development opportunities in a high profile location adjacent to a key transport route. It is therefore important for Kent's offer to inward investment.

In recent years particularly since the onset of the recession Locate in Kent state they have observed the relative success in terms of active construction projects of mixed use schemes/employment areas which seek to combine quality of life/retail/leisure benefits with conventional employment generating uses.

Locate in Kent volunteers its strong support for the proposed significant investment by Next at Home on the basis that such a retail destination could be expected to boost the profile and hence wider success of Eclipse Park as one of Maidstone's premier office locations. There are a number of comparable examples around Kent where this has proved to be the case.

4.4 **Thirty-seven** representations **objecting** to the proposals including CPRE Protect Kent have been received along with forms of objection signed by the occupiers of 22 of the properties in Shaw Close, which lies to the west of Eclipse Park which were sent directly to the Leader of the Council. Objections are raised on the following (summarised) grounds.

- It is contrary to the Maidstone Borough-wide Local Plan which designates the site for B1 and B2 not retail uses
- It contravenes the National Planning Policy Framework which advises a Town Centre first approach and would decrease footfall in the town centre and weaken the local economy
- Would adversely affect legally protected wildlife
- Would harm the setting and foreground of the Kent Downs Area of Outstanding Natural Beauty (AONB)
- As anybody who has shopped in the county town over the past few years will have realised, the quantity and quality of retail outlets in the town centre is declining. The effects of the recession have led to vacant premises scattered around, not just the older shopping areas but also the Mall (Chequers Centre) and even Fremlin Walk. Competition with Bluewater, Tunbridge Wells and Canterbury is acute. It hardly seems sensible to introduce further competition at such a time. Some few years ago residents were assured that no such competition would be allowed
- The area under consideration is already struggling badly with traffic flow. Any additional traffic in the area will undoubtedly exacerbate the problem.
- People had been led to believe that this site was not available for retail outlets but for more high tech industries, attracting quality jobs. Undoubtedly, the proposed retail development will attract low paid jobs only; perhaps Maidstone deserves better when there are so many retail sites in the area empty
- If one retail outlet is allowed, others will inevitably follow, further harming the town centre
- It would already seem that the green roofs have been abandoned. The urban design is completely out of keeping with this area and the introduction of non-native plants show scant regard for the local indigenous wildlife and population

- The large areas of car parking will increase surface water run-off and flooding in the area
- The site has limited potential for transport links
- Maidstone Borough Council has sought to achieve a high level of sustainability within new commercial development, in compliance with regional and national guidance. This scheme does not incorporate sustainability innovations in terms of renewable energy generation or drainage technology
- The submitted landscaping plan footprint is not sufficient in area to mitigate for the scale of the proposed development nor is it sustainable for the trees proposed - large trees such as oak and lime require space to grow and the constraints of the proposed narrow perimeter strip left for landscaping means that the new trees are ultimately doomed. The narrow strip of land left for landscaping is insufficient to provide a wildlife network and therefore fails to comply with the NPPF - bringing no "net gain for wildlife"
- The impacts from lighting / polarising light will be negative in terms of quality of life for residents on Vinters Park estate and for wildlife within the Vinters Valley Park Local Nature Reserve - both to the immediate south of Bearsted Road
- The development will result in extra noise, litter, overspill parking and HGV deliveries all harming the amenities of nearby residents
- Adverse impact on air quality

4.5 Objections have also been received on behalf of Land Securities and Harvestore, two representations from The Mall Limited Partnership and from Maidstone Town Centre Management.

4.6 **Maidstone Town Centre Management (MTCM)** object on three main grounds, the impact on the town centre, town centre opportunities and Eclipse Park land use. There is concern that the proposed fashion lines and the 'at home' range will directly compete with the town centre retail offering and have a considerable direct impact on the town centre. They see the way forward for Maidstone is to pursue retail investment for the Town Centre to ensure its sustainability into the future and they seek the support of the Council in focussing wholly on the identification of investment opportunities which both safeguard and promote Town Centre retail capability.

4.7 MTCM state they are encouraged by the decision of the Next Group to invest in Maidstone but consider the choice of site is not correct and that they have not given sufficient consideration to undertaking the expansion in the Town Centre itself. There is sufficient available space in the Town Centre to meet Next's requirements moreover; they consider there are other possible locations on the west side of the Medway or at Maidstone East Station. Expansion by Next in these locations would complement the growth of the Town Centre as opposed to the direct competition that the current proposals would result in. They also comment on recent statements by the landowners that the strategic aim for

development on Eclipse Park is to source a mix of offices and hotel and investment opportunities. MTCM support such a strategy and understood that this was the preferred option for the Council. They urge the Council to restate this through their planning policy and strategy for the Eclipse Park site and that the Council should reject the application.

4.8 The objections submitted on behalf of **Land Securities and Harvestore** are summarised as follows:

- The companies have been in discussion with the Council regarding the redevelopment of Newnham Court for a considerable period against the background of a Strategic Site allocation for retail development. They comment that weight can be attached to the draft strategic allocation of Newnham Court as a future retail development site.

(Members will be aware that at Cabinet on 13 March 2013 the allocation of Newnham Court as a Strategic Site for retail development was approved for development management purposes)

- In relation to the sequential test set out at Paragraph 24 of the NPPF they confirm that sites should be assessed in terms of the sequential test as to their suitability, availability and viability. They also refer to the still extant PPS4 Practice Guidance. They note that the Newnham Court site has been recognised by the applicants in their retail assessment as suitable and available but that they state it is unviable.

In response to this claim it is stated that the viability test is concerned with '*judging whether there is a reasonable prospect that development will occur on a site*' and that the correct approach to be used when there is an alternative site currently being promoted by an alternative developer as set out in the guidance is '*Where alternative sites are being actively promoted for new development by a developer/retailer, this is a reasonable indicator that the location is viable*' (para 6.49 of the guidance).

It is stated that the Council is fully aware that the Newnham Court site is being actively promoted for retail development through the discussions that have taken place with the Council, the development agreement that is in place between Land Securities and Harvestore, the on-going discussions with potential occupiers and also agreements that have been reached with existing occupiers in respect of their relocation including the Notcutts garden centre which will relocate to a new centre on the site with increased display space, the strategic allocation, EIA screening/scoping reports have been submitted and project architects and other consultants have been appointed with a view to submission in late spring/early summer of an application. It is contended that it is quite evident that there is a reasonable prospect that the development of Newnham Court will occur.

- They state that the only evidence put forward by WYG in support of the view that the development of Newnham Court would be unviable is contained in appendix 8 of their assessment:

"Although we understand that the current owners are looking at redevelopment options, this may prove both lengthy and costly due to the number of current occupiers on the site. This uncertainty around timings, as well as the costs involved with the comprehensive redevelopment of the site, is likely to impact upon the viability for the proposed development."

Land Securities/Harvestore accept that Newnham Court is a reasonably complex development proposition, and that the strategy for relocation of existing occupiers and agreeing leases with new occupiers takes time to conclude. However, they contend that it is a mistake to say that this means the development of the site is 'unviable'. A complex site and an unviable site are not the same thing, and there is ample evidence to demonstrate the opposite is true.

- They reject the applicant's conclusion that the Newnham Court can be discounted as part of the sequential assessment. The issue which then needs to be addressed is whether or not Newnham Court is sequentially preferable for retail development compared to the chosen site at Eclipse Park. We believe that Newnham Court is clearly the preferred site, for the following reasons:
- It is already an established destination for shoppers. Developing a second adjacent site for retail development would not allow linked trips to take place between the two sites, which would be unsustainable.
- Newnham Court is large and there are many opportunities for linked trips to be maximised between different retail formats in any redevelopment scheme.
- Newnham Court is a (as yet unadopted) (*officer comment: when the letter was submitted*) strategic retail allocation in the Core Strategy. Eclipse Park is allocated for employment uses, and there would be conflicts with the emerging development plan strategy if Eclipse Park were to be developed for retail uses.
- There will be adequate suitable space available on the new Newnham Court development to accommodate the format of store which Next is currently promoting. By doing this the store would benefit from a high number of linked trips and associated spin off benefits that would be associated with its co-location with other complementary retail and leisure uses. Indeed, Land Securities and Harvestore would welcome Next as a tenant on the new development.

- For the above reasons we do not believe that the applicants' retail statement has properly addressed the sequential test, and we would request that the Council asks the applicants to properly address this point.

4.9 Two separate representations objecting to the application have been submitted by **The Mall Partnership Limited**, the owner of the Mall Chequers shopping Centre. The representations raises strong objections to the proposals on a number of grounds: Compliance with the sequential test, impact on town centre investment, impact on the vitality and viability of Maidstone Town Centre and loss of employment land.

A. Sequential test

They state that they have serious concerns about the logic of the proposal and rationale for a Next store that according to the application submission can only trade viably in this out-of-centre location. Next has a good representation in the town centre and their two existing stores complement each other and offer strong trading locations. They can see no difference in the business model of the proposed format and the 'standard' town centre stores whilst a larger area is devoted to 'home' ranges the fashion offer is no more than a duplication of the existing town centre offer and as such is a threat to the town centre rather than being 'complementary.'

The Council should note that there is over 6000sqm of space in a single unit that could be made available within The Mall that could be made available to the applicant or other retail operators in a short time period and in advance of the build period for a site at Eclipse Park. It is also stated that there are longer term opportunities to extend The Mall and they would welcome discussions with the Council and the applicant on these, but they should be considered as part of the sequential assessment. The applicants have not approached The Mall regarding opportunities to provide the new floorspace within or as an extension to The Mall.

(A subsequent meeting was held between The Mall and Next and a brochure given to Next detailing how a store of the size and concept proposed at Eclipse Park could be accommodated within The Mall. This brochure also illustrated how The Mall could be refurbished to enhance its offer. A copy of the brochure has been submitted as part of the representations from The Mall on the application).

Insufficient justification has been submitted regarding why the fashion and home offers need to be located in one store. Further evidence should be provided as to why the two components cannot be disaggregated.

The applicant should be therefore asked to provide further justification for their proposals in terms of the following:

- Why retention of The Mall store and/or an expansion to Fremlin Walk cannot achieve the same trading objectives given Maidstone Town Centre's strategic role
- Ability to disaggregate the goods element of the scheme and trade the 'home' concept as single operation within the Town Centre
- Why there is such a dependency on surface-level car parking when the store will be showroom for goods that re otherwise available on-line and are therefore capable of being delivered rather than taken away by customers
- Open book viability information regarding the viability statement made at para 5.5.4 of the retail statement

The sequential assessment is also deficient in relation to the following elements:

- The applicant has disregarded the potential to deliver the proposed store within or as an extension to The Mall this would comply with the Town Centre first approach
- West of the River Medway: potential sites in this area should be considered as although out-of-centre they are well connected and closer to the Town Centre
- Maidstone East and adjacent Royal Mail sorting office: Insufficient viability and suitability evidence has been supplied by the applicant to dismiss this site. Appendix 8 of the retail statement suggests that a store in this location would lead to the closure of the Fremlin Walk store due to the effect of loss of trade. By disaggregating the store components and providing a 'home' element on this site there would be sufficient proximity to an expanded next fashion store to support the viability of both parts of the business. The effect of a fashion store in this location also suggests that the proposed scheme and the Town Centre businesses are not that complimentary but would be direct competitors.
- Springfield Quarter: The applicants seek to dismiss this site as the site is 1km from the edge of the primary shopping area and thus could have a negative impact on the Town Centre. This does not sit with the fact that the proposed site is only marginally further out at 2.5km from the primary shopping area and that both are on good arterial routes, this suggests that the impact of the proposed store could be greater than set out in the assessment.

B. Impact on Town Centre investment

The Mall are intending to undertake a full refurbishment of the Centre in addition to re-letting vacant floorspace and securing longer term leases for the former anchor stores.

However, if it becomes clear to retailers that out of centre space is available and supported by the Council this will divert attention from these Town Centre opportunities and hinder inward investment.

C. Impact upon Town Centre and viability

The retail assessment is considered to fundamentally underestimate the level of direct trade diversion from Maidstone Town Centre and the wider effects of reduced footfall and linked trips exacerbated by the applicant's decision to leave The Mall. The premise of the scheme is the opportunity to draw trade back to Maidstone. However, the claw-back (from Bluewater and other competing centres) is overstated (only 27% of the store's turnover would be drawn from facilities outside Maidstone as set out in the retail assessment).

The applicants only consider that 27% of the store's turnover will be drawn from the Town Centre. This is despite stating that the store will draw 55% of its turnover from Maidstone's catchment where the Town Centre is a key destination and when the comments about Springfield Quarter are also taken into account.

They note that the store will act as a showroom for internet based customers and request that additional information regarding the implications of this facility and the impact on and source of competition for the Town Centre is submitted.

The store would not be complementary to the Town Centre, given the available range in the store the local population would have less reason to visit the Town Centre and anchor destinations such as The Mall. The impact is likely to be greater than the applicants estimate. Given that UK high Street are in decline and face unprecedented competition from internet sales and out of town shopping approval for this store would further harm the Town Centre, particularly since the applicants have already taken the decision to close one of its two Town Centre stores. The proposals should therefore be treated with utmost caution by the Council.

D. Loss of employment land

The application site is allocated for employment use in the adopted Local Plan as part of a larger employment allocation. Outline permission was granted in 2002 for B1 and B2 uses and this has been followed by a series of reserved matters approvals. The council reaffirmed its view that the application site should continue as an employment site in the emerging Core Strategy 2011. The proposals are therefore inconsistent with adopted and emerging planning policies/strategy for the site. The council would, if approval is given, need to be

satisfied that there is sufficient justification for a departure from the Local Plan policy and the loss of allocated employment land.

They conclude that there is sufficient justification to refuse planning permission due to the effect of the store on planned investment and the vitality and viability of Maidstone Town Centre and the failure to comply with the sequential test for site selection.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site is located on the north side of the A249 Bearsted Road immediately to the east of the Hilton Hotel and to the south of the Townergate Insurance building. The site extends to approximately 0.9ha in area and is currently open and devoid of vegetation except on its southern and eastern boundaries where there is a hedgerow.
- 5.1.2 The site is bounded to the east by a section of the A249, that provides a connecting link from Bearsted Road to junction 7 of the M20 Motorway and beyond to Detling and Sittingbourne. Its south east corner lies adjacent to a roundabout junction on Bearsted Road. To the east of the A249 link, lie Notcutts Garden Centre and the Newnham Court complex. Opposite the site on the south side of Bearsted Road is woodland that is part of the Vinters Valley Nature Reserve.
- 5.1.3 The western boundary of the site is formed by a completed access road to Eclipse Park that currently only allows ingress into Eclipse Park from Bearsted Road but not egress. However, highway improvement works are currently taking place in Bearsted Road that would provide a signalised junction that would allow right turns into Eclipse Park from Bearsted Road and egress in both directions from Eclipse Park onto Bearsted Road.
- 5.1.4 Levels within the site rise northwards towards the motorway junction and the A249 is set at a progressively higher level than the site, the further north from the roundabout on Bearsted Road that one moves.
- 5.1.5 Elsewhere within Eclipse Park there are three other B1 office buildings, two fronting Bearsted Road and one fronting Old Sittingbourne Road. These are sited on higher ground to the west of the Hilton Hotel.
- 5.1.6 The application site lies within the defined urban area of Maidstone and forms part of a designated employment site allocated under policy ED1 of the Maidstone Borough-wide Local Plan 2000. The site is also subject to the

provisions of Policy T17 of the Borough-wide Local Plan that allocated part of the wider employment designation as a 'Park & Ride' site. This has since been constructed and is located on land to the north and north-west of the Towergate building.

5.2 Proposal

- 5.2.1 The application is a full planning application. The proposals comprise the erection of a Class A1 retail store with a gross internal floor area of 5,748sqm selling fashion goods and home wares, with an ancillary café. The building is arranged over three floors with the ground floor indicated for womenswear, childrenswear and home departments, the first floor for menswear and home departments and the café as well as a stock room and a partial second floor would be used for storage and staff facilities. A total of 166 parking spaces are shown to be provided on the site, 152 for customers, 4 staff car parking spaces and 10 mobility impaired spaces, together with 26 cycle parking spaces and 4 motorcycle spaces.
- 3.2.2 The application details indicate that 1,479m² (44.5% of the total retail sales floorspace) will be devoted to the sale of fashion goods and 1,841m² (55.5%) will be for home ware goods and that the café would amount to some 198m². The percentage split between fashion goods floorspace and home ware goods floorspace has been amended. The originally submitted scheme had a marginally higher percentage of the floorspace given over to fashion goods (45.6%) and accordingly lower percentage devoted to home wares (54.3%).
- 3.2.3 The proposed store is shown located on the western side of the site some 30m from its boundary with the A249 link to the M20 junction 7 and is located adjacent to the existing internal access road serving Eclipse Park with a separation of approximately 5m from the road. The car parking associated with the store is shown to the east and south of the building and this is accessed from the internal Eclipse Park access road. The service yard is located to the rear (north side) of the store, also accessed directly off the internal Eclipse Park access road. The position of the store was changed and moved westwards into its current location after the application was submitted.
- 3.2.4 The proposed building has a 'square' footprint and is approximately 51m x 51m in size and approximately 14m in height. The building is orientated south-west to north-east roughly following the line of the adjacent A249. The main entrance/front elevation is located on the south west side of the building.
- 3.2.5 The building is designed with a front elevation that is predominantly formed with full height glazing surmounted by pre formed stone cladding set back behind a colonnade, with the columns formed of pre-cast stone and having a 1m high

ragstone plinth to the columns. The remainder of the front elevation would be framed with the same pre formed stone that would also sit above a 1m high ragstone plinth.

- 3.2.6 The east and west elevations would feature a full-height return glazed screen again surmounted by pre-cast stone cladding, adjacent to the front glazed elevation and the remaining walls would be formed with pre-formed brick panels set into a dark grey steel frame surround. The west elevation would additionally have a dark grey fire escape door framed by dark grey flat metal cladding. The east elevation would have a further full height glazed panel at its northern end surmounted by pre-cast stone cladding. The upper glazed panels would be fitted with opaque glazing.
- 3.2.7 This approach using the brick panels in a steel frame would extend to the north elevation which is indicated to have two full height glazed areas with cladding over, again, the upper panels would be fitted with opaque glazing. In addition, loading bay and fire exit doors are also proposed. The loading bay would also feature a retractable canopy.
- 3.2.8 The building would be capped-off at roof level by a pre-cast stone perimeter edge beam, running around all sides of the building. The roof would be hidden behind a parapet.
- 3.2.9 The application details indicate that the store has been designed to achieve a BREEAM Very Good rating.
- 3.2.10 The applicants have indicated that the development amounts to a capital investment of some £9million. They have also set out in their submission the number of jobs that would be created by the development and have compared these to their existing stores in the Town Centre.

Contract Type	Fremlin Walk	Chequers Centre	Eclipse Park
Permanent Jobs	49	42	139
Temporary Jobs	12	8	35
Apprentices	2	2	5
Total number of jobs	63	52	179

Of the 139 permanent jobs, there would be 19 full time and 120 part time posts. This equates to 49 full time equivalent jobs. Next are proposing to close their store in the Chequers Centre as the lease is due for expiry next year. There are currently 52 posts in the Chequers Centre and the applicants state that all of their employees would be given the option to transfer to Eclipse Park. The

overall net gain in these jobs would thus be 97. It is stated that these jobs range from high end management roles to apprenticeships and will be available for local residents through the Local Job Centre plus. There will also be jobs (total unspecified) created by the construction phase of the development.

5.2.11 In total, Next's job provision in Maidstone would be approximately 250 employees.

5.2.12 The application was accompanied by the following documents:

- Design and Access Statement
- Planning Statement
- Retail Statement
- Transport Assessment/Addendum and Update note
- Travel Plan
- Statement of Community Involvement
- External Lighting Statement
- Land Contamination Preliminary Risk Assessment
- Phase One Habitat and Ecology Appraisal
- Foul and Surface Water Drainage Statement
- Office accommodation supply and demand in Maidstone

5.3 Principle of Development/Planning Policy

1) The National Planning Policy Framework (NPPF)

5.3.1 The National Planning Policy Framework, which was released in March 2012, 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.*

5.3.2 The National Planning Policy Framework 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. Given that the South East Plan 2009 was revoked in March 2013 (after the application was submitted), I consider the aims of the National Planning Policy Framework to carry significant weight in the determination of this planning application.

5.3.3 The National Planning Policy Framework 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.

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

5.3.5 The National Planning Policy Framework 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 National Planning Policy Framework, 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 National Planning Policy Framework 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.

5.3.6 The National Planning Policy Framework 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 Town Centre and the need to demonstrate that more sequentially preferable sites have been considered. The National Planning Policy Framework 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) Planning for Growth

- 5.3.7 The Government in promoting the regeneration of the economy and sees the role of the planning system as promoting sustainable economic development and jobs. The Planning for Growth statement was published in March 2011 and sets out what the government expects local planning authorities to do to achieve these aims. The statement is 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.'

- 5.3.8 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'

3) Development Plan Policies

- 5.3.9 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 Development Plan now solely comprises the saved policies of the Maidstone Borough Wide Local Plan 2000 (saved in 2007). The South East Plan 2009 was largely revoked on 25 March after the submission of the application. The retained parts of this plan do not apply to this Borough.
- 5.3.10 The application site is located within land allocated for B2 employment uses under saved policy ED1 within the Maidstone Borough Wide Local Plan (2000). Clearly, this proposal would not fall within this use class - 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 the

Development 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.

- 5.3.11 Policy ENV6 of the Borough-wide Local Plan requires appropriate landscaping to be carried out part of development proposals, Policy ENV49 requires consideration of the impact of external lighting seeking to reduce its impact in terms of amenity, light spillage, impact on the wider landscape and public safety and Policy T13 seeks to ensure an appropriate level of car parking for developments.

Retail Policy Context

- 5.3.12 There is no development plan policy for retailing on the application site.

- 5.3.13 Policy R3 of the Maidstone Borough-wide Local Plan (2000) identifies the town centre as a regional scale comparison goods centre and states that proposals which undermine the strategy for, and the vitality and viability of, the town centre will not be permitted. Policies R7 and R8 define the core and secondary shopping areas of Maidstone Town Centre and Policy R8, with relevance to the sequential test, allocates Maidstone East for bulky goods retailing.

Policy R2 relates to major retail proposals and requires that a sequential approach to siting is followed and that when out of centre locations are chosen this should be adjacent to existing out of centre retail development. The policy also refers to the 'need' for retailing. Such a needs test is no longer an explicit requirement of national policy. Applicants are not required to demonstrate need for their particular retail proposals.

Policy CS2 for the town centre in the emerging Core Strategy was the subject of public consultation (Reg. 18) in September 2011. It defines a town centre boundary and identifies the centre as the preferred location for major retail development.

- 5.3.14 The National Planning Policy Framework (NPPF) requires local planning authorities to apply a sequential test to planning applications for main town centre uses (including retail) where the application site is not within an existing centre and not in accordance with an up to date Local Plan (paragraph 24). Only if appropriate sites are not available firstly in the town centre or secondly in edge of centre locations should out of centre sites be considered. For edge and out of town sites, preference should be given to sites that are accessible and well connected to the town centre.

5.3.15 For retail applications of more than 2,500sqm on out of centre sites which are not in accordance with an up to date Local Plan, a retail impact assessment is required to include an assessment of the impact of the proposal on;

- Existing, committed and planned public and private investment in the centre/s; and
- Town centre vitality and viability.

5.3.16 The National Planning Policy Framework states that “where an application fails to satisfy the sequential test or is likely to have a significant adverse impact, on one or more of the above factors, it should be refused” (paragraph 27).

Further guidance on the application of the sequential and impact tests is provided in specific practice guidance originally issued by CLG as a companion document to Planning Policy Statement 4. This guidance is still extant; it was not revoked when the National Planning Policy Framework was published.

5.3.17 The Council has appointed specialist consultants (DTZ) to advise it on the retail aspects of this application.

Sequential Test

5.3.18 The applicants have submitted a sequential sites’ assessment which considers alternative sites’ suitability, availability and viability for the development proposed. The alternative sites that have been assessed by the applicants are as follows (in no specific order):

- Maidstone East and the Royal Mail Sorting Office
- Former Army & Navy Store, Week Street
- Former Somerfield Store, King Street
- Springfield
- Newnham Court
- Len House

In addition the applicants provided supplementary information on the following sites whose potential came to light after the submission of the application.

- Former T J Hughes Store, The Mall
- Former BHS/Comet Stores, South Aylesford Retail Park. Whilst this retail park is just beyond the borough boundary in Tonbridge and Malling borough, it is closely related to the main built up area of Maidstone.

5.3.19 In undertaking this assessment, and reaching their conclusions, the applicants have stated the following requirements for the site:

- A site of approximately 1ha to accommodate:
 - § a quality 3 storey building
 - § secure and efficient servicing
 - § 170 free, surface level car parking spaces
- A location which is readily accessible and not already congested

5.3.20 The applicants conclude that there are no suitable, available and viable town centre sites, or edge of centre sites, which can accommodate the development.

For each of the assessed sites, the tables below set out:

- A brief description of the site,
- a summary of the applicants' key conclusions for the site
- Consideration of the site. This is informed by the advice of the Council's retail planning consultants

Maidstone East/Royal Mail Sorting Office
<p>Site Description: This whole site is approximately 3.6ha in size. It is an edge of centre site, being some 200m from the primary shopping area (comprising the core shopping frontage (policy R7) and the secondary shopping frontage (Policy R8) both as defined in the Maidstone Borough wide Local Plan) at its nearest point. The Maidstone East part of the wider site is allocated for retail (bulky goods) in the Maidstone Borough wide Local Plan (Policy R6) and also for offices, residential and hotel use. This site was the subject of a recent EIA screening opinion request for a foodstore (9,000sqm), smaller retail units (831sqm) and station improvements.</p>
<p>Applicants Assessment (summary):</p> <p>Availability: whilst the site may not be immediately available, it may come forward in the short/medium term. Development will require complex phasing.</p> <p>Suitability: A foodstore is the most appropriate use of the site. This is demonstrated by the emerging scheme for the site which is foodstore led. The site suffers from poor visibility from the main retail areas of the town centre which would be essential for a comparison retailer such as Next.</p> <p>Viability: The site is a secondary location. The proposed Next store would not be viable here as it would require free, surface level car parking. The Next at Fremlin Walk would close due to loss of trade. Redevelopment to</p>

provide a single comparison unit (Next) may prove less viable (than the emerging foodstore proposal) and all parties may not agree to it in isolation.

Subsequent submission: Car parking on this site will be charged for. The site is close to the town centre and already congested and is less likely to draw customers from the surrounding areas. A development agreement has not yet been signed with a foodstore operator and until this happens, the project is not financially capable of happening. The site is not available to Next at present.

Consideration:

Availability: This site is the subject of current development interest. There are active proposals to bring this site forward as evidenced by the recent screening report request. As the proposals have not yet reached planning application stage there is an apparent timely opportunity to adapt the emerging scheme to accommodate the applicants' proposals. Further, the agents for the developers of the Maidstone East site have confirmed that a scheme to accommodate a Next/Next Home store on this site has been put forward to Next. The scheme comprises a foodstore alongside a Next/Next Home of sufficient size to meet the retailer's requirements with dedicated car parking for the Next unit of some 125-150 spaces.

Suitability: The Council's consultants advise that the size of the site presents opportunities to accommodate the application proposal, including car parking, as part of a wider retail-led scheme, possibly alongside a foodstore. The site is accessible, being adjacent to Maidstone East station with good pedestrian links to the primary shopping area. It is also close to A229 dual carriageway (Royal Engineers Road). Furthermore the Maidstone East site is allocated for retail (bulky goods) in the Maidstone Borough wide Local Plan.

Viability: The Council's consultants advise that the site is in a prominent location. It has close and direct access to the primary shopping area.

Overall: The site is sequentially preferable to the application site. It is considered potentially capable of accommodating the application development.

Former Army & Navy Store, Week Street

Site Description: This is a three storey building which measures

<p>approximately 890sqm at ground floor. It has been vacant since House of Fraser relocated to Fremlin Walk in 2005. It is located within the primary shopping area.</p>
<p>Applicants Assessment (summary)</p> <p>Availability: the site is available</p> <p>Suitability: the site is not large enough to accommodate the application development</p> <p>Viability: it would not be viable to have 2 Next stores trading so close together. The store would need to have free surface level car parking to be viable.</p>
<p>Consideration: There is the potential for the site to be redeveloped. Nonetheless, there are likely to be real limitations on the total quantum of floorspace achievable. Further, it is understood that part of the ground floor has recently been let.</p>

<p>Former Somerfield Store, King Street</p>
<p>Site Description: This site comprises the former Somerfield unit and the multi-storey car park above and is owned by the Council. The site is some 0.2ha in size. It is an in centre site, as it falls within the primary shopping area (comprising the core shopping frontage (Policy R7) and the secondary shopping frontage (Policy R8) both as defined in the Maidstone Borough wide Local Plan). With the adjacent bowling alley site, the site area would extend to 0.45ha.</p>
<p>Applicants Assessment (summary)</p> <p>Availability: the site may come forward for redevelopment in the medium term.</p> <p>Suitability: the site would not be large enough for the proposed development. With the adjacent bowling alley site a decent sized retail unit could be achieved but it would not be sufficient for the application proposal.</p> <p>Viability: this is a marginal location for a prime comparison unit. There is uncertainty about if and when the adjacent bowling alley site will come forward. This uncertainty, and the costs associated with the bowling alley relocation and the replacement of the existing car parking is likely to make the scheme unviable.</p> <p>Subsequent submission: this area has relatively lower levels of footfall and would not generate sufficient sales to meet company criteria. At 0.45ha the site (the former Somerfield and bowling alley) is smaller than the application</p>

site (0.9ha). In conjunction with the lack of surface level car parking, Next would not operate a store in this location.

Consideration:

Availability: The Council has resolved to demolish the building and to replace it with a surface level car park whilst future development options are considered. The adjacent bowling alley is scheduled to relocate to Lockmeadow in the summer.

Suitability: The Council's retail consultants advise that, whilst the former Somerfield store alone is not of a sufficient size to physically accommodate the proposed store 'footprint' and surface level car parking of 170 spaces, it is capable of accommodating some or all of the development if the retailer were to demonstrate flexibility on issues such as scale and format and on-site car parking. The site could accommodate approximately 4,000sqm over three storeys, approximately 5,500sqm over four. With the adjacent bowling alley site the combined site area would be 0.45ha. The combined site is again considered suitable and of a sufficient size to accommodate the proposed Next and Next Home store, with some flexibility on the part of Next, particularly with respect to car parking owing to the site's town centre location.

Viability: The site has good pedestrian links to the rest of the primary shopping area, as well as with the bus station and town centre car parks and it occupies a prominent and viable town centre location. Moreover, if Next and Next Home were to develop one of its new 'flagship' stores on this site, it would serve to substantially enhance levels of footfall in this part of King Street, which is already situated in close proximity to a number of attractions including The Mall, key office occupiers, town centre car parks and the bus station.

Overall: the site is sequentially preferable to the application site. If the applicants were to set aside the stated requirement for free, on site surface level car parking, the former Somerfield site could potentially accommodate a store of the broad quantum of floorspace sought over 4 storeys. If the former Somerfield site is brought forward with the adjacent bowling alley site, which is understood to be becoming available, the application proposal could be accommodated, again subject to appropriate flexibility over car parking.

Springfield
<p>Site Description: This site comprises the G E Healthcare paper mill and the adjacent site to the north east which has an extant consent for offices, residential and small scale retail/community uses. It is an out of centre site.</p>
<p>Applicants Assessment (summary)</p> <p>Availability: sufficient land to accommodate the application development is likely to come forward in the short to medium term.</p> <p>Suitability: there are aspirations for employment led development on this site. The distance from the town centre and route along the dual carriageway would not be ideal for a large comparison retailer.</p> <p>Viability: a store this close to the town centre could have a negative effect on the town centre by drawing trade away. The Next store at Fremlin Walk would close.</p>
<p>Consideration:</p> <p>Availability: the site (or part of it) is potentially available in the short/medium term.</p> <p>Suitability: it is an out of centre site which is nonetheless significantly closer to the town centre than the application site. This should increase the potential for linked trips between this site and centre compared with the application site. The actual most direct pedestrian route, however, would be along the busy dual carriageway A229 (Royal Engineers Road) which is likely to deter such trips to some extent.</p> <p>Viability: the site is not an established retail location.</p> <p>Overall: there are better, alternative and more sequentially preferable sites in/at the edge of the town centre considered capable of accommodating the proposed store.</p>
Newnham Court
<p>Site Description: Newnham Court is an established garden centre and shopping village located just off Junction 7 of M20. The application site at Eclipse Park is sited on the opposite side of the A249 to Newnham Court.</p>
<p>Applicants Assessment (summary)</p> <p>Availability: The site may come forward for redevelopment in the short to medium term.</p> <p>Suitability: As an established retail destination, the site is considered</p>

suitable for retail use. As there are no units of sufficient size currently vacant, the application proposal would need to come forward as part of a comprehensive redevelopment and be subject to a full Retail Impact Assessment and sequential test. Given its proximity to Eclipse Park, the site is not considered sequentially preferable to the application site.

Viability: there is uncertainty about the timing and costs of a comprehensive redevelopment. This will impact on the likely viability of the proposed development.

Consideration:

Suitability: Newnham Court is an established comparison retailing location. The site is identified as a strategic site for comparison retail development of recognised out of centre formats in the emerging Local Plan (Policy SS4).

Availability: There is current developer interest in the retail redevelopment of this site. EIA screening opinion request has been submitted. In their objection letter to this application, the landowner/developers of Newnham Court state their intention to submit a planning application in late Spring/early summer.

Viability: The site is being promoted for retail redevelopment by a developer which specialises in such development. This is an indicator of the site's viability for this use.

Overall: Like the application site, this is an out of centre site. It is an established comparison retailing location. If the proposal was for a recognised out of centre format store, this site is a better location to accommodate the quantum of floorspace sought. Importantly, however, there are other more sequentially preferable sites in and at the edge of the town centre for this specific development which should be selected in preference.

Len House

Site Description: This site includes the Grade II listed building Len House and the open area to the rear used for car sales. Part of the site is allocated for employment uses under Maidstone Borough wide Local Plan policy ED2. It is an edge of centre site. It is approximately 0.4ha including the outside forecourt.

Applicants Assessment (summary)

Availability: the site is currently occupied and occupier relocation plans are unknown. The site may come forward for redevelopment in the medium

<p>term.</p> <p>Suitability: the building is too small to accommodate the proposed development. The site would have to be fully redeveloped to accommodate the development. The site suffers from a lack of free car parking. The site is well away from the main shopping areas of the town.</p> <p>Viability: It would be costly to relocate the existing use. The site would need to be fully redeveloped to accommodate the proposed development which would impact on the overall viability of development.</p>
<p>Consideration:</p> <p>Availability: The site may come forward in the medium term.</p> <p>Suitability: Redevelopment of the Grade II listed building would not be appropriate. Part of the site is allocated for B1 uses (Policy ED2).</p> <p>Viability: the site is edge of centre. Pedestrian connections to/from the primary shopping area are less direct than for other town centre/edge of centre sites considered here which could constrain the site's viability for comparison retailing.</p> <p>Overall: There are better, alternative sequentially preferable sites capable of accommodating the proposed development.</p>

Former T J Hughes unit, The Mall
<p>Site Description: The store is within The Mall. It comprises approximately 6,000sqm (gross) of floorspace split over three floors (approximately 1,700sqm at ground floor, 2,500sqm at upper floor with the reminder at basement for back of house functions). The site is an in centre site.</p>
<p>Applicants' Further submission (summary): The unit is in a poor location within Maidstone. The lack of surface level parking means Next would never operate a 'full range' Next/Next at Home store from this location. There has been little recent investment in The Mall and the centre has declined.</p> <p>The Mall has presented proposals to Next for how the combined fashion/homeware offer could be accommodated within this unit. Based on the criteria Next use to financially appraise schemes, a new store in this unit would not be approved by the Next Board.</p>
<p>Consideration:</p> <p>Availability: The store is currently let to Beales on a short term basis with a mutual break clause in the contract. The site is therefore potentially available to Next.</p> <p>Suitability: the quantum of floorspace is broadly comparable with that</p>

proposed on the application site (6,161sqm) and subject to some flexibility from the retailer, could accommodate the application proposals. The unit has existing servicing arrangements and space for the retailer's back of house functions. It is an in centre site in an established indoor shopping centre. The Mall has a 1,000 space multi-storey car park.

Viability: The site, in the Council's advisors' view, is a viable location in market terms by virtue of footfall, proximity of other retailers in the shopping centre and connectivity to the rest of the town centre. This view is further supported by The Mall's submission detailing how a store of the size and concept being promoted by Next could be accommodated within this unit.

Overall: the store is capable of accommodating the proposals if the retailer were to demonstrate flexibility on issues such as scale, format and design. The existing car parking provision in the town centre would spare the need for dedicated surface level free car parking of some 170 spaces.

Former BHS/Comet Stores, South Aylesford Retail Park

Site Description: South Aylesford Retail Park is an established out of centre retail park accessed off A20 at Aylesford.

Applicants' Further submission (summary): the former BHS unit is in the process of being sub divided to accommodate another tenant. The floorspace which could be accommodated in the remaining space with a mezzanine is some 45,000sqft rather than the 61,875sqft GIA applied for. The site suffers from poor visibility as it is masked by other units. This would affect profitability. The Comet unit is 20,000sqft restricted to bulky goods and with no permission in place for a mezzanine.

Consideration:

Availability: There are 2 vacant units. The former BHS unit is currently being subdivided resulting in a unit of some 2,300sqm and the former Comet unit (1,870sqm). These units are separated by an occupied Currys/PC World unit.

Suitability: These are modern units on an existing retail park. There is on-site surface level free car parking. Notwithstanding the imminent subdivision of the Former BHS Store the applicants should discuss opportunities with the owners of South Aylesford Retail Park (The Crown Estate) to reconfigure the existing, remaining vacant space – including the Former Comet Store (1,870sqm) and the remainder of the Former BHS Store (c. 2,300sqm) – in order to accommodate the proposed store. Whilst the

resultant 'footprint' would not be of a sufficient size to physically accommodate the proposed store, the retailer is required by national policy to demonstrate flexibility in terms of scale and format. There is no evidence that a planning application to remove the bulky goods condition and/or insert a mezzanine floor in the Currys unit would be unsuccessful.

Viability: This is considered to be a viable location for comparison shopping which benefits from a critical mass of existing retailers.

Overall: Like the application site, this is an out of centre site. It is potentially capable of accommodating the proposal and, as an established comparison retailing site, is considered to be a more appropriate location than the application site, recognising that there are also other more sequentially preferable sites in and at the edge of the town centre.

5.3.21 The Council's consultants additionally considered the Baltic Wharf site, St Peters Street as a planning application for a supermarket on this site has recently been submitted. The site is an out of centre site. Additionally their assessment concluded that uncertainties over scheme viability, coupled with the site's Policy ED2 allocation, did not render this site a firm alternative to the application site.

5.3.22 In respect of the sequential sites' assessment, the council's retail consultants make the following points:

- The applicants have not identified an urgent need (in planning terms) for the proposed development. This means that sites which are not immediately available, but which are likely to become available in the next few years can be considered for the purposes of the sequential test.
- The decision by a retailer to promote a business model which cannot be accommodated in a town centre does not justify discounting more sequentially preferable sites where these are available, suitable and viable. It is nonetheless necessary to balance commercial requirements with national (and local) planning policy policies.
- 44.5% of the net retail floorspace is dedicated to fashion (non-bulky) goods. Such goods would normally be sold in a town centre. This proportion of floorspace is not subsidiary to the homeware goods. The applicants state that the fashion floorspace is needed to support the homeware ranges in a stand alone store which, by virtue of its design and build quality, will be more than double the cost of a standard retail warehouse build. They assert that dropping the fashion ranges would undermine the viability of selling the expanded homeware ranges. Whilst it may be unreasonable to drop the fashion ranges in their entirety, there is not the clear evidence that a lower, more subsidiary

quantum of floorspace would undermine the viability of the proposed store. The retailer should demonstrate flexibility in format and design and propose a more modest retail build capable of accommodating their chosen business model.

- The proposed store would incorporate a 'click and collect' service. It is not accepted that the benefits of this service could not be realised on a town centre site. Other operators offer such a service for both bulky and non bulky goods from town centre sites.
- The applicants' site assessment is based on their stated requirements for the site. It is not accepted that the proposals would require their own car parking if located in the town centre; the town centre is well served by car parks. Further, the stated requirements would rule out most opportunities in town centres across the country.
- The applicants have not sufficiently demonstrated flexibility and have not therefore satisfied the requirements of the National Planning Policy Framework and the Practice Guidance on need, impact and the sequential test.

5.3.23 There are three sites which are sequentially preferable to the application site and which it is considered could potentially accommodate a Next/Next Home store:

1. Maidstone East/Royal Mail Sorting office

1. Former Somerfield Store, King Street with/without the adjacent bowling alley

2. The former T J Hughes Unit, The Mall

5.3.24 There are clear benefits to directing new retail development to town centres. Focusing development into town centres better facilitates linked trips; for each trip into the town centre shoppers have the opportunity to visit a range of different stores and facilities to meet their shopping or other needs, providing for improved customer choice and competition. Secondly, town centres generally are better served by a range of transport modes compared with out of centre locations. There is a clear 'town centre first' principle which underpins the requirements of the National Planning Policy Framework.

5.3.25 It is also the case that the legitimate business needs of retailers should be taken into account when considering compliance with the sequential test. The extant practice guidance on needs, impact and the sequential approach states "in every case it will be necessary to strike an appropriate balance between the requirements of the commercial sector and the requirements of national policy based on local circumstances" (paragraph 6.33).

5.3.26 Next is intending to deliver 20 or so of these 'full range' Next/Next at Home stores across the country. It is Next's position that these stores are a new and

unique format in the company's portfolio of stores. Notwithstanding the 'town centre first' approach espoused in national planning policy, none of the sites being progressed by Next are town centre sites. The applicant has a clear commercial desire to deliver both fashion and homeware goods within a single building as one of a number of 'flagship' stores across the country. There is an undoubted attraction for Next customers to have access to the full range of goods in a single store. Next has identified Maidstone as a location for growth in its homeware ranges. The applicants also state that having a large store in Maidstone town centre will not attract the out of town shopping trade from Gillingham/Sittingbourne and elsewhere in Kent that the application site would achieve. In essence the applicants' argument is that these shoppers from further afield would be attracted to visit a Next store on the application site, with its convenient access from Junction 7 of M20, but would not be motivated to visit the same store if it were located in the town centre.

Weighing in the balance with these commercial considerations is the existence of the three sequentially preferable sites outlined above. The three town centre/edge of centre sites are all considered inherently appropriate for retail development and capable of accommodating the proposed development allowing for due flexibility from the retailer. In contrast with the application proposal, the occupation of any of these sites would positively support the commercial health of Maidstone town centre, bringing underused or vacant sites into use. Unlike the application proposal, which is a stand alone retail unit, there would be much greater opportunities for linked trips if one of these sites was taken up for the Next/Next Home proposal. Further, the application proposal as presented has a significant proportion of its retail floorspace devoted to fashion goods (44.5%) which gives further weight to the appropriateness of a town centre site. Such goods would normally be sold in a town centre.

In conclusion it is considered that the applicants have not satisfactorily demonstrated sufficient flexibility in coming to the conclusion that there are no more sequentially preferable sites for their proposal. Consequently it is considered that the sequential test set out in the National Planning Policy Framework and in Policy R2 of the adopted Maidstone Borough-wide Local Plan has not been met.

It is worth noting that the sites' assessment considers two further locations which have the same sequential status as the application site; they are all out of centre sites. In contrast to the application site however these two sites are established retailing locations. They are:

1. Vacant units at South Aylesford Retail Park
2. Newnham Court

Notwithstanding that South Aylesford Retail Park is in Tonbridge & Malling borough, accommodating the Next proposals in the vacant units there would make use of existing retail space, rather than providing new retail floorspace in on a business park. There would also be the opportunity for linked trips to the adjacent retailers, unlike for the application proposal which would be a stand alone retail unit. In this respect it is considered to be a preferable out of centre location to the application site.

Newnham Court is also an established out of centre shopping location which is being actively promoted for retail redevelopment by specialist developers. This site has been positively identified for new retail floorspace that is of an 'out of centre' format in the council's emerging Local Plan (Policy SS4). This policy was approved by Cabinet in March this year for development management purposes. Through the emerging Local Plan policy, the council is pro-actively planning and controlling the future of this site and is making clear provision at an exiting shopping destination for the types of store formats which cannot be accommodated in a town centre.

Newnham Court is therefore regarded as a preferable out of town location to the application site. This does not alter the position that the application proposal with its high proportion of fashion goods floorspace should be located on a town centre site and that there are sequentially preferable sites within and at the edge of the town centre which are capable of accommodating it.

Impact Test

5.3.27 The impact test in the National Planning Policy Framework is in 2 parts:

- Impact of the proposal on existing, committed and planned public and private investment in a centre
- Impact of the proposal on town centre vitality and viability.

The applicants have undertaken a retail impact assessment of their proposal. It is standard practice in such assessments to use a methodology to quantify the impact of a proposal on town centre trade. The assessment calculates how much of the expenditure spent in town centre shops will be diverted to the new store. This amount of expenditure that would be lost from town centre shops is presented as a proportion (percentage) of the total amount of expenditure in town centre shops. This is the percentage impact on the town centre of the new store.

5.3.28 The applicants' assessment has been reviewed by the Council's retail consultants who identified a number of weaknesses in the methodology which had been used.

5.3.29 To overcome these weaknesses, the consultants undertook a re-assessment of the applicants' impact assessment. This re-assessment draws on the wider Maidstone retail capacity work the consultants are undertaking for the Council in connection with the Local Plan.

5.3.30 The percentage impact on town centre comparison goods trade forecast by the applicants and by the Council's consultants (DTZ) at 2015 and 2017 are set out below:

	2015	2017
Applicants	1.37%	1.37%
DTZ	2.13%	2.09%

Based on the council's consultants' figures, there will be a 2.13% reduction in the value of comparison goods trade in the town centre at 2015 (based on today's prices) if the new Next store were to open compared with the value of trade at the same date without the new store.

5.3.31 The consultants conclude that the proposal would have an adverse impact on the vitality and viability of Maidstone Town Centre. They make the following additional observations:

- Vacant shops are focused in the secondary areas of the town centre and The Mall and it is judged that these areas would be more vulnerable to the impacts of the proposed new store.
- In the face of difficult economic conditions for retailing, even small impacts can make the difference between financial viability and closure for some retailers.
- The new store opening on an out of centre site could influence the decisions of other retailers considering downsizing their operations
- The applicants' overall conclusion of that the town centre is viable and healthy is not disagreed with.

5.3.32 Of significance to the consideration of retail impact are the emerging retail proposals for Newnham Court. Whilst this site does not have planning permission for comprehensive redevelopment and is therefore not a 'commitment' in strict terms, it has been identified in the emerging Local Plan as a strategic site for retail development for retail formats which cannot be accommodated in the town centre. A draft policy (Policy SS4) was approved by

Cabinet in March 2013 for development management purposes following public consultation on the policy in autumn 2012. The supporting text to the draft policy states that an impact on the town centre trade of more than 3% is unlikely to be acceptable.

- 5.3.33 There is evidence that this proposal will come forward. An EIA screening opinion has been submitted. The letter of objection submitted by the developer/landowner of the Newnham Court site to this application confirms their intention to submit a planning application for their site in the early summer. On this timescale, the development could be open in 2016.
- 5.3.34 There is therefore the likely prospect that the application proposal, if granted consent, will come forward in addition to the development at Newnham Court. Notwithstanding that the Next proposal would be implemented first, there is the clear expectation as supported in emerging policy that further retail development at Newnham Court will follow. This being the case, the cumulative impact of the application proposal in addition to the Newnham Court proposals is considered to be a relevant consideration.
- 5.3.35 Assuming a maximum impact of 3% on town centre trade arising from the Newnham Court (as specified in the text to the emerging policy) the combined impact of the two proposals at 2018, when the Newnham Court proposal would have been open for a full calendar year, could be in the order of 5%
- 5.3.36 The significance that such a cumulative impact would have on the town centre requires consideration.
- 5.3.37 In overall terms the town centre has the attributes of a healthy town centre. It benefits from a very good range of national retailers which are geographically concentrated in the main shopping core of the town centre, including The Mall.
- 5.3.38 In common with other centres, vacancy levels in the town centre increased between 2006 and 2009 as a result of the economic downturn but, more positively, rates appear to have stabilised over the past 12-18 months (2011/12). Overall, 12.3% of retail floorspace (12.6% of retail units) in the town centre is vacant (November 2012). Occupancy levels are good in the prime retail areas such as Fremlins Walk and the southern end of Week Street. The vacant units are disproportionately concentrated in The Mall and the secondary shopping areas such as High Street, Gabriels Hill and Bank Street. These areas are potentially more vulnerable to reduced levels of town centre trade. As confirmed by the council's retail consultants, even a small adverse change in trading patterns can have a significant effect for those retailers operating at the margins of profitability.

5.3.39 Further, the high levels of national retailer representation are regarded as crucial to driving and sustaining footfall in the town centre. In Fremlin Walk and the southern end of Week Street currently there is a critical mass and diversity of major retailers which, in turn, help to drive footfall in the town centre and thereby help to attract and thereby retain major retailers. A significant change in the trade levels in the town centre could reduce the prospect of retaining this range of national retailers. Trading conditions for town centre retailers remain challenging due to the economic climate, the strength of regional scale shopping centres such as Bluewater (which is expanding) and the rise of the internet etc. These factors, along with the overall trend for retailers to rationalise the number of stores they have nationally, could put the vitality and viability of the town centre at serious risk. An isolated closure of a key town centre store could prompt an incremental effect with other key retailers taking the decision to down size or relocate.

The applicants identify the majority of the new store's homeware trade would mainly be drawn from House of Fraser and Beales and to a lesser extent from the existing Next stores. For fashion goods, trade would be drawn from Next stores, Marks & Spencer and other fashion retailers predominantly located in The Mall and Fremlins Walk.

House of Fraser has an important role in as an anchor store in Fremlin Walk. The council's retail consultants advise that in the medium term the incremental effect of Next establishing a competing out of centre attraction could force House of Fraser to re-consider its position. Marks & Spencer is operating from split stores on Week Street. Whilst the consultants consider there to be limited risk of the retailer closing either store in the medium term, the application proposal could accelerate their requirement for a larger more efficient store. The consultants conclude that they could not rule out other shop closures within the retail core as a result of the new store. As set out above, the effects are amplified when considered in conjunction with the planned Newnham Court proposals.

5.3.40 The threshold for the impact test in the National Planning Policy Framework is a 'significant adverse' impact. In difficult economic conditions there is considered to be considerable risk that the effects of the application proposal, in addition to that already planned for at Newnham Court, would have an unacceptable impact on the health of Maidstone town centre. The scale of this impact is judged to be sufficient to qualify as a significant adverse impact on the town centre's vitality and viability. The impact test of the National Planning Policy Framework has not been met.

4) Development on employment land

- 5.3.41 As stated earlier, the site is designated as employment land in the Borough-wide Local Plan 2000 and would represent a form of development not in accordance with that designation.
- 5.3.42 Members will also note from the planning history set out earlier in the report that the site is subject to an extant outline planning permission for B1 office development (MA/11/0242).
- 5.3.43 The applicants have submitted a report prepared by Sibley Pares, that considers office supply and demand in Maidstone and at eclipse Park and seeks to establish whether it would be detrimental to release part of the site for alternative employment uses.
- 5.3.44 Predictably, the report states that demand has fallen in the last three years due to the financial situation. It also states that Maidstone faces competition with Kings Hill, which has also been suffering a downturn in demand to the point where the developers are seeking to release land previously earmarked for economic development purposes to residential, and Ashford which said to have better links with High Speed One and thus London and mainland Europe.
- 5.3.45 It is also stated that there is ample supply of office space in Maidstone to meet current and future demand and that Eclipse Park, even if this site is released, would still have 60,000sq.ft (5,580m²) with consent for office use. Reference is also made to extant permissions at Springfield (16,750m²), Abbey Court Sandling (3146m²) and Turkey Court Ashford Road (1632m²) that have not been taken up as further evidence of the lack of demand.
- 5.3.46 Eclipse Park is one of Maidstone's prime office locations. However, in common with other sites around the Borough and elsewhere demand has clearly fallen-off in recent years due to the current financial climate and the investment uncertainty that has ensued.
- 5.3.47 Paragraph 22 of the National Planning Policy Framework advises that 'planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. 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.'
- 5.3.48 As part of the emerging local plan process, the Council is reviewing existing employment land designations as well as assessing sites that have come forward (including the application site and the wider Eclipse Park) as part of the recent

call for sites to assist the SEDLAA. At this stage therefore, I do consider that it would be premature to release this site on the basis that there is no real prospect of the site being used for its allocated employment use or the permitted B1 office use..

5.3.49 I do recognise that the development would be likely to result in the provision of a net gain of 97 jobs arising from the development, when the intended closure of The Mall store is taken into account. This is clearly not an insubstantial amount and would encompass a range of opportunities, although I note from the information submitted by the applicants that a substantial proportion of the 139 permanent jobs at the proposed store (120) would be part-time amounting to 49 full time equivalent posts, with 19 full-time posts. I do not consider that this is a factor of such overriding weight as to tip the balance in favour of permitting the development.

5.4 Visual Impact and Design

5.4.1 The site lies close to the Kent Downs Area of Outstanding Natural Beauty (AONB), the boundary of which is to the north of the M20 and the North Downs Special Landscape Area (SLA), the boundary of which surrounds Eclipse Park and the Park & Ride site to its west, north and east. The North Downs escarpment is visible to the north across Eclipse Park.

5.4.2 The context of this site in relation to the AONB and the appropriateness of the current's site then designation as part of the North Downs Special Landscape Area (SLA) was considered at length by the Local Plan Inspector in his report into objections to the Deposit Draft of the Maidstone Borough-wide Local Plan. The Inspector was asked to consider specific objections seeking to remove the SLA and Strategic Gap designations on three areas of land; an area including Heath Wood in the west, a central area of land adjoining the Stakis (now the Hilton) Hotel and an eastern area comprising land east of the A249 as far east as Horish Wood and including land at Newnham Court Farm.

5.4.3 The Inspector clearly concluded in respect of the western area to the west and southwest of the current application site that the most southerly part should be allocated for housing development and excluded from the SLA, this is now Shaw Close, but that Heath Wood and the open meadow area to its east which provided a setting for the woodland should not be excluded from the SLA. In respect of the eastern area, the Inspector concluded that whilst the land and buildings around Newnham Court Farm were prominent, their impact was limited to the western part of the area with the remainder providing an extensive area of open agricultural land unaffected by Newnham Court or the urban influences further west and wholly in keeping with the rest of the landscape in the SLA. He therefore concluded that this area should remain in the SLA.

5.4.4 Of key importance to the consideration of the current application as it includes the application site is the central area considered by the Inspector. He concluded as follows in para 3.391 of his report.

'Turning to the central area, I agree with the objectors that its landscape character has been severely affected by the urbanising influences of the hotel, the M20 and other roads and the park and ride facility. I am concerned that the criteria for establishing SLAs should not be applied to such a small area, since not every part of the SLA will meet all of them. Nevertheless I agree that in itself the site has little scenic quality and that whilst it retains elements of open fields and tree shelter belts they are not enough in this urban context to ensure the site is representative of Kent countryside. Moreover, from the A249 to the east of the site where these features are most apparent, the car park can be seen through the trees further eroding its scenic and representative qualities.'

5.4.5 The Council contended at the Local Plan Inquiry that the original justification for including the land to the south of the M20 in the SLA was that it was foreground to the Kent Downs AONB. The site was important as the undeveloped foreground in views northwards to the open countryside and the Downs.

5.4.6 The Inspector considered this argument and rejected it stating in paragraph 3.392;

'I agree that there are views of the Downs particularly from the western end where Bearsted Road rises above the site. However, the hotel is highly prominent in all these views both along the road frontage and into the site in depth. I did not find that the landscaping mitigates the urbanising impact of its extensive roof, since in many places the road is higher than the site and looks down onto the roof.

3.393 For all these reasons I have concluded that this part of the objection site which is also the site of objections DED0122 and DED0123 dealt with in Chapter 5, should be deleted from the SLA. This area includes the site which is subject of objections DENV005 in paragraph 3.372 (*the area to the east of Old Sittingbourne Road and west of the Hilton Hotel*). To be consistent the site of the Stakis Hotel should also be excluded.'

5.4.7 The Inspector also considered a specific objection seeking the allocation of the land adjacent to the Stakis (Hilton) Hotel as an employment site. He set out his views on the site's potential allocation in Chapter 5 of his report at paragraphs 5.30 and following;

'5.30 In Chapter 3 I recommend that the site should be deleted from both the Strategic Gap (DENV0490) and the North Downs SLA (DENV0491). Against this background and with my conclusions in need and the agreement at the inquiry on other matters, the only outstanding issue to my mind is the effect of the proposal on the character and appearance of the area.

Conclusions

5.31 I found on my visits that the character and appearance of the area around the site is very strongly influenced by the urban nature of the Stakis Hotel the M20 and other major roads, the park and ride facility and, to a lesser extent, the buildings at Newnham Court Farm. It was this urban influence which I describe in more detail in chapter 3 which led to my recommendation to delete the objection site from the SLA. It also persuades me that, with the right safeguards on landscaping and uses, development of the type proposed would not materially harm the character and appearance of the area. I therefore conclude that this objection should be supported and I turn to consider the modifications to the Plan which are necessary as a result.'

- 5.4.8 It is clear that the Local Plan Inspector considered that the site had been affected by existing urban intrusion arising from the hotel and the motorway and other roads to such an extent that its role as part of the SLA and in providing the setting for the Kent Downs AONB had been compromised to the point that designation should not be continued.
- 5.4.9 The visual impact of the current application should also be considered in the context of the adjacent Towergate Building located to the north. The Towergate building is approximately 16.6m in height with a centrally located roof-top plant section adding a further 3.2m to the overall height over the central section of the building. This compares to the 14m height of the proposed building. However, the Towergate building is narrower in profile than the proposed building on the application site.
- 5.4.10 When viewed standing to the west or south west of the proposed building, I do not consider that the proposed building would harm the setting of the AONB to the north due to its juxtaposition relative to the Towergate building. When viewed from the south east from Bearsted Road and the M20 link road, woodland to the north of the M20 within the AONB that currently provides a green backdrop to the site would be interrupted.
- 5.4.11 From the scarp slope of the North Downs it would be seen in the context of the taller Towergate building (which is not visually intrusive) and the other development in Eclipse Park which is set on slightly higher ground than the application site.
- 5.4.12 It is clear that the building would be very prominent in short distance views, largely from Bearsted Road, the A249 and from within Eclipse Park itself. The building would appear as a large uniform box. Whilst the Towergate building is taller, it is narrower in profile than the proposed building and it is better articulated and addresses both the internal areas of Eclipse Park and also the A249 Sittingbourne Road on its eastern side.

- 5.4.13 The site is a prominent site and the building will be very exposed on three sides to views. It is a large box-like structure of significant uniform height,
- 5.4.14 The front elevation is well articulated through the use of the colonnade (the columns of which are partly pre-cast stone and partly ragstone), the stone cladding and the significant set-back of the glazed entrance to provide the visual interest and vitality.
- 5.4.15 The east and west elevations are not well articulated although they have a glazed panel close to the front elevation. The predominant feature of these elevations is the extent of the proposed brickwork. Whilst the proposed system could result in a 'crisp' form to the building it is the extent and apparent visual mass of the brickwork that will be the predominant feature emphasising the height and bulk of the building.
- 5.4.16 The rear (north) elevation will also be open to view particularly when travelling towards Maidstone from the M20 junction and also from within Eclipse Park. The fact that the building is a stand-alone building with these open views of the three less well articulated elevations compounds the visual impact and mass of the development.
- 5.4.17 Whilst the service yard for the development is also smaller than originally submitted it is still located in a prominent position at the rear of the building further detracting from the appearance of the rear elevation of the building. The pre-grown Hedera (Ivy) screen wall will, it is acknowledged serve to assist in screening the service area from the car park.
- 5.4.18 The re-siting of the building westwards has resulted in some of the parking being moved closer to the A249 on the east side of the site. Due to the rise in land levels and the carriage-way towards the motorway junction some of the visual impact of the parking will therefore be reduced. Tree planting and shrub beds also have been introduced to the parking area to seek to break it up visually.
- 5.4.19 On a positive note, the applicants have demonstrated that the building is capable of achieving a BREEAM very good rating in terms of the efficiency and sustainability of its construction.
- 5.4.20 I consider that, the building is of a poor design that would have an unacceptable impact on the character of the area through its prominent siting, coupled with its overall height and mass and largely unrelieved external elevations. The harm caused is sufficient to warrant and sustain refusal on these grounds.

5.5 Highways

- 5.5.1 A full Transport Assessment and addendum were submitted as part of the application documentation together with a draft Travel Plan. The documentation has been assessed by both the Highways Agency (in terms of the potential impact of the development on the adjacent M20 motorway, part of the Strategic Route Network that the Agency is tasked with managing) and Kent Highway Services, as the local Highway Authority.
- 5.5.2 Members will have noted the formal responses to consultation of the Highways Agency and Kent Highway Services set out earlier in the report in sections 3.2 and 3.3 respectively.
- 5.5.3 The Transport Assessment concludes that the proposed development would generate fewer trips in the weekday morning and evening peak hours compared to the consented office use. There would however, be no residual offset at weekends, although these trips would occur at times when the local highway network would be less heavily trafficked relative to weekdays.
- 5.5.4 Junction capacity assessments have been carried out on the basis of fully classified turning count survey data. This data has been extrapolated to the horizon year of 2022 using standard modelling software (TEMPROv.6.2) and consideration has been given to the committed developments at Eclipse Park, the KIMS Hospital at Newnham Park and the Maidstone Studios, in line with the previous Plot 4 and Hotel planning applications. The junction capacity assessments provide a direct comparison between the permitted but unimplemented Plot 4 office development and the proposed retail development.
- 5.5.5 The Transport Assessment demonstrates that all junctions other than the Chiltern Hundreds Roundabout would experience a reduction in weekday peak traffic relative to the permitted office development. There would be an increase in Saturday peak hour traffic as the offices would not be operational at this time. However, the local junctions are predicted to operate with no significant increase in average delay in all scenarios with the modifications already committed for Plot 4 in place and the introduction of a left filter arrow on the side road arm of the new Bearsted Road / Eclipse Park signal junction.
- 5.5.6 The Highways Agency has raised no objections to the development in terms of the traffic generation. They consider that the Transport Assessment has been prepared in accordance with best practice, and that it presents a robust forecast of trips generated on the Strategic Route Network. They conclude their comments by stating:

'The applicant has set out that the total trip attraction from the retail development as a whole remains unlikely to exceed that generated by the

permitted office development. Our checks on the trip generation used for the proposal suggest that this is an acceptable analysis. We have undertaken a review of the modelling work used to support the applicant's conclusions and have found the work to be generally satisfactory, with particular respect to the M20 J7.

With the Plot 4 mitigation proposals in place, we are satisfied that the revised proposals will not have a material effect on the operation of the SRN.'

- 5.5.7 Similarly, Kent Highway Services have raised no objections to the development subject to the suggest conditions, informatives and obligations set out in paragraph 3.3.2 earlier in the report.
- 5.5.8 The concerns of objectors including the residents of Shaw Close are noted but given the views of both Kent County Council and the Highways Agency on trip generation and the acceptable impact on the local and strategic road network, it is not considered that objections could be raised and sustained on highway grounds to the development.

5.6 Landscaping and Ecology

- 5.6.1 A landscape masterplan has been prepared for the development. This has been revised in consultation with Council officers following consideration of a number of issues raised relating to the original proposals and as result of the siting of the building being changed.
- 5.6.2 The proposed scheme seeks to provide a balance between the use of appropriate native/near native species and a desire on the part of the applicant to allow some colour/variety in the landscaping.
- 5.6.3 The existing hedgerow framework to the eastern and southern site boundaries will be retained and reinforced by new planting. The under-storey to this would be planted with indigenous under-storey hedgerow species including foxglove, cowslip, celandine, wood anemone and greater stitchwort. A hornbeam hedge is shown to be planted to the western boundary along the Eclipse Park access road.
- 5.6.4 Within the car park, Cut Leaved Alder Trees are now proposed (previously London Plane) and a fastigiata variety of Oak would be planted on the inside of the boundary hedge to the east and south sides of the site. A stand of birch trees is also shown to be planted on the west side of the building adjacent to the Eclipse Park access road to seek to soften the western flank elevation of the building. The newly created grass verge adjacent to the roundabout outside the site would be planted with drifts of Narcissus and Snowdrops.

- 5.6.5 The applicants have provide details showing how the car park trees will be planted in sufficient space and depth to ensure their long-term health and have also indicated that they will be protected by stainless steel bollards from damage by vehicles.
- 5.6.6 I consider that the revised landscaping scheme has addressed previous concerns and that it would subject to a detailed management regime that could be secured by condition provide an appropriate setting for the development. No objections are raised to the development in terms of landscaping.
- 5.6.7 The site has been scarified and levelled and now has little, if any, grass cover and as such its potential has been reduced. This is regrettable. However, hedging has been maintained to the east and part of the southern site boundaries except where removed to allow for the highway improvement works to the Eclipse Park access road thus maintaining some connectivity with the surrounding area.
- 5.6.8 The recent changes to the landscaping scheme outlined above with the introduction of more appropriate native and near-native species together with the reinstatement of hedgerows and understorey planting would provide a measure of enhancement to the current situation and continue to provide suitable habitat for reptiles on the site.
- 5.6.9 No objections are raised to the proposals in terms of the impact on ecology.

5.7 Residential Amenity

- 5.7.1 The site boundary is located in excess of 100m from the nearest dwellings in Emsworth Grove on the Vinters Park estate which lies to the south of Bearsted Road. The proposed store building is set some 80m north of the southern site boundary. Given this separation, the existence of a dual-carriageway road, a substantial and planted highway verge on the Vinters Park side of Bearsted Road, I do not consider that the development would result in an unacceptable impact on the amenities of the occupiers of these properties.
- 5.7.2 Other dwellings to the south-west/west of the site are located in Weyhill Close, Vinters Park at more than 160m from the site boundary. Two dwellings 'Melton' and 'Tall Trees' are located on the south side of Bearsted Road in excess of 250m west of the site boundary. Again, I do not consider that the development would result in an unacceptable impact on the amenities of the occupiers of these properties.
- 5.7.3 Objections have also been received from the occupiers of properties in Shaw Close. The closest property in Shaw Close to the site is approximately 320m to

the west of the site boundary. Between the site and Shaw Close lies the Hilton Hotel and existing offices/car parking at the western end of Eclipse Park. Whilst Shaw Close occupies higher ground than the application site, the distances involved and the intervening buildings are such that no direct impact is likely to arise on the occupiers.

- 5.7.4 I consider that the development will not have an unacceptable detrimental impact on residential amenity.

5.8 Other Matters

- 5.8.1 Neither the Environment Agency or the Council's Environmental Health section have raised objections to the site in terms of contamination but consider that an appropriate 'watching brief' condition be imposed on any permission in the event that contamination is discovered during construction.
- 5.8.2 The proposed drainage regime including the proposed method for surface water disposal is also considered acceptable. The Environment Agency has raised no objections to the proposals on flood risk grounds.
- 5.8.3 In terms of potential s106 Heads of Terms, the applicants have offered £50,000 to enable improvements within the Town Centre to be undertaken. Whilst such a sum could be used to provide public realm or other improvements such as better signage in the Town Centre and would accord with the objectives of the Infrastructure Delivery Plan no specific measures have been highlighted.
- 5.8.4 There has also been some discussion with the applicants on possible conditions and the applicants have indicated that they would be willing to accept a condition restricting the total retail sales area devoted to the sale of fashion goods to 1479m² (some 44.5% of the retail sales area) with home wares at 1841m² (55.5%). The originally submitted scheme had a marginally higher percentage of the floorspace given over to fashion goods (45.6%) and accordingly lower percentage devoted to home wares (54.3%).

6. CONCLUSION

- 6.1 There are clear benefits to directing new retail development to town centres. Focusing development into town centres better facilitates linked trips; for each trip into the town centre shoppers have the opportunity to visit a range of different stores or facilities to meet their shopping or other needs, providing for improved customer choice and competition. Secondly, town centres generally are better served by a range of transport modes compared with out of centre locations. There is a clear 'town centre first' principle which underpins the requirements of the National Planning Policy Framework.

- 6.2 It is also the case that the legitimate business needs of retailers should be taken into account when considering compliance with the sequential test. The extant practice guidance on needs, impact and the sequential approach states “in every case it will be necessary to strike an appropriate balance between the requirements of the commercial sector and the requirements of national policy based on local circumstances” (paragraph 6.33 of the guidance).
- 6.3 Next is intending to deliver 20 or so of these ‘full range’ Next/Next at Home stores across the country. It is Next’s position that these stores are a new and unique format in the company’s portfolio of stores. Notwithstanding the ‘town centre first’ approach espoused in national planning policy, none of the sites being progressed by Next are town centre sites. The applicant has a clear commercial desire to deliver both fashion and homeware goods within a single building as one of a number of ‘flagship’ stores across the country. There is an undoubted attraction for Next customers to have access to the full range of goods in a single store. Next has identified Maidstone as a location for growth in its homeware ranges. The applicants also state that having a large store in Maidstone town centre will not attract the out of town shopping trade from Gillingham/Sittingbourne and elsewhere in Kent that the application site would achieve. In essence the applicants’ argument is that these shoppers from further afield would be attracted to visit a Next store on the application site, with its convenient access from Junction 7 of M20, but would not be motivated to visit the same store if it were located in the town centre.
- 6.4 It is also clear that there would be a net increase of some 97 jobs if the development were allowed to proceed once the impact of the closure of The Mall store has been taken into account. Although, it is noted that the majority of these would be part-time jobs.
- 6.5 There are three sites which are sequentially preferable to the application site and which it is considered could potentially accommodate a Next/Next Home store:
1. Maidstone East/Royal Mail Sorting office
 2. Former Somerfield Store, King Street with/without the adjacent bowling alley
 3. The former T J Hughes Unit, The Mall
- 6.6 Weighing in the balance with the commercial considerations is the existence of these three sequentially preferable sites. The above three town centre/edge of centre sites are all considered inherently appropriate for retail development and capable of accommodating the proposed development allowing for due flexibility from the retailer. In contrast with the application proposal, the occupation of any of these sites would positively support the commercial health of Maidstone town centre, bringing underused or vacant sites into use. Unlike the application

proposal, which is a stand alone retail unit, there would be much greater opportunities for linked trips if one of these sites was taken up for the Next/Next Home proposal. Further, the application proposal as presented has a significant proportion of its retail floorspace devoted to fashion goods (44.5%) which gives further weight to the appropriateness of a town centre site. Such goods would normally be sold in a town centre.

- 6.7 It is considered that the applicants have not satisfactorily demonstrated sufficient flexibility in coming to the conclusion that there are no more sequentially preferable sites for their proposal. Consequently it is considered that the sequential test set out in the National Planning Policy Framework and in Policy R2 of the adopted Maidstone Borough-wide Local Plan has not been met. Further, the application proposal would establish a brand new out of town shopping destination. If there were no sequentially preferable sites (which it is considered there are) it would be preferable for the development to be directed to an established out of town retail location. South Aylesford Retail Park for example has existing vacant units available.
- 6.8 Of significance to the consideration of retail impact are the emerging retail proposals for Newnham Court. Whilst this site does not have planning permission for comprehensive redevelopment and is therefore not a 'commitment' in strict terms, it has been identified in the emerging Local Plan as a strategic site for retail development for retail formats which cannot be accommodated in the town centre. A draft policy (Policy SS4) was approved by Cabinet in March 2013 for development management purposes following public consultation on the policy in autumn 2012. The supporting text to the draft policy states that an impact on the town centre trade of more than 3% is unlikely to be acceptable.
- 6.9 The developer/landowner of the Newnham Court site has confirmed their intention to submit a planning application for the site in the early summer. On this timescale, the development could be open in 2016.
- 6.10 There is therefore the likely prospect that the application proposal, if granted consent, will come forward in addition to the development at Newnham Court. Notwithstanding that the Next proposal would be implemented first, there is the clear expectation as supported in emerging policy that further retail development at Newnham Court will follow. This being the case, the cumulative impact of the application proposal in addition to the Newnham Court proposals is considered to be a relevant consideration.
- 6.11 Assuming a maximum impact of 3% on town centre trade arising from the Newnham Court (as specified in the text to the emerging policy) the combined

impact of the two proposals at 2018, when the Newnham Court proposal would have been open for a full calendar year, could be in the order of 5%

- 6.12 The significance that such a cumulative impact would have on the town centre requires consideration.
- 6.13 In overall terms the town centre has the attributes of a healthy town centre. It benefits from a very good range of national retailers which are geographically concentrated in the main shopping core of the town centre, including The Mall.
- 6.14 In common with other centres, vacancy levels in the town centre increased between 2006 and 2009 as a result of the economic downturn but, more positively, rates appear to have stabilised over the past 12-18 months (2011/12). Overall, 12.3% of retail floorspace (12.6% of retail units) in the town centre is vacant (November 2012). Occupancy levels are good in the prime retail areas such as Fremlins Walk and the southern end of Week Street. The vacant units are disproportionately concentrated in The Mall and the secondary shopping areas such as High Street, Gabriels Hill and Bank Street. These areas are potentially more vulnerable to reduced levels of town centre trade. As confirmed by the council's retail consultants, even a small adverse change in trading patterns can have a significant effect for those retailers operating at the margins of profitability.
- 6.15 Further, the high levels of national retailer representation are regarded as crucial to driving and sustaining footfall in the town centre. In Fremlin Walk and the southern end of Week Street currently there is a critical mass and diversity of major retailers which, in turn, help to drive footfall in the town centre and thereby help to attract and thereby retain major retailers. A significant change in the trade levels in the town centre could reduce the prospect of retaining this range of national retailers. Trading conditions for town centre retailers remain challenging due to the economic climate, the strength of regional scale shopping centres such as Bluewater (which is expanding) and the rise of the internet etc. These factors, along with the overall trend for retailers to rationalise the number of stores they have nationally, could put the vitality and viability of the town centre at serious risk. An isolated closure of a key town centre store could prompt an incremental effect with other key retailers taking the decision to down size or relocate.

The applicants identify the majority of the new store's homeware trade would mainly be drawn from House of Fraser and Beales and to a lesser extent from the existing Next stores. For fashion goods, trade would be drawn from Next stores, Marks & Spencer and other fashion retailers predominantly located in The Mall and Fremlins Walk.

House of Fraser has an important role in as an anchor store in Fremlin Walk. The council's retail consultants advise that in the medium term the incremental effect of Next establishing a competing out of centre attraction could force House of Fraser to re-consider its position. Marks & Spencer is operating from split stores on Week Street. Whilst the consultants consider there to be limited risk of the retailer closing either store in the medium term, the application proposal could accelerate their requirement for a larger more efficient store. The consultants conclude that they could not rule out other shop closures within the retail core as a result of the new store. As set out above, the effects are amplified when considered in conjunction with the planned Newnham Court proposals.

- 6.16 The threshold for the impact test in the National Planning Policy Framework is a 'significant adverse' impact. In difficult economic conditions there is considered to be considerable risk that the effects of the application proposal, in addition to that already planned for at Newnham Court, would have an unacceptable impact on the health of Maidstone town centre. The scale of this impact is judged to be sufficient to qualify as a significant adverse impact on the town centre's vitality and viability. The impact test of the National Planning Policy Framework has not been met.
- 6.17 I also consider that Eclipse Park remains as one of the best locations for office based employment development in the Borough. In accordance with the advice at paragraph 22 of the National Planning Policy Framework and as part of the emerging local plan process, the Council is reviewing existing employment land designations as well as assessing sites that have come forward (including the application site and the wider Eclipse Park) as part of the recent call for sites to assist the Strategic Economic Development Land Availability Assessment. At this stage therefore, I do consider that it would be premature to release this site on the basis that there is no real prospect of the site being used for its allocated employment use or the permitted B1 office use.
- 6.18 It is also considered that the building despite the re-siting that sought to reduce its visual impact is of a poor design that would have an unacceptable impact on the character of the area, through its prominent siting together with its overall height, mass and largely unrelieved external elevations. The harm caused is sufficient to warrant and sustain refusal on these grounds.
- 6.19 There are benefits that would arise from the development as proposed that need to be weighed against the factors set out above.
- 6.20 There would be a net increase in jobs (in the region of 97), although as noted earlier in the report many of these would be part-time although permanent.

- 6.21 The development also represents a significant inward investment on behalf of the applicant which would be to the benefit of raising Maidstone's profile and the local economy. Next reports that the new store will have turnover of some £12.9million in 2015. Based on Next's own retail impact assessment, some 58% (£7.53million) of this turnover will be diverted from existing stores outside the borough, thereby drawing additional trade into the borough.
- 6.22 I do not consider however that these benefits are of such overriding weight as to consider setting aside the scheme's failure to meet the sequential and impact tests as set out in the National Planning Policy Framework 2012. The scheme would also result in the loss of a potential office development site on the one of the most ideally located employment sites in the Borough, which would be premature pending a review of such sites currently being undertaken. In addition, the poor design of scheme would result in development harmful to the character and visual amenities of the area. The following recommendation is therefore appropriate.

7. RECOMMENDATION

REFUSE PLANNING PERMISSION for the following reasons:

1. In the opinion of the local planning authority, the applicants have not satisfactorily demonstrated sufficient flexibility in coming to the conclusion that there are no more sequentially preferable sites for the proposed development or better located out of centre sites. It is therefore considered that the sequential test as set out at paragraph 25 of the National Planning Policy Framework 2012 and Policy R2 of the Maidstone Borough-wide Local Plan 2000 has not been met. To permit the development would therefore be contrary to the advice at paragraph 27 of the National Planning Policy Framework 2012 and Policy R2 of the Maidstone Borough-wide Local Plan 2000.
2. The proposed development in cumulation with the proposed retail development at Newnham Court would in the opinion of the local planning authority, have a significant adverse impact on the vitality and viability of Maidstone Town Centre. It is therefore considered that the proposed development would fail the impact test as set out at paragraph 26 of the National Planning Policy Framework 2012. To permit the development would therefore be contrary to the advice at paragraph 27 of the National Planning Policy Framework 2012 and Policy R3 of the Maidstone Borough-wide Local Plan 2000.
3. The proposed building is considered to be of poor design. The prominent and exposed siting and overall height and mass of the building, together with the largely unrelieved north, east and west elevations, would introduce a visually intrusive and discordant feature that would be harmful to the character and

visual amenity of the area and which would not be successfully integrated into the existing natural and built environment of the area. To permit the development therefore would be contrary to the advice in paragraphs 58, 61 and 64 of the National Planning Policy Framework 2012.

4. Granting permission for a Class A1 retail unit on this site would result in the loss of a well located, sustainable and designated employment site with an extant permission for Grade A Class B1 office development. In the opinion of the local planning authority to permit the development in advance of the completion of a review of such sites as required by paragraph 22 of the National Planning Policy Framework would be premature.

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 to be fundamentally contrary to the provisions of the Development Plan and the National Planning Policy Framework, and there were not considered to be any solutions to resolve this conflict.

Minor changes to the proposals were made during consideration of the application but these were not considered to address the fundamental objections relating to the Development Plan and the national Planning Policy Framework.

The applicant was given an opportunity to address the Planning Committee and promote the development.

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23. 5. 2013









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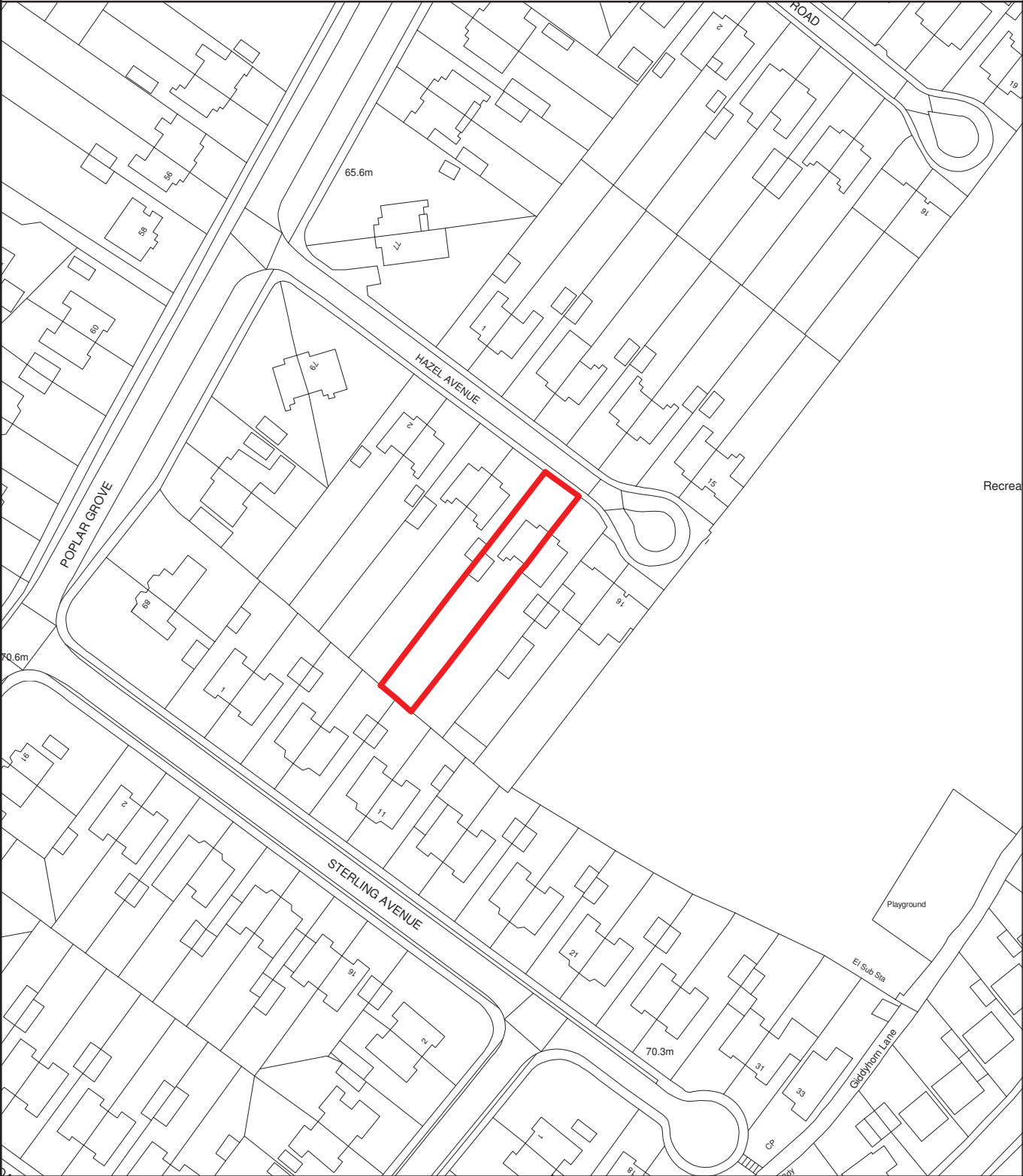
23. 5. 2013

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/0098

GRID REF: TQ7456

10 HAZEL AVENUE,
MAIDSTONE.



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Rob Jarman
Head of Planning

APPLICATION: MA/13/0098 Date: 17 January 2013 Received: 17 January 2013

APPLICANT: Mr Kahl

LOCATION: 10, HAZEL AVENUE, MAIDSTONE, KENT, ME16 0BA

PARISH: Maidstone

PROPOSAL: Two storey side and rear and single storey rear extensions.

AGENDA DATE: 6th June 2013

CASE OFFICER: Louise Welsford

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

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

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: H18
- Government Policy: National Planning Policy Framework
- Supplementary Planning Guidance Document "Residential Extensions"

2. HISTORY

MA/12/1978 Two storey side and single storey rear extensions - withdrawn

3. CONSULTATIONS

- 3.1 **Councillor Daley:** "If you are minded to approve this application, please report it to the planning committee for the reasons set out below.

The application is contrary to Policy H18 in that it does not complement the street scene and is detrimental to the character of the local area.

The neighbouring property at No. 8 Hazel Avenue will be adversely affected by this proposal due to its height and mass".

4. REPRESENTATIONS

- 4.1 9 representations have been received. These raise the following main issues:

- Contrary to: Policy H18 of the Local Plan
The supplementary planning document "Residential Extensions".
The National Planning Policy Framework
- Impact on host dwelling including – proportions, overwhelming
- Impact on Streetscene including - Out of character
 - Terracing effect
 - Cramped
 - Impact on gaps
- Design
- Scale
- Height
- Mass
- Form
- Impact on residential amenity including
 - Overwhelming
 - Loss of outlook
 - Loss of light
 - Loss of privacy
 - proximity
- Insufficient parking; including for business use
- Precedent
- Construction phase
- Emergency access
- No rear access

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 This application relates to a semi-detached, circa 1930s dwelling. It is located within a cul-de-sac, within the urban area of Maidstone.
- 5.1.2 The cul-de-sac is made up of semi-detached, two storey houses, four pairs being located upon each side of the road. At the corners are pairs of semi-detached dwellings having addresses in Poplar Grove.
- 5.1.3 The dwellings in Hazel Avenue are generally of fairly uniform appearance, although some extension and alterations have been carried out. The only existing two storey side extension is to number 16, at the end of the row. Spacing between dwellings at first floor level is regular.

5.2 Proposal

- 5.2.1 Planning permission is sought for extensions to the dwelling. A two storey side/rear extension is proposed, wrapping around the rear corner of the house. The side extension would be approximately 2.7m wide and would be set down from the main ridge by approximately 0.5m. The two storey part of the side extension would be set back from the front wall by 1.5m, with a single storey element in front of it running in line with the front wall.
- 5.2.2 The existing garage would be demolished and a single storey extension is proposed to the rear, in a similar position to the existing garage. The proposal would, however, infill the existing gap between the existing house and garage. A rear canopy is shown above the existing dining room.

5.3 Visual Impact

- 5.3.1 There are two key elements to the visual impact – the impact upon the host dwelling and the impact upon the streetscene.

5.4 Impact on host dwelling

- 5.4.1 Policy H18 of the Local Plan states that extensions to residential properties should be “of a scale and design which does not overwhelm or destroy the character of the original property”.
- 5.4.2 In this case, a substantial increase in floor area is proposed. However, it is important to note the particular design, width and set back.
- 5.4.3 The side extension would be approximately 2.7m in width. The existing dwelling is approximately 5.7m in width, so the proposal, when viewed from the front, would increase the width by just less than 50%. This width is, in my view, in keeping with the proportions of the existing house. The house has an existing bay section of around 2.8m in width and, to its right, a gabled section of around 2.9m in width. These are the key components which make up the front façade and the width of the side extension is clearly in keeping with these proportions, which would result in a satisfactory visual composition.
- 5.4.4 Furthermore, the set down of approximately 0.5m from the main ridge and the general set back of 1.5m of the first floor from the front façade would render the extension subservient to the existing house and ensure that it is not overwhelmed. Significant additions are proposed to the rear, but these would occupy a subordinate position and a proportion of this would only be single storey, which would also reduce its dominance.

- 5.4.5 Detailing would be in keeping with the existing building, including fenestration design and the use of a deep brick plinth and matching materials would be used. The design is considered sympathetic to the existing dwelling and the form is an appropriate form of extension, given the form of the host building.
- 5.4.6 In my opinion, the impact upon the host dwelling also complies with the supplementary planning document upon Residential Extensions. It utilises a setback and lower roof referred to therein, and is of subservient form and acceptable proportions. The set back and set down would also help to reduce the mass of the proposal.
- 5.4.7 I conclude that in my view, the impact upon the host dwelling complies with policy H18 of the Local Plan, the S.P.D. upon Residential Extensions and the National Planning Policy Framework.

5.5 Impact upon the Streetscene

- 5.5.1 The impact upon the character and spacing within the streetscene is, in my view, a key issue.
- 5.5.2 Policy H18 states that extensions should: "complement the streetscene and adjacent existing buildings and the character of the area."
- 5.5.3 The S.P.D. upon residential extensions states: "The pattern of gaps in a streetscene should be maintained. Other than in areas with significant spacing between dwellings, there should normally be a minimum gap of 3 metres between the side wall of a two storey extension and the adjoining property for the full height of the extension."
- 5.5.4 In this case, the existing gap between the buildings is around 6.5m and this would be reduced to an estimated 3.7m. This is in line with the 3m suggested in the S.P.D, although it is accepted that in this particular road, spacing is currently generous, with around 6.5m gaps being retained between all pairs of dwellings.
- 5.5.5 However, it is important to note here that this is a short cul-de-sac, with only four pairs of dwellings upon either side of the road. As such, there are only three such gaps upon either side of the road. To my mind, this small number of gaps within a short cul-de-sac does not form a strong rhythm which is critical to the character or appearance of the streetscene. What is important is that a good sized gap is retained, to prevent a terracing effect and cramped appearance, and it is considered that the resulting gap would be of sufficient size to achieve this. Given also the subordinate form of the extension and the fact that all dwellings are not wholly uniform in appearance, it is concluded that the character and appearance of the streetscene would be preserved to an acceptable degree. The

Supplementary Planning Guidance 'Residential Extensions' recommends a *minimum* gap of 3m between the first floor elements and this would be exceeded. The S.P.D. does recognize that in some streets, gaps may need to be wider, but given the above points, in particular the small number of dwellings in the street and the urban context, it is concluded that the remaining gap is acceptable. I have fully considered all of the relevant issues raised in representations, but remain of this view.

- 5.5.6 Furthermore, the scale and design are considered in keeping with the local area more generally and what one might expect to see for a dwelling of this design in such an urban location. I consider that the visual impact is in line with the National Planning Policy Framework in this regard.

5.6 Residential Amenity

- 5.6.1 Policy H18 states that extensions to residential properties should "respect the amenities of adjoining residents regarding privacy, daylight, sunlight and maintenance of a pleasant outlook".
- 5.6.2 The key issue relating to residential amenity is the impact upon light and outlook for number 8 Hazel Avenue.
- 5.6.3 The layout of the ground floor of number 8 is similar to the dwelling on site, only handed. The main habitable rooms lie to the far side of the dwelling in relation to number 10, with the hallway and kitchen running alongside the site. To the side elevation, there is a landing window serving a hall and a window and a half glazed door serving a kitchen.
- 5.6.4 The S.P.D. upon residential extensions does confirm that kitchens can be principal rooms. However, in this case, to my mind, the two key habitable rooms are the main living areas to the far side of the house. The kitchen is a much smaller room, which is mainly taken up by kitchen units. Given the restricted size of the room, I consider it fair to say that this room is highly unlikely to be used as a main living area or entertaining space in itself.
- 5.6.5 The existing outlook is, in my view, dominated by the flank wall of number 10. I accept that the proposed flank wall would be significantly closer, rendering it more dominant, due especially to its height and mass, but, given that this is not, in my view, a key opening or living space, and given also the current outlook, on balance, the impact of the proposal is not considered so overwhelming or overbearing as to justify a refusal on those grounds alone. A reasonable distance of over 3.5m would still be retained between the buildings.

- 5.6.6 Similarly, again, in terms of light, this is not, in my view, a key living space, although I accept that the window and door are the main sources of light to the room. There is a very small window to the rear elevation, but this is too small to make any appreciable difference to light within the room.
- 5.6.7 The relationship between the buildings is such that the B.R.E. light test referred to in the S.P.D is not relevant here as the openings would face the development, rather than be sited adjacent to it. The development would be sited significantly closer to number 8. However, the use of hipped roof would help to lessen its impact and also, the orientation would, to a certain degree, and the maintenance of light to number 8. Number 8 is sited in a generally north-westerly position in relation to number 10, rather than due north of it.
- 5.6.8 On balance, given the distance remaining between the buildings, the orientation, and the layout of number 8, it is considered that the impact upon light and outlook for number 8 would not be so harmful as to justify a refusal. Due to the remaining space between the buildings and the existing outlook, the proposal is not, on balance, considered so overwhelming/overbearing for number 8 as to justify a refusal. The extension would project beyond the rear of the existing building, but given again the gap between the buildings, the rearwards projection at first floor level is not considered so great as to result in significant light or outlook issues. A ground floor element is proposed beyond this, but this would be of relatively limited height and sited mainly alongside the garage of number 8.
- 5.6.9 The attached property, number 12, has an existing two storey rear extension with a solid wall facing the site. In consequence, there would be no significant adverse impact upon this property in terms of light or outlook.
- 5.6.10 With regard to privacy, new openings would mainly not be in a position to result in significant overlooking issues. Front openings would face the road, and there is a good distance to properties to the rear. Openings to the side elevation facing number 12 would give similar views to those which could be obtained from the existing property and would be at ground floor level only. To the side elevation facing number 8, the windows would serve a w.c. and en-suite, so could be conditioned to be obscure glazed, which would prevent significant overlooking.
- 5.6.11 Number 8 has a driveway alongside the site. A driveway is not an area which would normally be used for seating – it is generally for the parking vehicles and as such the proximity of the development to this space would not render it un-useable or adversely affect residential amenity.

5.6.12 I conclude that in my view, on balance, the impact upon the residential amenity complies with policy H18 of the Local Plan, the S.P.D. upon Residential Extensions and the National Planning Policy Framework.

5.7 Parking

5.7.1 There are no significant parking issues. The existing driveway would be retained and a garage is proposed, which is considered sufficient for the urban location. Any business use of a degree likely to result in significant parking issues is likely to require a fresh planning application.

5.8 Other Matters

5.8.1 Precedent is a weak argument in planning, as each case must be assessed on its own merits.

5.8.2 In terms of the rear and emergency access, a side extension at ground floor level or 2m high wall could be constructed as “permitted development” which would prevent such access. This issue is not considered to constitute a reason for refusal.

5.8.3 The construction phase is not a material planning consideration.

6. CONCLUSION

6.1 This is a balanced case. I have fully considered all of the issues raised in representations. However, taking all of the above into account, on balance, it is considered that the proposal would not result in significant harm to the character and appearance of the streetscene, the host dwelling or residential amenity. It is concluded that the proposal complies with policy H18 of the local plan, the Supplementary Planning Guidance ‘Residential Extensions’ and the National Planning Policy Framework. Approval is therefore recommended.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

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

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

2. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building unless otherwise agreed in writing by the Local Planning Authority;

Reason: To ensure a satisfactory appearance to the development in accordance with Policy H18 of the Maidstone Borough-Wide Local Plan 2000.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no.s PL-02C and PL-03A received on 17/01/13.

Reason: To ensure the quality of the development is maintained and to preserve residential amenity in accordance with Policy H18 of the Maidstone Borough-Wide Local Plan 2000.

4. Before the development hereby permitted is first occupied, the proposed w.c. and en-suite windows to the side elevation facing number 8 Hazel Avenue shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such;

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of existing and prospective occupiers in accordance with Policy H18 of the Maidstone Borough-Wide Local Plan 2000.

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.



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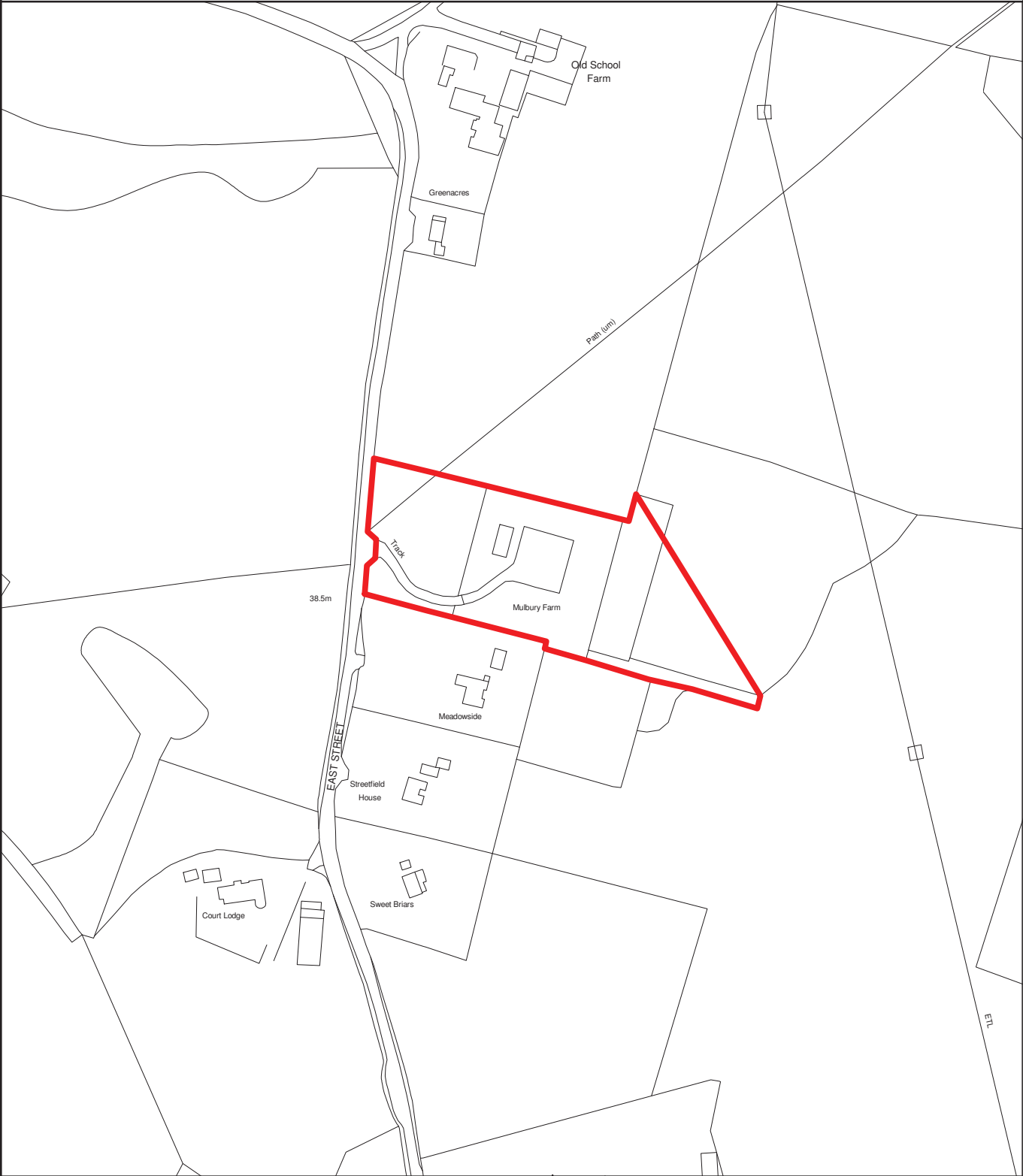
26. 4. 2013

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/0255

GRID REF: TQ7349

**MULBERRY FARM, EAST STREET,
HUNTON.**



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**Rob Jarman
Head of Planning**

APPLICATION: MA/13/0255 Date: 6 April 2013 Received: 19 April 2013

APPLICANT: Mr Tom Love

LOCATION: MULBERRY FARM, EAST STREET, HUNTON, MAIDSTONE, KENT, ME15 0RA

PARISH: Hunton

PROPOSAL: Variation of condition 04 of planning permission reference MA/03/1087 granted on appeal (being for the change of use of land to residential for three mobile homes for a gypsy family) to allow for the stationing of a further two mobile homes for family members as shown on site location plan received 15 February 2013 and unnumbered and undated block plan.

AGENDA DATE: 6th June 2013

CASE OFFICER: Joanne Alexander

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: ENV6, ENV28, ENV34
- Village Design Statement: N/A
- Government Policy: National Planning Policy Framework (2012), Planning Policy for Traveller Sites (2012)

2. HISTORY

MA/03/1087 – Change of use from a lorry park to residential for 3 mobile homes for a gypsy family (12 persons) – Refused – APPEAL – permanent permission given for 3 mobiles and 1 touring caravan 11.08.04

The site has been subject to a number of other applications for planning permission, enforcement action and appeals, however in relation to its previous use, and hence not of any particular relevance in this instance.

3. CONSULTATIONS

- 3.1 KCC Highways – no objection
- 3.2 KCC Public Rights of Way and Access – no objection

4. REPRESENTATIONS

- 4.1 Neighbours – one letter of objection has been received noting that the application should be refused. The objection is made on the grounds that the family have misled the Council on their reasons for living at the site; they have failed to plant the site; have erected further buildings; the site is untidy and an eyesore; extra caravans would add extra strain to the local environment, both on the small local roads, as well as extra mess on the site; the original permission has been broken many times; a limit of 3 generations should be applied.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site is a well kept lawful permanent gypsy site, having been given permission for such at appeal in 2004. The site is located on the east side of East Street, some 300m north of the junction with Redwall Lane. It is roughly rectangular in shape having an area of approximately 0.66 hectares. The orchard land to the north east and south east is also under the same ownership.
- 5.1.2 The site is divided into two parts. The western part of the site adjacent to East Street which contains the vehicular access consisting of a concrete driveway, with the remainder laid to grass; and the eastern part of the site where the caravans are sited. The two parts are divided by a wooden fence to an approximate height of 1.6 metres. The eastern part has a roughly rectangular hardstand area to the middle, around which the existing caravans and proposed caravans are to be sited.
- 5.1.3 Most of the site is fenced by open post and rail fencing with mature trees along the fence lines. The land rises up from East Street and then falls away from the eastern boundary of the residential part of the site into a valley beyond.
- 5.1.4 To the east, north and west of the site is open countryside with some orchards. To the south is a small group of residential properties. The area is predominantly open countryside in agricultural and horticultural use, with some woodland. Hunton itself lies approximately 1 km to the west.

5.1.5 For the purposes of planning, the site lies in the open countryside, being within a Special Landscape Area. The land on the west site of East Street is designated as Historic Parkland. Footpath KM164 enters the site to the northern side of the gated access, crossing the front grassed area of the site, before exiting the site into the orchard to the north.

5.2 Proposal

5.2.1 The application seeks a variation to a condition attached to permission MA/03/1087 which reads, *"No more than 4 caravans shall be on the site at any one time; no more than 3 of which shall be caravans not designed for touring"*. Paragraph 52 of the Inspectors decision notes that, at that time, two of the youngest children still lived with the parents and that residents raised concern that the pattern on other gypsy sites, in that authorised numbers of caravans were exceeded and subsequent applications made to accommodate additional caravans as children grew up and get married, could emerge on this site. The Inspector acknowledge that the number of caravans could be limited by condition, and any increase in that number would need planning permission; an application for such a change would enable consideration to be given to the impact of, and need for, any additional accommodation.

5.2.2 The application seeks to increase the permitted number of units used residentially from 3 to 5 to provide separate living accommodation for a son and his partner; and for his daughter and her partner, to enable them to have separate units.

5.3 Principle of Development

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

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

ENV28 then outlines the types of development that can be permitted. This does not include gypsy development as this was previously covered under housing Policy H36 but this is not a 'saved' policy.

5.3.2 A key consideration in the determination of this application is central Government guidance contained with 'Planning Policy for Traveller Sites' (PPTS) 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.

5.3.3 Work on the Local Plan is progressing; however there is, as yet, no adopted Local 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 procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). The GTAA concluded the following need for pitches over the remaining Local Plan period:-

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
April 2026 – March 2031	30 pitches
Total Oct 2011 – March 2031	187 pitches

These figures were agreed by Cabinet on the 13th March 2013 as the pitch target to be included in the next consultation version of the Local Plan.

5.3.4 Draft Policy CS12 of the Regulation 18 version of the Local Plan approved by Cabinet on 13th March 2013 that the Borough need for gypsy and traveller pitches will be addressed through the granting of permanent planning permissions and through the allocation of sites.

5.3.5 The timetable for the Local Plan's adoption is July 2015.

5.3.6 Issues of need are dealt with below but, in terms of broad principles 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 the PPTS 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 gypsy status of the family is accepted. This application seeks to increase the number of caravans for the same family. I consider that the Love family comply with the definition of a gypsy as outlined in Government guidance in Planning Policy for traveller sites.

5.6 Need for Gypsy Sites

5.6.1 The PPTS gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.

5.6.2 As stated above, the projection of accommodation requirements is as follows –

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
April 2026 – March 2031	30 pitches
Total Oct 2011 – March 2031	187 pitches

5.6.3 Taking into account this time period, since 1st October 2011 the following permissions for pitches have been granted (net):

35 Permanent non-personal permissions

6 Permanent personal permissions

0 Temporary non-personal permissions

21 Temporary personal permissions

Therefore a net total of 41 permanent pitches have been granted since 1st October 2011. And hence a shortfall of 64 remains.

5.6.4 It must be noted that 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. However, the latest GTAA clearly reveals an ongoing need for pitches.

5.7 Visual Impact

5.7.1 The lawful use of the site is as a gypsy caravan site for 3 mobiles and 1 touring caravan.

5.7.2 The Inspector in his appeal decision of 2004 noted that the visual impact arising from the use at this site, given the fact that the access, concrete drive and detached building already exists, is essentially the caravans, parked vehicles and any domestic paraphernalia, and hence the degree of change arising from the development (at that time) was more limited than might normally be expected with new gypsy sites.

- 5.7.3 The Inspector noted that the upper of the caravans are visible above the close boarded fence across the part of the site frontage from a short section of East Street; and (at that time) were also readily visible from the short section of public footpath which crosses the front corner of the site, but along this path a little way into the old orchard the intervening trees, in summer at least, considerably filtered views of the site. He noted that cars and domestic activity in the residential compound are generally screened from public view by the close-boarded fence. He noted that the rear-most 2 caravans which were proposed at that time have a relatively exposed position in relation to the wider countryside to the east, partly because the ground drops away beyond them and partly because of the lack of effective screening, although that in the long term, the planting of the rear of the residential compound, together with other existing planting, would provide year-round screening. The Inspector concluded, given the visual harm, a condition should be applied to the permission, limiting the number of caravans on the site to 3 + 1.
- 5.7.4 The two caravans proposed under the subject application are to be located within the existing residential area of the site. One to the north of the rectangular hardsurfaced area; and one to the east of the hardsurfaced area, to the south of an existing unit.
- 5.7.5 The site enjoys planting to all sides, with an established conifer and laurel boundary to the east of the residential area. This provides good all year screening outside the site to the east. Similarly, given the existing planting, there are only fleeting views of the caravans from East Street and the Public Footpath.
- 5.7.6 The latest guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in open countryside (paragraph 23) but goes on to state that where sites are in rural areas, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact is outlined, however, this is addressed in the NPPF and clearly under Local Plan policy ENV28.
- 5.7.7 This is not a new gypsy site. This is a site which has permission to be used as a gypsy site for 3 + 1 caravans, and is seeking to increase the number of units to accommodate two, now grown up children. I consider the need for these two units to be reasonable.
- 5.7.8 As stated above, the site is located within the open countryside with policies within the development plan seeking to protect the character and appearance of such areas. I have considered the additional visual impact of the additional two

caravans proposed. Whilst arguably, their presence on site will increase the cumulative visual impact on the area, given their proposed location, the lawful use of the site, the fact they are needed for two of the children, and the planting which exists at the site, I do not consider that two additional caravans, will result in such significant visual harm which would warrant refusal in this instance.

5.8 Personal Circumstances

- 5.8.1 The existing permission under MA/03/1087 is a permanent permission for gypsy use. It is not a personal permission to the applicant and his family.
- 5.8.2 Of the three existing caravans, one is used by the father, Mr Tom Love (Snr), and one each for his two sons and their wives/partners. Of the two proposed units, one is for a third son, Luke Love and his partner; and one is for Mr Love (Snr's) daughter and her partner.

5.9 Residential Amenity

- 5.9.1 There are a handful of neighbouring residential properties on East Street to the south, and a couple to the north. The closest being the Rectory which is a detached property adjoining the site to the south. There is existing boundary treatment between this gypsy site and the Rectory.
- 5.9.2 I do not consider there would be any harm to the amenity of the occupiers of any surrounding residential dwellings.

5.10 Highways

- 5.10.1 KCC Highways have raised no objection to the application, noting that the use is to be made of an existing access where there have been no recorded injury crashes within the last 3 year period; and that the application will not lead to any significant increase in traffic onto East Street.

5.11 Other Matters

- 5.11.1 The occupants of the proposed units already reside on the site. I do not consider that the introduction of two additional caravans to this site will result in any significant increase in traffic use. Further, given the lawful use, I do not consider the proposal to result in development which is unacceptable in sustainability terms.
- 5.11.2 Whilst there are other gypsy sites in the wider Hunton area, I do not consider by given permission for two additional units on this lawful gypsy site to result in an unacceptable cumulative impact on the character or appearance of the area.

- 5.11.3 Given the fact the site has a permanent permission for use as a gypsy site for three residential units, and the limited resultant harm by the proposal to vary this number to five, I do not consider it relevant or necessary to attach either a temporary permission or a personal permission, should permission be forthcoming.

6. CONCLUSION

- 6.1 This is a lawful gypsy site located in the countryside and Special Landscape Area.
- 6.2 The current occupiers are gypsies and comply with the definition contained within the Planning Policy for Gypsy Sites.
- 6.3 A condition limits the number of caravans sited for residential use to 3. Two additional units are required for the fathers son and daughter. The site enjoys good mature screening with only very limited views of parts of caravans when travelling along East Street. The residential part of the site can be partly seen from the footpath, the orchard to the north and the wider area to the south, however, these views are generally obscured somewhat by trees outside the site and by the existing mature planting. Nevertheless, current policy recognises that sites do not need to be invisible in the countryside.
- 6.4 The proposed development will not result in domination of the settled community.
- 6.5 The proposal is at an existing site. The proposed increase from three caravans in residential use to five caravans will not result in an unsustainable form of development which would warrant refusal.
- 6.6 The proposed development does not have any adverse impact on residential amenity.
- 6.7 There is a current need for Gypsy and Traveller sites as identified by the revised GTAA.
- 6.8 There are no other significant planning issues that would warrant refusal of the application.
- 6.9 Taking all the above into account, I therefore consider that it would be appropriate to recommend that planning permission should be granted for the variation of the condition attached to MA/03/1087 to allow an increase from 3 caravans in residential use to 5 caravans in residential use.

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 site shall not be used as a caravan site by any persons other than gypsies, as defined in Annex 1 of the Planning Policy for Traveller Sites 2012.

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

3. If the site ceases to be occupied in accordance with Condition 2 above, all caravans, structures, equipment, materials and all associated residential paraphernalia brought onto the land for the purposes hereby permitted shall be removed from the land.

Reason: To safeguard the character and appearance of the countryside in accordance with Policies ENV28 and ENV34 of The Maidstone Borough-Wide Local Plan.

4. No more than six caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 5 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 Policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000.

5. The caravans shall be sited in accordance with the approved details within the application.

Reasons: To accord with the terms of the application and in the interests of visual amenity in accordance with Policies ENV28 and ENV34 of the Maidstone Wide Local Plan 2000.

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

Reference number: MA/13/0255

A letter from a local resident has been received, objecting to the proposal. Their comments are summarised below:

- There is insufficient natural screening to the northern and eastern boundary of the site. The existing siting of caravans on the land impacts on my privacy. The addition of more mobile homes will compound this and also be visually unsightly from my property;
- The visual impact of the site will be increased. The existing caravans already effect the landscape of the designated Special Landscape Area;
- The site is already clearly from several public rights of way. The addition of more mobile homes will increase the site's visual impact;
- The noise generated by the current occupiers of the site is already noticeable. Any increase in caravans will invariably result in further noise and disturbance;
- There is clearly insufficient parking facilities on the site, to accommodate an increase of two more caravans/homes could in turn result in an increase of between 2 and 5 motor vehicles;
- Visibility for traffic approaching from the south side is poor and any increase in traffic movements would increase the potential for road accidents at the entrance to the application site;
- Consideration of this application should take into account what constitutes a mobile home. The building currently at the front of the site appears to be more like a bungalow;
- The additional two caravans would be contrary to the local planning authorities policies in respect of maintaining a feeling of openness and space around residential buildings in this area;
- The appeal decision APP/U2235/A/03/1131604 states that the previous application was for the housing of gypsy families, namely that they were persons of a nomadic habit of life. Evidence was put forward that the existing occupants of the site lead a nomadic way of live. There is no evidence that they have led a nomadic way of life before or after the appeal decision of August 2004. There is no reason to believe that the occupants of the additional mobile homes will be nomadic. This would be in contravention of the conditions imposed by the planning inspector;
- There is no justification for additional families to be located on the site to contribute towards agricultural work. There has been no harvesting of fruit before or after the appeal decision in 2004.

These issues are dealt with at length in the report.

My recommendation is unchanged.

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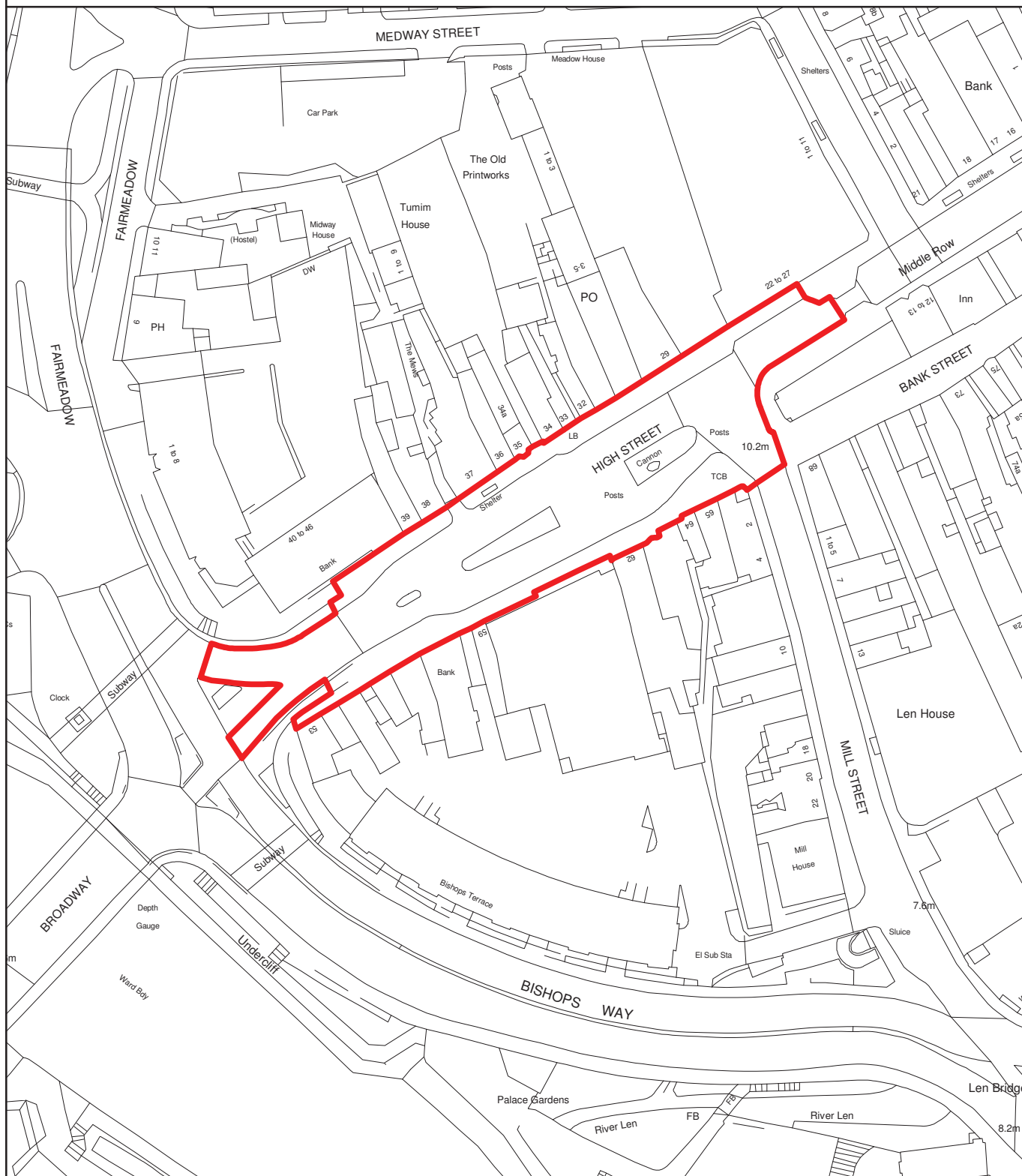
Agenda Item 20

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/0344

GRID REF: TQ7555

**LOWER HIGH STREET,
MAIDSTONE.**



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Rob Jarman
Head of Planning

APPLICATION: MA/13/0344 Date: 28 February 2013 Received: 28 February 2013

APPLICANT: Maidstone Borough Council

LOCATION: LOWER, HIGH STREET, MAIDSTONE, KENT

PARISH: Maidstone

PROPOSAL: Relocation of canon and plinth together with the installation of illuminate lighting and the planting of 8 new trees as shown on plan numbers 301, 302, 304, 319, 320, Design and Access Statement and Application Form received 28th February 2013 and Tree Protection Plan received 14th May 2013 and Plan numbers 312 RevA, 310 RevA, 314, E001 RevC02.

AGENDA DATE: 6th June 2013

CASE OFFICER: Kevin Hope

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

- The Council is the applicant.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: R9, ENV6
- Village Design Statement: N/A
- Government Policy: National Planning Policy Framework 2012

2. HISTORY

MA/10/0254 - High Street and King Street, Maidstone. Application for the provision of new ramps, steps and landing areas on the south side of Bishops Way to improve pedestrian connection from the High Street to the Bridge and the closure of one existing subway, relocation of the cannon and its placement on a new plinth, removal of 4 existing Plane Trees and their replacement with 8 Cherry and 7 Hornbeam Trees, provision of illumination for the Queen's Monument, the relocated cannon and other listed buildings and ancillary works thereto, together with other works including the realignment and re-paving of carriageways and pedestrian areas and crossing points, the relocation of 'bus stops and shelters, taxi ranks, loading bays and disabled

parking bays and the removal/relocation and/or provision of new street furniture including benches, lighting, leaning-posts, telephone boxes, removal of planters and shrubs and the relocation of the existing CCTV pole by the cannon – (Withdrawn).

MA/10/0255 - High Street and King Street, Maidstone. Application for listed building consent for the relocation of the cannon and its placement on a new plinth together with installation of lighting to illuminate the Queen's Monument, the relocated cannon and other listed buildings and ancillary works thereto – (Withdrawn).

MA/10/0691 - Planning application for the provision of new ramps, steps and landing areas on the south side of Bishops Way to improve pedestrian connection from the High Street to the Bridge and the closure of one existing subway, relocation of the cannon and its placement on a new plinth, removal of 3 existing Plane Trees and 1 Field Maple and their replacement with 8 Cherry and 7 Hornbeam Trees, provision of illumination for the Queen's Monument, the relocated cannon and other listed buildings and ancillary works thereto, in connection with other works (which do not require the benefit of planning permission) including the realignment and re-paving of carriageways and pedestrian areas and crossing points, the relocation of 'bus stops and shelters, taxi ranks, loading bays and disabled parking bays and the removal/relocation and/or provision of new street furniture including benches, lighting, leaning-posts, telephone boxes, removal of planters and shrubs and the relocation of the existing CCTV pole by the cannon – (Approved with conditions).

- 2.1 There have been a significant number of other planning applications within the High Street and King Street area, however, none of these are considered to be relevant in the determination of this planning application.

3. CONSULTATIONS

- **Conservation Officer** – Raises no objections with the following comments:-

The cannon is to be re-sited within the new landscaping works for the Lower High Street. The new position has been the subject of pre-application discussions and is considered to be appropriate. The existing ragstone plinth is to be re-used. I raise no objection to this application on heritage grounds subject to conditions re the preparation of a sample panel of ragstone for approval and the painting of the canon black.

- **Landscape Officer** – Raised no objections

The additional details address the previous concerns raised in relation to landscaping and tree protection. I understand that it has been confirmed that there will be no future conflict with new planting and CCTV camera sightlines.

The nature of the approach to tree root protection will be largely reactive to where tree roots are encountered under existing surfaces and the working methodology proposed is acceptable subject to a condition requiring works to be carried out in accordance with the approved drawings/details and a further condition requiring a full specification of landscaping details to be submitted and approved.

4. REPRESENTATIONS

4.1 Two representations have been received raising the following points:-

- Noise and disturbance during construction works.
- The impact upon the listed cannon and lack of detail of proposed works.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site covers the bottom section of the High Street from its junction with Bank Street and Mill Street to the junction with the A229 Fairmeadow. Planning permission has been previously granted for the redevelopment of this area including changes to paving and layout of this area under planning permission MA/10/0691.

5.1.2 This area has seen some changes as a result of the re-development works to the upper section of the High Street and as a result part of the existing road has been closed. The main linking road between Fairmeadow and the High Street is now two way to facilitate this change. This is primarily used by buses and includes a number of bus stops.

5.1.3 At the junction with Mill Street, all through traffic is directed away from the main shopping centre. This is a traffic light controlled junction, with a pedestrian crossing linking into Bank Street. It is at this point that phase 1 of the redevelopment works start which run through to King Street which have now been completed.

5.1.4 The area subject to this application lies within the core of Maidstone and is within the Maidstone Town Centre Conservation Area. This area is also fronted by a number of historically significant buildings, many of which contain historic shop-fronts or facades including the cannon which is Grade II listed.

5.2 Proposal

- 5.2.1 Planning permission is sought for the relocation of cannon and plinth together with the installation of lighting and the planting of 8 new trees.
- 5.2.2 The previous planning application for the redevelopment included the planting of trees in this location and the relocation of the cannon and plinth. This proposal comprises a revised location of the cannon together with a revised plinth and amendments to the species of trees included. Previously, this comprised 8no Ornamental Cherry trees and it is now proposed to install 2no Field Maples, 2no Ornamental Cherry and 4no Small Leaved Limes.
- 5.2.3 The proposed lighting would comprise a number of uplighting installations under the trees and to the side of the cannon to provide some night illumination.

5.3 Principle of development

- 5.3.1 The principle of this development has already been established through the approval of the previous planning permission for the development works (MA/10/0691). This permission seeks to amend key elements as described above.

5.4 Visual Impact and design

- 5.4.1 The most fundamental change within this proposal is the amendment to the location and style of the cannon plinth. The previous application saw the construction of a granite stepped plinth of a large square form to create the plinth to the listed cannon. This was to be sited at the eastern section of the pedestrian area close to the junction with Mill Street. Following consideration after the completion of phase 1, the position and style of the plinth has been revised which now proposes to have a maintained ground floor level with granite seat bases to both the eastern and western sides. A granite upstand in kerb units would then be installed to both the northern and southern sides of the plinth. The cannon would sit centrally within this area with its existing ragstone plinth retained and re-used. There would be an area of soft planting around the cannon plinth to soften the appearance and impact upon the cannon itself.
- 5.4.2 The Conservation Officer has been consulted on this proposal with regard to the impact upon the listed cannon and has raised no objections provided that a sample panel of the ragstone is provided on site prior to the works taking place and that the cannon is painted black. Both of these points I consider are appropriate and suitable conditions shall be imposed to secure this. Comments have been raised within the representations received with regard to the impact

upon the listed cannon. As the existing ragstone plinth is to be retained, much of the existing character and setting of the listed cannon would be retained. This would also have an identical fixing to the plinth as existing further reducing any visual harm. There have also been significant discussions between the Conservation Officer and the agents to ensure that the impact upon the listed cannon is reduced and to achieve a suitable outcome with regard to the impact upon the cannon and surrounding conservation area.

- 5.4.3 As a result of the relocated cannon, the area to the eastern end close to the junction with Mill Street will comprise a square seating area constructed from granite in keeping with that in Jubilee Square. To the north and east of this 4no small leafed lime trees are proposed. These are considered to provide some additional landscaping within this area to soften the appearance from views down the High Street and are particularly important on this prominent corner siting. The revised tree planting to the lower end of the High Street would also increase the planting mix providing a greater level of interest to this area and again contributing to the character. The proposed illumination is considered appropriate and would provide some texturing to the appearance of the development at night and would also enhance the overall appearance. I therefore do not consider that there would be any visual harm to the conservation area or surrounding streetscene as a result of this proposal.

5.5 Landscaping

- 5.5.1 In terms of landscaping, as discussed above a number of amendments are proposed to the tree planting. This includes new kerb upstand to the existing mature plane trees centrally located within the lower high street as well as new tree pits around the base of the trees. A tree protection plan has been submitted which addresses the impact upon these trees which the landscape officer finds acceptable. The proposed amended species are also considered to be acceptable and appropriate for the development. Comments were also raised with regard to the location of close by CCTV and future pressure for works to nearby trees, although, the space around the CCTV is considered to be sufficient in order to provide surveillance which has been confirmed by the operators of the CCTV.
- 5.5.2 Plan number 319 also shows an area of soft landscaping around the base of the cannon. Details of the planting mix to this area will be secured by condition which will also include the planting size to the proposed trees. This will ensure a suitable species and overall appearance is created.

5.6 Neighbouring Amenity

- 5.6.1 With regard to neighbouring amenity, due to the nature of the works and their proximity to neighbouring properties, I do not consider that there would be a significant impact upon neighbouring amenity. Comments have been raised with regard to the noise and disturbance from construction causing harm to amenity. This is not a material consideration and would be covered by Environmental Health legislation in any case.

6. CONCLUSION

- 6.1 For the reasons outlined above, I consider that the development would result in significant overall benefit to the appearance and character of this Town Centre area and would not cause any demonstrable harm to the character or appearance of the listed cannon, any neighbouring buildings and would not have a detrimental impact upon the character or appearance of the surrounding Conservation Area. I therefore consider overall that the proposal is acceptable with regard to the relevant provisions of the development plan and amenity impacts on the local environment and other material considerations such as are relevant. I therefore recommend conditional approval of the application on this basis.

7. RECOMMENDATION

I therefore recommend approval 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 trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Construction-Recommendations' and in accordance with the tree protection plan submitted 14th May 2013. 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 siting 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 to ensure a satisfactory

setting and external appearance to the development in accordance with policy ENV6 of the Maidstone Borough Wide Local Plan 2000 and the guidance contained within the National Planning Policy Framework 2012.

3. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species and showing the position and planting size of the landscaping and including a programme for the approved scheme's implementation and long term management. All existing trees and hedgerows on the land to be retained shall be protected in accordance with the Tree Protection Plan received 14th May 2013. 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 policy ENV6 of the Maidstone Borough Wide Local Plan 2000 and the guidance contained within the National Planning Policy Framework 2012.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the 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 and the guidance contained within the National Planning Policy Framework 2012.

5. The Cannon shall be painted black and maintained as such to the satisfaction of the Local Planning Authority;

Reason: To maintain the appearance and character of the listed cannon in accordance with the guidance contained within the National Planning Policy Framework 2012.

6. The development shall not commence until, a sample panel of ragstone is constructed independently on site for the prior inspection of the Local Planning Authority.

The development shall be carried out in accordance with the approved details;

Reason: To ensure the appearance and the character of the building are maintained in accordance with the National Planning Policy Framework 2012.

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

Plan numbers 301, 302, 304, 319, 320, Design and Access Statement and Application Form received 28th February 2013, Tree Protection Plan received 14th May 2013 and Plan numbers 312 RevA, 310 RevA, 314, E001 RevC02.

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 ENV6 of the Maidstone Borough Wide Local Plan 2000 and the guidance contained within the National Planning Policy Framework 2012.

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



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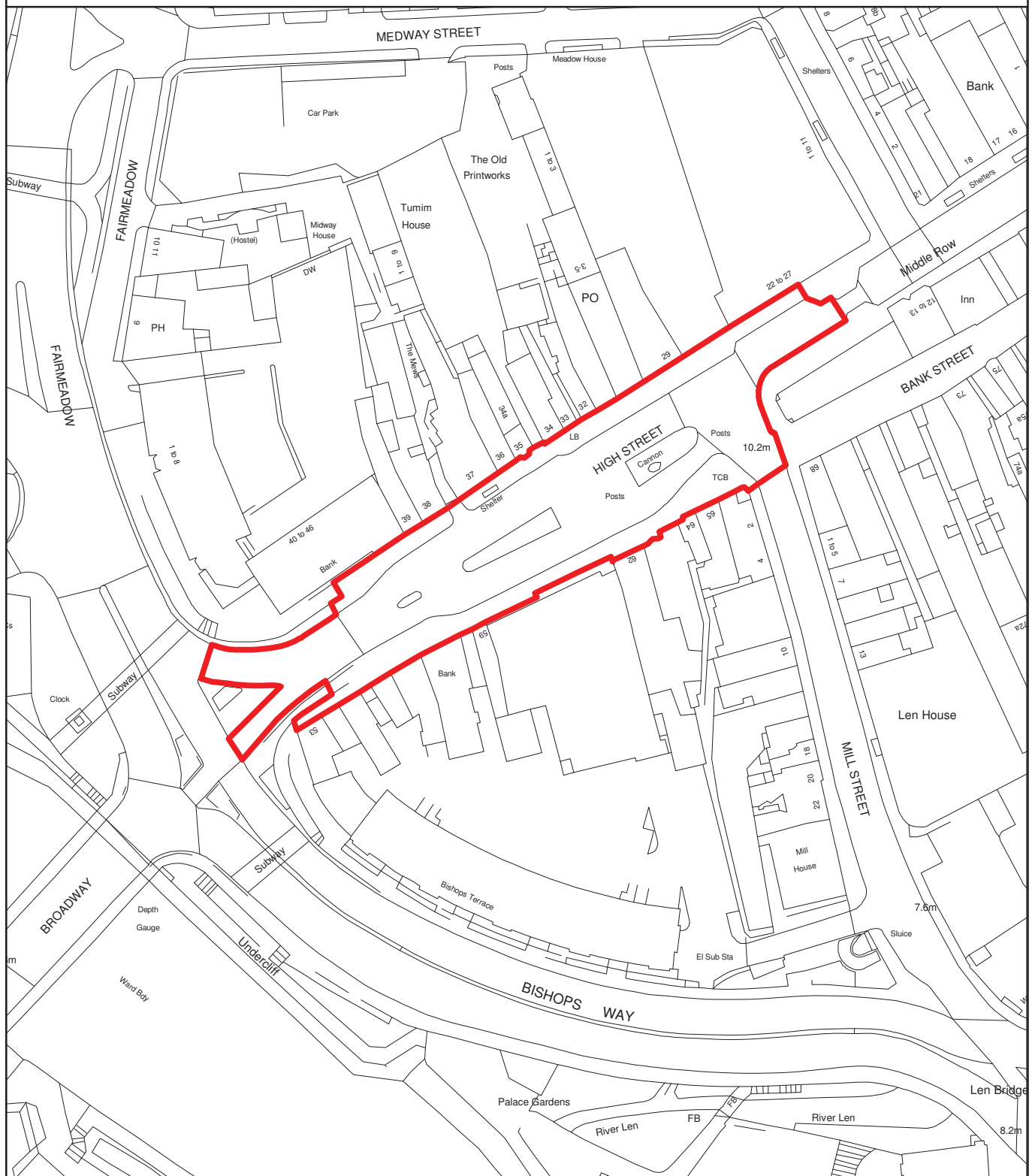


THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/0345

GRID REF: TQ7555

LOWER HIGH STREET,
MAIDSTONE.



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Rob Jarman
Head of Planning

APPLICATION: MA/13/0345 Date: 28 February 2013 Received: 28 February 2013

APPLICANT: Maidstone Borough Council

LOCATION: LOWER, HIGH STREET, MAIDSTONE, KENT

PARISH: Maidstone

PROPOSAL: Listed building consent is sought for the relocation of canon and plinth together with the installation of illuminate lighting as shown on Plan numbers 301, 302, 304, 319, 320, Design and Access Statement and Application Form received 28th February 2013 and Plan numbers 312 RevA, 310 RevA, 314, E001 RevC02.

AGENDA DATE: 6th June 2013

CASE OFFICER: Kevin Hope

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

- The Council is the applicant.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: R9, ENV6
- Village Design Statement: N/A
- Government Policy: National Planning Policy Framework 2012

2. HISTORY

MA/10/0254 - High Street and King Street, Maidstone. Application for the provision of new ramps, steps and landing areas on the south side of Bishops Way to improve pedestrian connection from the High Street to the Bridge and the closure of one existing subway, relocation of the cannon and its placement on a new plinth, removal of 4 existing Plane Trees and their replacement with 8 Cherry and 7 Hornbeam Trees, provision of illumination for the Queen's Monument, the relocated cannon and other listed buildings and ancillary works thereto, together with other works including the realignment and re-paving of carriageways and pedestrian areas and crossing points, the relocation of 'bus stops and shelters, taxi ranks, loading bays and disabled parking bays and the removal/relocation and/or provision of

new street furniture including benches, lighting, leaning-posts, telephone boxes, removal of planters and shrubs and the relocation of the existing CCTV pole by the cannon – (Withdrawn).

MA/10/0255 - High Street and King Street, Maidstone. Application for listed building consent for the relocation of the cannon and its placement on a new plinth together with installation of lighting to illuminate the Queen's Monument, the relocated cannon and other listed buildings and ancillary works thereto – (Withdrawn).

MA/10/0691 - Planning application for the provision of new ramps, steps and landing areas on the south side of Bishops Way to improve pedestrian connection from the High Street to the Bridge and the closure of one existing subway, relocation of the cannon and its placement on a new plinth, removal of 3 existing Plane Trees and 1 Field Maple and their replacement with 8 Cherry and 7 Hornbeam Trees, provision of illumination for the Queen's Monument, the relocated cannon and other listed buildings and ancillary works thereto, in connection with other works (which do not require the benefit of planning permission) including the realignment and re-paving of carriageways and pedestrian areas and crossing points, the relocation of 'bus stops and shelters, taxi ranks, loading bays and disabled parking bays and the removal/relocation and/or provision of new street furniture including benches, lighting, leaning-posts, telephone boxes, removal of planters and shrubs and the relocation of the existing CCTV pole by the cannon – (Approved with conditions).

- 2.1 There have been a significant number of other planning applications within the High Street and King Street area, however, none of these are considered to be relevant in the determination of this planning application.

3. CONSULTATIONS

- **Conservation Officer** – Raises no objections with the following comments:-

The canon is to be re-sited within the new landscaping works for the Lower High Street. The new position has been the subject of pre-application discussions and is considered to be appropriate. The existing ragstone plinth is to be re-used. I raise no objection to this application on heritage grounds subject to conditions re the preparation of a sample panel of ragstone for approval and the painting of the canon black.

4. REPRESENTATIONS

- 4.1 No representations have been received.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site covers the bottom section of the High Street from its junction with Bank Street and Mill Street to the junction with the A229 Fairmeadow. Planning permission has been previously granted for the redevelopment of this area including changes to paving and layout of this area under planning permission MA/10/0691.
- 5.1.2 This area has seen some changes as a result of the re-development works to the upper section of the High Street and as a result part of the existing road has been closed. The main linking road between Fairmeadow and the High Street is now two way to facilitate this change. This is primarily used by buses and includes a number of bus stops.
- 5.1.3 At the junction with Mill Street, all through traffic is directed away from the main shopping centre. This is a traffic light controlled junction, with a pedestrian crossing linking into Bank Street. It is at this point that phase 1 of the redevelopment works start which run through to King Street which have now been completed.
- 5.1.4 The area subject to this application lies within the core of Maidstone and is within the Maidstone Town Centre Conservation Area. This area is also fronted by a number of historically significant buildings, many of which contain historic shop-fronts or facades including the cannon which is Grade II listed.

5.2 Proposal

- 5.2.1 Listed building consent is sought for the relocation of cannon and plinth together with the installation of lighting.
- 5.2.2 The previous planning application for the redevelopment included the planting of trees in this location and the relocation of the cannon and plinth. This proposal comprises a revised location of the cannon together with a revised plinth.
- 5.2.3 The proposed lighting would comprise a number of uplighting installations under the trees and to the side of the cannon to provide some night illumination.

5.3 Principle of development

- 5.3.1 The principle of this development has already been established through the approval of the previous listed building consent which provides the host to the development works. This permission seeks to amend key elements as described above.

5.4 Visual Impact and design

- 5.4.1 The most fundamental change within this proposal is the amendment to the location and style of the cannon plinth. The previous application saw the construction of a granite stepped plinth of a large square form to create the plinth to the listed cannon. This was to be sited at the eastern section of the pedestrian area close to the junction with Mill Street. Following consideration after the completion of phase 1, the position and style of the plinth has been revised which now proposes to have a maintained ground floor level with granite seat bases to both the eastern and western sides. A granite upstand in kerb units would then be installed to both the northern and southern sides of the plinth. The cannon would sit centrally within this area with its existing ragstone plinth retained and re-used. There would be an area of soft planting around the cannon plinth to soften the appearance and impact upon the cannon itself.
- 5.4.2 The Conservation Officer has been consulted on this proposal with regard to the impact upon the listed cannon and has raised no objections provided that a sample panel of the ragstone is provided on site prior to the works taking place and that the cannon is painted black. Both of these points I consider are appropriate and suitable conditions shall be imposed to secure this. Comments have been raised within the representations received with regard to the impact upon the listed cannon. As the existing ragstone plinth is to be retained, much of the existing character and setting of the listed cannon would be retained. This would also have an identical fixing to the plinth as existing further reducing any visual harm. There have also been significant discussions between the Conservation Officer and the agents to ensure that the impact upon the listed cannon is reduced and to achieve a suitable outcome with regard to the impact upon the cannon and surrounding conservation area.
- 5.4.3 The proposed illumination is considered appropriate and would provide some texturing to the appearance of the development at night and would also enhance the overall appearance. I therefore do not consider that there would be any harm to the listed cannon or any visual harm to the conservation area or surrounding streetscene as a result of this proposal.

5.6 Neighbouring Amenity

- 5.6.1 With regard to neighbouring amenity, due to the nature of the works and their proximity to neighbouring properties, I do not consider that there would be a significant impact upon neighbouring amenity.

6. CONCLUSION

- 6.1 For the reasons outlined above, I consider the development would not cause any demonstrable harm to the character or appearance of the listed cannon or any neighbouring buildings and would not have a detrimental impact upon the character or appearance of the surrounding Conservation Area. I therefore consider overall that the proposal is acceptable with regard to the relevant provisions of the development plan and amenity impacts on the local environment and other material considerations such as are relevant. I therefore recommend conditional approval of the application on this basis.

7. RECOMMENDATION

I therefore recommend approval 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 Cannon shall be painted black and maintained as such to the satisfaction of the Local Planning Authority;

Reason: To maintain the appearance and character of the listed cannon in accordance with the guidance contained within the National Planning Policy Framework 2012.

3. The development shall not commence until, a sample panel of ragstone is constructed independently on site for the prior inspection of the Local Planning Authority.

The development shall be carried out in accordance with the approved details;

Reason: To ensure the appearance and the character of the building are maintained in accordance with the National Planning Policy Framework 2012.

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

Plan numbers 301, 302, 304, 319, 320, Design and Access Statement and Application Form received 28th February 2013 and Plan numbers 312 RevA, 310 RevA, 314, E001 RevC02.

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 ENV6 of the Maidstone Borough Wide Local Plan 2000 and the guidance contained within the National Planning Policy Framework 2012.

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













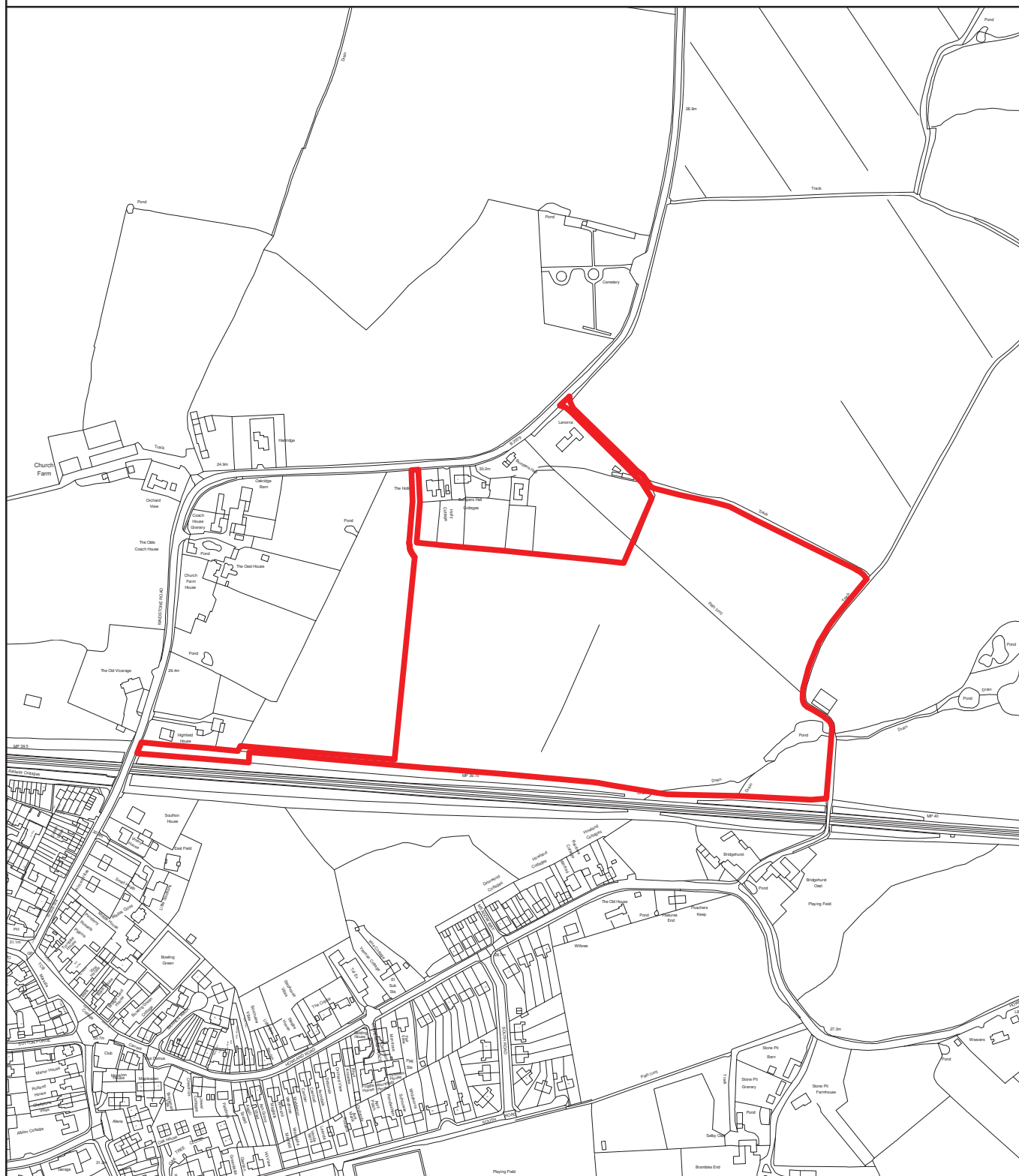
Agenda Item 22

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/0358

GRID REF: TQ7444/7544

**LAND OFF MAIDSTONE ROAD,
MARDEN.**



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Rob Jarman
Head of Planning

APPLICATION: MA/13/0358 Date: 1 March 2013 Received: 1 March 2013

APPLICANT: Marden Cricket & Hockey Club & Alan Firm

LOCATION: LAND OFF, MAIDSTONE ROAD, MARDEN, KENT

PARISH: Marden

PROPOSAL: Outline application for the provision of new sports club ground (to include cricket pitches, artificial multi-purpose/hockey pitches, tennis courts, cricket nets, floodlights, clubhouse and car parking) including change of use from agriculture, with access to be determined and all other matters reserved for subsequent approval. Amendments to and resubmission of application MA/11/0361 as shown on drawing nos. DHA/7275/01revB, DHA/7275/04revA, JEC/336/01, T0072/SK005 and T0072/SK006 and Design and Access Statement, Planning Statement, Landscape Statement, Ecological Scoping Survey, Reptile and Amphibian Survey, Dormice Survey, and Acoustic Survey received 01/03/2013 and Ecology update letter of opinion, Habitat map and drawing nos. T0072/SK003revB and T0072/SK007 received 24/04/2013.

AGENDA DATE: 6th June 2013

CASE OFFICER: Steve Clarke

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

- It is contrary to views expressed by Marden Parish Council
- Councillor Nelson-Gracie has requested it be reported for the reasons set out in the report

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV26, ENV28, ENV49, T13, T21, T23, CF14
- Government Policy: National Planning Policy Framework 2012

2. HISTORY

2.1 The only relevant planning history is the following application:

MA/11/0361: Outline application for the provision of new sports club ground (to include cricket pitches, artificial multi-purpose/hockey pitches, hockey practice area, tennis courts, cricket nets, floodlights, club house and car parking) including change of use from agriculture, with access to be determined and all other matters reserved for subsequent approval: REFUSED 11/10/2012

- 2.2 The application was considered by the Planning Committee on 11 October 2012. Members overturned the officer recommendation to grant outline planning permission and refused permission on the following ground:

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

- 2.3 This current application has been submitted following pre-application discussions with Officers and Members. The application's main changes are as follows:

- A reduction in the proposed developed area of the application site (equating to 4.5 ha more of proposed landscaped area);
- Provision of a Community Orchard;
- Deletion of the previously proposed hockey practice area;
- Reduction in the number of proposed floodlit tennis courts to two (previously four). The tennis courts have been moved to a location to the north of the multi-use pitches;
- The car park has relocated eastwards to a position north of the proposed clubhouse;
- The clubhouse is now 'L-shaped' and has a dual aspect facing towards both the hockey pitches and the cricket ground;
- The amended layout avoids the need for a formal diversion of the Public Right of Way which crosses the site;
- Provision of a more detailed and comprehensive site landscaping strategy;

3. BACKGROUND

- 3.1 The applicant's existing site is located on Albion Road/Stanley Road, Marden to the south east of the village centre. It lies outside the defined village boundary, although immediately adjoins the village boundary to the north and the west. This part of the countryside has no particular landscape or other designation in the Maidstone Borough-wide Local Plan 2000.

- 3.2 The existing site is 4.2ha in area and accommodates a cricket pitch, an 'Astroturf' pitch and two tennis courts. The 'Astroturf' pitch is currently lit by temporary demountable floodlights, attempts to secure permanent floodlighting having been unsuccessful in the past due to the impact on the amenities of nearby residential properties.
- 3.3 The club have a desire to develop a high quality sports facility but do not have sufficient existing funds to provide these facilities as their existing funds only cover necessary upkeep and maintenance of the existing grounds and buildings. Other funding sources have been explored so far without success. As part of the potential funding strategy, relocation of the facilities and redevelopment of the existing site to release funding have also been considered.
- 3.4 As such, the site was put forward as a potential development site in the Strategic Housing Land Availability Assessment (SHLAA) in 2009 and was rejected for the following reasons:-
- 'The site is currently used for cricket and hockey. The loss of recreational space would be subject to the tests of Policy ENV23, namely that there is no local deficiency of recreational space and alternative equivalent provision can be made. The identification of this constraint makes the achievability of the site uncertain; it is beyond the remit of this SHLAA to assessed the suitability of the alternative site put forward for the cricket and hockey club and to assess deficiencies in local provision.'
- 3.5 The current application has been submitted following a search in the Marden area by the club for a suitable alternative site that also meets the club's desire to provide a high quality sports facility improving the current facilities. The chosen site had to be suitable in terms of its location, topography and drainage. It also needed to be large enough to accommodate the club's aspirations for its facilities.
- 3.6 Any proposals for the redevelopment of the applicant's existing site do not form part of this application and would, if they come forward at a future date, be dealt with through the Local Development Framework process, particularly the Development Delivery Local Plan which is still scheduled for adoption in 2015.
- 3.7 There is no current planning application for the redevelopment of the applicant's existing site.
- 3.8 The current planning application must be considered and stand or fall on its own individual planning merits.

4. CONSULTATIONS

4.1 Marden Parish Council: Wishes to see the application REFUSED and make the following comments:-

'MPC acknowledges that the amount of development on the site has been reduced although the footprint remains the same, but it was unanimously agreed that the application should be REFUSED on the following grounds:

Clearly it is an application to relocate existing village facilities from a site which has enough suitable land to extend without the need to encroach into the open countryside and thus the application constitutes unsustainable development which could be avoided.

The positioning of the tennis courts with floodlighting is now significantly closer to adjacent residential properties than the previous application, and thus the application is even more detrimental to the amenities of the occupiers.

Furthermore, if the floodlighting is not retractable/demountable, it will be viewed by neighbours and users of the nearby public footpath and B20789 Maidstone Road even when not in use, and thus the application will result in unacceptable harm to the character and appearance of the surrounding countryside.

The proposed clubhouse is larger and closer to adjacent residential properties than before, with the risk of light and noise pollution to neighbours and thus appears to be further detrimental to the amenities of the occupiers.

Therefore MPC feel the reasons for refusal previously given by MBC on 11th October 2012 remain valid despite the amendments subsequently made to the application.

Detrimental to amenities of neighbours
Unacceptable harm to countryside

Furthermore, clarification is requested on the following aspects before a final decision is made:

- The nature and detail of the pedestrian access route along the north side of railway including whether it will be dedicated as a public right of way and if it will be a gated footpath.
- The footway along Maidstone Road to the north of the site has been omitted from the application drawing and full details regarding this pedestrian access route need to be provided.
- What is a community orchard and how are the community to run and/or use it?

If MBC are minded to approve the following conditions should be applied:

- If the sports facility ceases business the land must be returned to an agricultural nature in its entirety.
- Time-limit for usage of the club house – controlled to minimise nuisance from noise (e.g. loud music etc)
- Floodlights – no use after 9pm
- Floodlights – should be retracted/demounted when not in use
- The southern pedestrian access should be dedicated as a public right of way connecting Maidstone Road with existing public footpath along the east side of the site
- That a safe footway be provided along Maidstone Road to the northern side of the site
- That the developers allow access prior to and during construction for archaeological investigations into the historic PLUTO pipeline and associated gateway.

If MBC recommend refusal, Councillors do not wish it to go to Committee but if MBC recommend approval, Councillors wish it to be called in to the Committee in order that objectors can make representations in person.'

4.2 **Natural England:**

'The protected species survey has identified that the following European protected species may be affected by this application: Dormice and Great Crested Newt.

Our standing advice sheets for individual species provide advice to planners on deciding if there is a "reasonable likelihood" of these species being present. They also provide advice on survey and mitigation requirements. The standing advice has been designed to enable planning officers to assess protected species surveys and mitigation strategies without needing to consult us on each individual application. The standing advice was issued in February 2011 and we recognise that it will take a little while for planners to become more comfortable with using it and so in the short-term will consider species surveys that affect European protected species against the standing advice ourselves, when asked for support by planners.

We have not assessed the survey for badgers, barn owls and breeding birds¹, water voles, widespread reptiles or white-clawed crayfish. These are all species protected by domestic legislation and you should use our standing advice to assess the impact on these species.

How we used our standing advice to assess this survey and mitigation strategy

We used the flowchart on page 6 of our Standing Advice Species Sheet: Hazel Dormice beginning at box (i). Working through the flowchart we reached box (xvi). Box (xvi) advises the authority that "Permission could be granted (subject to other constraints)" and that the authority should "Consider requesting enhancements".

We used the flowchart on page 8 of our Standing Advice Species Sheet: Great crested newts beginning at box (i). Working through the flowchart we reached box (viii). Box (viii) advises the authority to accept the findings and consider promoting biodiversity enhancements for great crested newts (for example creation of new water bodies and suitable terrestrial habitat) in accordance with NPPF and Section 40 of the NERC Act.'

- 4.3 **KCC Ecology:** Originally commented that the surveys produced for the earlier application could be out of date due to their age and possible changes in the management of the site. It was recommended that a further scoping survey be undertaken.

A revised scoping survey was subsequently submitted and the following comments received:-

'An ecological scoping survey has been submitted confirming that there has been no change in the habitats present on the site since the previous species specific surveys were carried out in 2011. As a result we are satisfied that there is no requirement for additional surveys to be carried out prior to determination of the planning application.

A habitat map has been submitted with the ecological scoping survey. The map does not provide sufficient information – ideally a second map should also have been submitted showing only the proposed development area. The second map would have shown the habitats present in much more detail – for example the location of the mature trees.

However on this occasion we do not require an additional habitat map to be submitted as the photos included in the updated ecological scoping survey have provided clarity to the information provided.

Reptiles

The reptile survey identified that slow worms were present along the northern boundary of the site. The landscaping plan details that tree planting and a grassy south facing bank has been proposed along the northern boundary. A precautionary approach must be used when carrying out any landscaping in this

area. We recommend that refugia is incorporated in to the grassy bank and it is managed for reptiles.

The ecological survey has recommended that a reptile fence is erected around the site however we feel that this may not be necessary. As other than the proposed planting along the northern boundary, the footprint of the development will not be impacting the suitable reptile habitat. Instead we recommend that, if reptile habitat is being impacted, heras fencing is erected around the site to prevent any construction traffic going on to the suitable reptile habitat. The management of the site must continue to ensure the site remains unsuitable for reptiles.

Bats

Lighting can be detrimental to roosting, foraging and commuting bats. All lighting (including floodlighting) proposed for the development must be designed to have limited impact on any 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).

Enhancements

One of the principles of the National Planning Policy Framework is that "*opportunities to incorporate biodiversity in and around developments should be encouraged*". The landscape plan highlights that areas of the site are proposed to be designed to create areas for wildlife. These proposals are welcomed. We recommend that, as condition of planning permission, a management plan is produced for the site to ensure that these areas are managed appropriately for biodiversity.'

4.4 KCC Heritage Conservation:

Have confirmed that they have no comments to make

4.5 KCC Public Rights of Way Officer:

'The proposed development site is crossed by Public Right of Way KM274. The location of this footpath is indicated on the attached map extract. The existence of the right of way is a material consideration. The Definitive Map and Statement provide conclusive evidence at law of the existence and alignment of Public Rights of Way. While the Definitive Map is the legal record, it does not preclude the existence of higher rights, or rights of way not recorded on it.

I note that the access driveway for the site follows the line of footpath KM274 from where it begins at Maidstone Road until it reaches the proposed permanent car-park. Please inform the applicant that for safety reasons:

- A footway needs to be installed on the access driveway to separate any walkers from motorised traffic. Due to the alignment of the path on historical maps, this footway must be on the west side of the driveway.
- A safe crossing point will need to be added where any pedestrians need to cross this driveway to continue on the footpath.
- Any proposed changes to the surface of the path, including hard surfacing, need to be approved by this office before work begins on the ground.

As long as these details are incorporated into the final plans, then I have **no objection** to the application.

Please inform the applicant of the following General Informatives:-

1. No furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority:
2. There must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development without the permission of this office.
3. There should be no close board fencing or similar structure over 1.2 metres erected which will block out the views:
4. No hedging or shrubs should be planted within 1.0 metre of the edge of the Public Path.
5. No Materials can be brought onto site or stored on the Right of Way.

Please also make sure that the applicant is made aware that the granting of planning permission confers on the developer no other permission or consent or right to close or divert any Public Right of Way at any time without the express permission of the Highway Authority.'

4.6 Environment Agency: Do not object and comment as follows:-

'We have reviewed the information submitted and have no objection to the principle of the proposal and recommend the following as a condition of planning:

Condition: Development shall not begin until a sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100yr critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and so not increase the risk of flooding both on- or off-site. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

Additional Information

Please note that this development lies on a minor aquifer for a potable water supply therefore we offer the following advice:

- Drainage to soakaway from car parking areas for more than 50 spaces should be passed through an oil interceptor before discharging to ground. Note: cleansing agents can negate the effect of petrol interceptors. The Environmental Permitting Regulations make it an offence to cause or knowingly permit any discharge that will result in the input of pollutants to groundwater.
- Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment. The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.
- Foul drainage from the clubhouse should be connected to the main sewer. Where this is not possible and it is proposed to discharge treated effluent to ground or to a surface watercourse the applicant may require an Environmental Permit from us. The granting of planning permission does not guarantee the granting of a permit under the Environmental Permitting Regulations 2010. A permit will only be granted where the risk to the environment is acceptable. No permit will be issued for foul treatment discharges to SPZ1 of when there is a risk to groundwater in terms of volume of discharge or inadequate attenuation capacity in the underlying materials due to soils/rock type or depth to groundwater. We also refer you to our document Groundwater Protection: Policy and Practice (GP3) that is a report that highlights the importance of groundwater and encourages industry and other organisations to act responsibly and improve their practices. This can be found at: <http://www.environment-agency.gov.uk/research/library/publications/40741.aspx>.

- 4.7 **Upper Medway Internal Drainage Board:** Do not object but comment as follows:

I can confirm that the site is outside of the Upper Medway Internal Drainage Board's district and is unlikely to directly affect the Board's interests. However, the site is thought to drain eventually to the Board's district and onto the River Beult. I would therefore recommend, should the Council be minded to approve this application, that the applicant be requested to carry out a drainage assessment, detailing the existing surface water drainage routes and flow rates and the proposed drainage arrangements. Although a large part of the site is likely to remain relatively unaffected (in terms of drainage), drainage rates are likely to be significantly increased from the sports pitches, clubhouse, access and parking areas. The applicant must clearly demonstrate that downstream flood risk will not increase as a result of this development proposal.

4.8 Southern Water:

No objections but have submitted a plan showing the approximate position of a public sewer that crosses the site. They advise that nothing should be built within 3m of the centre line of the sewer, that it should be protected during the course of development and that there should be no soakaway within 5m of the sewer. They also wish a condition requiring the submission of foul and surface water drainage details is attached to any permission together with an informative advising the applicant that it will be necessary to make a formal application for connection to the public sewer.

4.9 Kent Highway Services:

'The access arrangements are not changed from that proposed under the previous application number MA/11/0361. The access is 5.5m in width with adequate vision splays onto Maidstone Road. Signing is to be provided, details to be agreed with KCC Highways.

Pedestrian routes are proposed between Maidstone Road westwards on the north side of the railway line; along Maidstone Road with a new pedestrian link being provided and also via a public footpath from Howland Road.

All work within the highway should be completed under a Section 278 Agreement.

Tracking diagrams have been provided which were requested but not available with the previous application and these indicate that coaches will have difficulty accessing the site. Please could this issue be addressed.'

Further discussions subsequently took place between Kent Highways and the applicants. The applicants have advised that the largest vehicle likely to regularly visit the site is a refuse vehicle and have provided swept-paths showing this can be accommodated on the access road. Kent Highways have requested that a

condition is imposed preventing coaches accessing the site. Such a condition would not meet the required tests and cannot be imposed. The applicants have provided the following statement.

'The Club have confirmed that visits to the site by coach would be extremely infrequent and when and if they did occur, would be known in advance. Accordingly, on these few occasions, separate arrangements can be made and this can be addressed within the Travel Plan for the site.'

I consider this to be a reasonable and practical approach.

4.10 **Network Rail: Do not object**

'There is no objection in principle to this proposal however as the development is adjacent to the railway Network Rail has the following comment to make.

Lighting

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The developers should obtain Network Rail's Asset Protection Engineer's approval of their detailed proposals regarding lighting.

Due to the close proximity of the proposal to the embankment and Network Rail property the application should immediately contact Network Rail's asset protection team on AssetProtectionWessex@networkrail.co.uk who will assist in managing the construction and commissioning of the project.

Reason: To ensure the safe operation of the railway during construction and commissioning of the project.'

4.11 **Sport England:** Do not object and comment as follows

'The application proposes a new sports club ground to include cricket pitches, hockey pitches, tennis courts, cricket nets, floodlights, club house and associated car parking. It is proposed that this site will allow the Marden Cricket & Hockey Club to relocate from its current location off Albion Road.

It is understood that the intention is that the redevelopment of the current site will fund or partially fund the relocation and new provision proposed as part of this application. Any proposals for the redevelopment of the existing site are not covered by this application.

The application proposes the provision of new and improved sports facilities and increases opportunities for participation in sport. In this regard, it is considered that the principle of the development is consistent with the following policy objective:

Planning Policy Objective 7 within Sport England's Spatial Planning for Sport and Active Recreation: Development Control Guidance Note (2009) Appendix (http://www.sportengland.org/facilities_planning/developing_policies_for_sport.aspx), aims to support the development of new facilities, the enhancement of existing facilities and the provision and/or improvement of access to the natural environment which will secure opportunities to take part in sport and which can be achieved in a way which meets sustainable development objectives. Sport England's policy is consistent with that of the Government's set out in the NPPF.

As such, Sport England raises no objection to the principle of the development.

As part of the planning application consultation, Sport England has consulted the relevant national governing bodies of sport, including the ECB, EHB, FA and LTA, who were broadly supportive of the principle of the development. That said, some concerns were raised with regards to the proposed scheme, summarised below:

ECB

- § Specific regard should be had to ECB technical specifications (www.ecb.co.uk/techspecs) and in particular:
- § TS4: Recommended Guidelines for the construction, preparation and maintenance of cricket pitches and outfield at all levels of the game
- § TS5: Pavilions and Clubhouses

FA

- § If the proposed 3G AGP is proposed for football use this would need to meet FA standards (www.thefa.com) on AGP's and ideally be a 60mm surface
- § If there is any scope for grass pitches on the site, i.e. cricket pitch outfield for mini-soccer

LTA

- § Floodlighting all 4 tennis courts would be to the benefit of users of the tennis courts and greatly increase the likelihood of an operator running a successful tennis coaching programme all year round
- § The proposed court block appears to run quite close to the tree line. It would be beneficial to position the court further from the tree line if possible to avoid plant

debris falling on to the courts regularly that will damage the surface if it is not swept regularly. Given the volume of trees nearby to the courts it would be essential to include a root barrier in the construction of the court block to protect the integrity of the top surface.'

4.12 **UK Power Networks:** No objections

4.13 **MBC Landscape Officer:** No objections

'Drawing no. JEC/336/01, 'landscape proposals', submitted by the applicant in relation to this new outline application is much improved from the landscape masterplan relating to MA/11/0361. The main improvements are in terms of the increased extent of landscaping, the creation of community orchard, landscape connectivity and restoration of the pond to the southeast of the site.

The general principles of the Landscape Statement produced by Jon Etchells Consulting are also acceptable. Clearly, should this outline application be granted consent, the landscape proposals will be refined with full details being submitted for approval at a later stage.

I therefore raise no objection to this application on arboricultural grounds and in relation to landscape principles subject to conditions covering tree protection and landscaping, including the provision of implementation details, a maintenance specification and long term management plan.'

4.14 **MBC Environmental Health:** No objections

'According to the Design & Access statement this latest application Primarily, "this scheme represents a significant reduction in the extent of development from the previous proposals, containing the developed area wholly south of the public footpath, negating the need for a formal diversion and providing for increased levels of landscaping". The original planning application, MA/11/0361, was refused in December 2011 on the grounds of scale and intensity of development. Environmental Health commented on that application and would like to reiterate what was recommended then.'

No objections are raised subject to conditions relating to lighting and contamination and informatives governing hours of work and conduct on site during construction and waste management.

5. REPRESENTATIONS

5.1 **Cllr Nelson-Gracie** wishes the application to be brought before the committee as it is a major application and of interest to a large number of Marden residents.

5.2 **Forty-seven** representations **objecting** to the proposals have been received, including from CPRE Protect Kent, The Marden Society and Marden History Group. Objections are raised on the following (summarised) grounds.

- Whilst changes have been made, the application has not significantly changed from the previously refused MA/11/0361. That was refused and so should this application be.
- Over 600 people in the village signed a petition against the last application. This represents a far better idea of village opinion than the Club Members who are only a small proportion of the villagers.
- The proposed site is and will result in more noise and disturbance and more traffic.
- Floodlighting the site would be a problem to nearby residents and would be misplaced in a rural setting.
- Maidstone Road is a main road with fast moving traffic and there are no pavements, access is unsafe.
- The new facility would be an eyesore on the edge of the Village and the use of agricultural land would be disappointing and unnecessary.
- There used to be a sheep dip on the proposed site of the new facility and there would therefore be environmental issues with regards to chemicals used at that time.
- The P.L.U.T.O. pipeline dating from World War II runs under the vehicular access road to the site. It is unclear how the development will impact on this.
- At present there is no funding for the proposed site and it is understood that this will be rectified by building houses on the current cricket club site, to which there is a strong objection. There are other places planned for development within the village and the cricket pitch does not need to be one of them.
- Marden needs its sports facility in the centre of the village not on a plot of land designated to make a large profit for the land owners involved.
- The large scale development of open countryside for recreational purposes is unacceptable, particularly as the sports club already seems to enjoy good facilities for a village of this size. Policy ENV28, whilst in principle allowing open air recreational uses, precludes development that would harm the character and appearance of the area. The proposed development fails this test.
- Surface water flooding and drainage could be a problem from such a large area.

5.3 **Twenty-nine** representations **in support** of the application have been received. The following (summarised) points are made.

- The new facility will help the club to expand and attract new younger members safeguarding its future.
- The new site would enhance the facilities available within the village.
- Would provide certainty for the future.
- The existing facilities cannot easily be expanded further due to the site's constraints such as nearby residential properties.

- More young people will be encouraged to play sport and be taken off the streets and enjoy healthy activity.
- The club has a long history and these proposals would safeguard its future.

6. CONSIDERATIONS

6.1 Site Description

- 6.1.1 The site comprises a parcel of land some 8.39ha in area. It is located on the north side of the Ashford-Tonbridge railway-line to the east of the B2079 Maidstone Road, Marden. It is located to the north of the existing settlement of Marden and lies in the countryside on land which has no designation in the Maidstone Borough-wide Local Plan 2000. The defined village boundary of Marden ends at the railway bridge on Marden Road approximately 250m southwest of the western site boundary. The railway line was specifically chosen as a boundary to the village to prevent development to the north, which is more rural in character.
- 6.1.2 Maidstone Road is served by a very limited 'bus service (Routes 27, 28 and 29), operated by both Arriva and Nu-Venture. Buses do not operate on a Sunday. Services along Maidstone Road are in the main timed to coincide with the beginning and end of the school day Mondays to Fridays and the service is even more limited on Saturdays. More buses on Route 26 serve the centre of Marden however, but these do not directly pass-by the site.
- 6.1.3 The site is currently planted and farmed as an apple orchard which has been in existence in its current form since around 2005. The planting regime uses modern production techniques and smaller easy to harvest, very evenly spaced and regimented root stock. The land is Grade 2 agricultural land.
- 6.1.4 The site is currently crossed by Public Right of Way (PROW) KM274 which enters the site in its south eastern corner after following a track running north from Howland Road in the vicinity of Bridgehurst Farmhouse and over the railway line and past an existing barn, that lies just outside the site, before cutting diagonally across the site in a north westerly direction and emerging onto Maidstone Road along the line of the proposed vehicular access to the site.
- 6.1.5 Existing mature tree and hedge cover is found along the southern site boundary adjacent to the railway line, with a pond in the south east corner. Further tree cover is found along part of the northern boundary and along the boundary of the proposed access road with adjacent residential properties. There are a number of residential properties that front Maidstone Road and whose gardens (and additional land in their ownership) back onto the application site. The

southern boundaries of these properties are formed by a mixture of fencing and sparser tree/hedge planting.

- 6.1.6 Additional agricultural land lies to the north and east, beyond which, some 1km to the east, is Bridgehurst Wood an area of ancient and semi-natural woodland of around 5.82ha.
- 6.1.7 The site lies within the 25-30m Ordnance Survey contour and is therefore at a similar level to the central part of the village. Land within the site does fall gently in a southerly direction. Levels within the site are generally uniform although there is a bank with a hedge on top that runs north-south through the centre part of the site. The bank is steeper towards the south with a difference of approximately 1.5m between the two halves of the site which fades-out into the levels of adjoining land as it runs northwards. The southwest corner beyond the site boundary rises towards the area adjacent to the railway line.
- 6.1.8 Maidstone Road, from which pedestrian access to the site would be gained, runs northwards from the centre of the village. On the eastern side of the road there is an existing continuous footway that extends up to and beyond the railway bridge and which continues approximately 45m past Highfield House which is located to the north of the railway bridge. This side of the road currently has street-lighting as far as the frontage of Highfield House. The footpath on the western side of Maidstone Road extends as far as the railway bridge and is also lit.

6.2 Proposal

- 6.2.1 The application is an outline planning application and seeks consent for the provision of new sports club ground (to include cricket pitches, two artificial multi-purpose/hockey pitches (1 floodlit), four tennis courts (2 floodlit), cricket nets, floodlights, club house and car parking), including change of use from agriculture.
- 6.2.2 Only access is to be determined at this stage with and all other matters reserved for subsequent approval (scale, layout, appearance and landscaping).
- 6.2.3 An illustrative masterplan including strategic landscaping has been submitted as part of the application documentation and shows the provision of a new cricket ground with 9 playing pitches in the square, two multi-purpose artificial pitches suitable for hockey and football (only 1 would be floodlit), cricket nets, a clubhouse, grounds maintenance equipment shed, 4 hard-surfaced tennis courts (2 would be floodlit) and a 60 space car park. An overflow car park area is indicated but no capacity is suggested. It is likely that the multi-purpose pitches,

hockey practice court and tennis courts will be fenced. The pitches indicated are shown to scale to the relevant standards that apply.

- 6.2.4 The submitted masterplan also shows the provision of a community orchard to the north east of PROW KM274, which would be retained on its current line. Woodland planting on a 1.5m high landscaped bund would be introduced along the northern site boundary. Species include Field Maple, Oak, Hawthorn, Blackthorn, Elder and Hazel. Tree and hedge planting would be undertaken around the site boundaries with Alder Trees at 10m centres on the southern boundary with the railway and Lime trees planted around the cricket ground and along the site's western boundary. The pond and land in the south east corner of the site would be improved for ecological and amenity purposes. The site's margins would be less intensively managed and would be planted and maintained as wildflower meadows.
- 6.2.5 The clubhouse building would be no greater than two-storeys in form. It is noted that it may be possible to lower the ridge height once detailed design options for a one and a half storey building have been explored. The clubhouse is indicated as an 'L-shaped' building that faces both the hockey pitches and the cricket ground. It is shown with its longest arms at 32m and a width of 15m giving a ground coverage of approximately 750m². This compares to the previous clubhouse building which was rectangular and 23m in width and 35m in length a ground coverage of approximately 805m².
- 6.2.6 At present it is envisaged that the clubhouse would include the following facilities:
- Player Changing facilities;
 - Toilets and showers;
 - Bar area;
 - Club Meeting Room;
 - Storage/Admin/First Aid areas
- 6.2.7 A detached grounds maintenance building is also shown located to the north of the clubhouse. This would be some 13m in length by 10m in width.
- 6.2.8 As stated above it is now proposed that only of the artificial multi-use pitches would be floodlit. The floodlit pitch is indicated to be the easternmost, closest to the proposed clubhouse. The floodlights would be mounted on 8no. columns up to 15m in height. It is indicated in the planning statement that the lighting would utilise 'Phillips OptiVision' asymmetric luminaire technology (or similar).
- 6.2.9 Vehicular access to the site would be provided by an existing agricultural access track from Maidstone Road into the northwest corner of the site. This would be surfaced in tarmac to a width of 5.5m, thus allowing two vehicles to pass.

The existing PROW KM274 that passes along the track would be maintained at 1.8m in width on the southern side of the trackway at the request of the KCC Public Rights of Way Officer. The bell-mouth of the access at its junction with Maidstone Road would be widened to accommodate the refuse vehicle. To accommodate the separate footpath, there would be some widening on land within the applicant's control on the north side of the track to ensure the 5.5m width is maintained. The site masterplan indicates that the PROW would be no longer be diverted around the northern and eastern sides of the proposed cricket ground as before, but would keep its existing line, across the site towards the south east corner of the site.

- 6.2.10 Pedestrian access would be provided from two points onto Maidstone Road. As stated earlier (paragraph 6.1.8) Maidstone Road is lit by street-lighting and has a continuous footway on its eastern side running beyond the railway bridge past Highfield House. On its western side, the footpath from the village centre stops at the railway bridge.
- 6.2.11 The first pedestrian access would involve a new footpath running directly along the north side of the railway, on land currently owned by Network Rail. It would be located to the south of Highfield House and would run eastwards into the site and then continue as a permissive path until it joins existing PROW KM274 by the site's eastern boundary.
- 6.2.12 Provision of this access would not require any additional works in Maidstone Road as a footpath and street-lighting currently exist to the point where the new footpath would commence. The new pathway would be lit. Network Rail have confirmed in principle that this arrangement is acceptable but negotiations are still on-going with the applicants to enable the provision of the path. Within the site, existing planting on the southern side adjacent to the railway would be enhanced and the boundary with the site along the footpath formed by a hedgerow.
- 6.2.13 The second access would involve extending the existing footway on the eastern side of Maidstone Road, from where it currently finishes to the north of Highfield House, northwards to an existing agricultural access on the applicant's land from Maidstone Road to the west of a property known as 'The Hollies'. There is sufficient land within highway limits to enable the construction of a surfaced and kerbed pavement of a minimum width of 1.2m along its entire length (approximately 350m). This footway would be lit. Provision of both footways would require an agreement under s278 of the Highways Act between the applicants and Kent Highway Services.
- 6.2.14 If permission is granted for the current proposals as set out in the background section earlier in the report this would potentially enable the relocation of the

club from their existing facilities in Albion Road Marden. The existing site is 4.2ha in area fronting both Stanley Road and Albion Road. The current site accommodates a cricket pitch an 'Astroturf' pitch and two tennis courts. The 'Astroturf' pitch is currently lit by temporary demountable floodlights, attempts to secure permanent floodlighting having been unsuccessful in the past.

- 6.2.15 Surface water drainage is indicated to utilise a SUDS based system. The method of foul water disposal has not been determined at this stage. There is a public sewer that crosses the part of the site where the pedestrian access is proposed. It may therefore be possible to connect to this, provided appropriate capacity exists.

6.3 Principle of Development

- 6.3.1 As stated earlier in the report, this application should not be considered on the basis of how it may relate to any possible future proposals for the applicant's existing site. It must stand or fall on its own individual merits.
- 6.3.2 I do consider however, that whether the principle of development on this site is acceptable should be assessed on three principle issues, policy at central government and Development Plan level, site selection and location and the need for the development.

Policy

- 6.3.3 The application site is located in countryside outside the defined settlement boundary of Marden village. Policy ENV28 of the Maidstone Borough-wide Local Plan 2000 is therefore relevant to the consideration of the application. Policy ENV28 does allow for the development of open air recreational uses and ancillary buildings providing operational uses only, but is subject to a caveat that development should not harm the character and appearance of the area or the amenities of surrounding occupiers and include measures for habitat restoration and result in no net loss of wildlife resources. These issues are dealt with in more detail later in the report. It was considered that the previous application harmed both even though in outline.
- 6.3.4 The National Planning Policy Framework (NPPF) sets out core planning principles, including high quality design which should take account of the different characters of different areas whilst recognising the intrinsic character and beauty of countryside and contribute to conserving and enhancing the natural environment (paragraph 17). It also promotes the health social and cultural well-being of communities.

- 6.3.5 Paragraph 73 of the NPPF advises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Provision should be based on a quantitative and qualitative assessment of need.
- 6.3.6 In principle therefore, I do not consider that the development of the site for the proposed sport/recreation facility, is contrary to the provision of the Development Plan or government policy subject to its impact on the character of the area and residential amenity being acceptable.

Site location and selection

- 6.3.7 Paragraph 3.5 earlier in the report sets out the search parameters for an ideal site. It needs to be relatively level, well drained, accessible and well related to the village. The NPPF states at paragraph 73 that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Given the need to ensure that the new facility is at least equivalent to the existing in quantitative and qualitative terms, this narrows the possibility of finding suitable sites further. I have assessed the criteria used by the applicants and concur with the approach that they have taken.
- 6.3.8 It is fact that much of the land to the west of Marden lies within a Flood Risk area and as such is unsuitable for the proposed development. Potentially suitable areas of land to the south of the village include sites that are linked to the SHLAA and therefore likely to be put forward for housing development in due course. There could potentially be land available off Pattenden Lane but this is considered to be more remote and less accessible from the settlement than the current site. Some of this land is also within a flood risk area.
- 6.3.9 I consider the proposed site to be appropriately located adjacent to the settlement. It is in an accessible location relative to the main housing areas and the centre of Marden and on a main route into the village but north of the definitive boundary of the railway line.
- 6.3.10 Whilst there are no national standards for accessibility, the Council's Green Spaces Strategy 2005 (following appropriate study and assessment of the consultation responses at the time) devised its own standards and advises that a 10-15 minute walk (equivalent to a 1.2km distance) is the appropriate accessibility threshold being the furthest that most people are prepared to walk to an outdoor sports facility. The proposed site meets this threshold.
- 6.3.11 The most likely pedestrian access point to the site is located approximately 200m from the junction of Maidstone Road and the High Street. This is clearly

within the distance set out in the Green Spaces Strategy. Due to the configuration of the village, the proposed site is not located substantially further away from the main residential areas west of the railway station and High Street than the current site. The existing clubhouse on the club's existing site is located approximately 270m from the junction of High Street and Maidstone Road.

Need

- 6.3.12 The issue of need is less clear-cut. Clearly the applicants have a desire to improve the facilities that the club offers. In addition they have also reached the conclusion that it is not possible to achieve this on the existing site primarily due to its constraints being located much closer to residential properties than the proposed site and the fact it has not been possible to provide permanent floodlighting to the relevant standard and the internal arrangement of the site not being ideal, together with the funding issues that they have. These issues relating to funding have also led to the situation which the club finds itself in, through having to find an alternative site to enable the potential sale/redevelopment of the existing site to be considered through the LDF process and potentially generate a funding stream. The desire of the club to expand is laudable but that in itself should not be seen as an overriding factor weighing in favour of the proposal, although wider community benefits from the increased facilities would potentially ensue.
- 6.3.13 A more technical assessment of need can be found by analysing the Council's Green Spaces Strategy which sets out standards for various types of open and green spaces. Based on the 2007 figure in the strategy the standard for Outdoor Sports Facilities in rural areas is 2.7ha/1000 population.
- 6.3.14 Marden is located within the Southern Maidstone study area which overall has 2.98ha/1000 population which is in excess of the standard. However at a Ward level, Marden and Yalding Ward have some 16.42 ha of Outdoor Sports facilities which equates to 2.08ha/1000 population which is below the standard. In this respect the site could be said to address some of the shortfall in provision. It is noted, however, that the Green Spaces Strategy advises that in the Southern Maidstone study area overall that the focus should be on improving quality levels rather than the provision of new facilities.
- 6.3.15 The applicant's existing site has grown incrementally since the 1920's when it was first brought into use. There are regular problems and complaints from residents on Stanley Road about balls etc. going into gardens, damage to cars and even the properties themselves, the layout of the site is not ideal with the clubhouse being poorly located in relation to the multi-use pitch. To amend this would require a significant reorganisation of the site. The hockey pitch is not floodlit to modern standards largely due to the juxtaposition of the site and

nearby dwellings. The club have sought permission on three occasions for permanent floodlighting and in 1996 took the matter to an appeal (which was dismissed on 06/03/1997 under application MA/96/0815). Permission has also been refused (MA/99/1243 on 24/09/1999) for the erection of 3m high fencing on the grounds of its adverse visual impact. The lack of a pitch that complies with the required lighting standard results in the hockey teams having to travel to train elsewhere.

6.3.16 The development would however, clearly result in the loss of what is Grade 2 agricultural land. The site was selected following consideration of other sites in the Marden area and was found to be the most practicable and suitable option for the reasons outlined and assessed earlier in the report. Balanced against the loss are the benefits of enhanced sport and recreation provision. On balance, the benefits of the shortfall in provision being addressed and the improved facilities improving opportunity and also reducing the need for teams to travel elsewhere, outweigh the loss of the land from agricultural production in this instance.

6.3.17 I consider that having assessed the proposals in terms of policy at a national and Development Plan policy level as well as the site selection and location and need, that the development is in principle in accord with Development Plan and national policy.

6.3.18 The proposed site would enable the shortcomings of the club's existing site to be addressed. In addition, the site is acceptable in terms of its location and will meet an identified need. Furthermore the scheme will also produce enhanced quality of provision and reduce reliance on the use of sites elsewhere and provide an enhanced level of provision for this Rural Service Centre. This would particularly be in accord with the advice at paragraph 73 of the NPPF. No objections are therefore raised to the principle of development.

6.4 Impact on the Character and Appearance of the Countryside

6.4.1 As stated earlier in the report, the application site is at a similar height to the centre of the village, lying as it does between the 25m and 30m contour levels. The development will not therefore sit on higher land than the majority of its surroundings including the land to the south of the railway line which sits in a shallow cutting as it passes the site.

6.4.2 In respect of long and medium distance views, due to this topography the site is not currently readily visible from publicly accessible vantage points in long or medium distance views. Screening is provided by the railway and planting along it to the south and by the houses along the western and northern site boundaries. The existing orchards to the east of the site also provide screening as does the woodland beyond these.

- 6.4.3 Looking south along Maidstone Road towards the site the land rises gently towards the south. The fields are flat and open being low arable crops rather than orchards. Nevertheless existing 5m high hedgerow planting between the field and the site boundary currently screens the site from view. This would be retained.
- 6.4.4 The site is visible in short distance views, particularly of course from PROW KM274 as it crosses the site in its current alignment, now to be maintained and from the rear of the houses located to the north and west of the site. Glimpses of the site can also be had from the field gate on Maidstone Road to the west of The Hollies.
- 6.4.5 The element of the development most likely to be visible is the floodlighting, to the tennis courts and the multi-activity pitch. The tennis courts have now moved much nearer to the residential properties to the north of the site. The two easternmost pitches are to be floodlit. These are located approximately 90m from Bumpers Hall Cottage and Bumpers Hall. The lighting for the courts would only be needed to illuminate the surface area of the two courts themselves, which are smaller than the multi-use pitch and the columns would be lower than the columns for the multi-use pitches. I consider that given appropriate design a separation of 90m would be acceptable. With regard to the one floodlit multi-use pitch a light plot plan for that pitch has been submitted. The columns here are likely to be up to 15m in height. I consider that the impact of both the hard court and tennis court floodlights can be adequately controlled by means of a suitable condition.
- 6.4.6 The proposed indicative landscaping on the site perimeter will also assist in further reducing impact over time. Clearly the potential height of the columns (15m) and the introduction of lighting onto the site will result in some light intrusion into this rural area which is currently largely unlit. It is the case that the site is located in Zone E2 (rural, small village or relatively dark urban locations) as set out in the Institution of Lighting Engineers (ILE) Guidance Notes for the Reduction of Obtrusive Light, the second most sensitive zone.
- 6.4.7 The applicants have advised that any lighting system will use appropriate cut-off and anti-glare measures to reduce light spillage. A pre-curfew level of 5 Lux measured at the windows of potentially affected properties is the level recommend in the ILE Guidance for Zone E2. The details submitted with the application show a significant level of cut-off can be achieved and that light levels are reduced to 1 LUX or less at around 25m from the site boundary to the north and 50m to the west. The applicants are content that the lighting is switched off no later than 22:00 hours, which is before the curfew time of 23:00 hours mentioned in the ILE guidance.

- 6.4.8 The northern site boundary is located approximately 40m from the rear of The Hollies and Holly Cottage, 55m from the rear of 1 and 2 Bumpers Hall Cottages 70m from Bumpers Hall and 90m from Lanorna, the curtilage of which is bounded by a dense tall hedgerow along the site access road. The nearest floodlit pitch would be sited approximately 140m from The Hollies, Holly Cottage, 1 and 2 Bumpers Hall Cottages, and Bumpers Hall and approximately 155m from Lanorna.
- 6.4.9 To the west of the site the nearest dwellings are Church Farm and The Oast House. These are sited approximately 260m and 250m respectively from the closest floodlit pitch. The application site does not extend to the boundary of the land at the rear of these properties, as the intervening land lies outside the site and is retained as an orchard.
- 6.4.10 The additional details submitted by the applicants indicate that direct impact on the windows of nearby properties can potentially be adequately mitigated through a well designed lighting scheme and the proposed landscaping. Appropriate details can be secured through conditions and reserved matters.
- 6.4.11 Clearly, the lighting columns themselves will have some visual impact due to their indicated height and particularly when lit. In the daytime they will appear as slender structures and will not be unacceptably visually intrusive. When they are lit however, they will be seen from a wider area particularly from Maidstone Road to the north. They are not likely to be as visible in long distance views from the east, south and west of the site as topography and existing woodland limit long distance views to the site.
- 6.4.12 The resultant relationship to the countryside and nearby properties will not be dissimilar to that of Oakwood Football Club in Honey Lane Otham where permission was granted on appeal in March 2011 (application MA/09/1616) for the erection of 6 floodlighting columns, to a football pitch located some 100m from the nearest residential properties in a Zone E2 location.
- 6.4.13 This is a balanced case, but in my view the potential impact of the lighting on the visual amenity and character of the surrounding countryside and the amenities of the adjacent residential properties will not be so harmful as to render this element of the scheme unacceptable.
- 6.4.14 In addition to the impact of the floodlighting, there will be a significant change to the appearance of the site as some of existing orchard is removed and also the new community orchard planted.

6.4.15 The current site is characterised by a densely planted orchard through which the existing PROW passes. Views into and out of the site are limited due to the planting.

6.4.16 However, views are also limited by the existing hedges and tree planting around the site boundaries with the exception of the western boundary and parts of the northern boundary alongside the existing residential properties. The substantial hedgerow along the northern boundary of the site with the adjacent arable field to the north is to be retained and this currently effectively screens the site from Maidstone Road. This situation will not change as a result of the development.

6.4.17 Clearly, through the removal of the orchard (which could happen due to a change in agricultural production/practice at any time), the site will be opened up and it will be possible to see from one side to the other east to west and north to south (from the retained PROW). However, given the retention of the existing boundary planting and the enhancement that is proposed, the visual impact of the car park, cricket pitch, courts and fencing and clubhouse will be restricted to the site area in my view. The clubhouse would other than the floodlight columns be the tallest structure on the site and would also have the greatest mass. It would clearly be visible from the PROW that crosses the site and in addition, from the nearby dwellings. However, given its location in the centre of the site I do not consider that a building of up to 10m in height would be unacceptably visually intrusive.

6.4.18 I do not consider that this localised change to the appearance of the site would be unacceptable in a wider context. The visual impact will in my view be limited to short distance views from within or immediately adjacent to the site and not so harmful as to warrant refusal on these grounds. Clearly there also would be visual impact arising from the use of the floodlighting over a wider area. However, this would not in my view be so harmful as to warrant and sustain refusal when balanced against the benefits of the proposal. The relationship to the countryside and the neighbouring residential properties can be mitigated to an acceptable level through appropriate design of the lighting scheme.

6.5 Residential Amenity

6.5.1 It is clear that the residents of Maidstone Road whose gardens back onto the site will experience a change to the level of activity and potential disturbance on the site compared to its current agricultural use. It is the activity on the pitches themselves, the noise generated by vehicle movements in addition to the proposed floodlighting, that are likely to produce the greatest impact. The issue is whether the impact will be so harmful as to warrant and sustain a refusal.

- 6.5.2 To the north, the site boundary is located approximately 40m from the rear of The Hollies and Holly Cottage, 55m from the rear of 1 and 2 Bumpers Hall Cottages 70m from Bumpers Hall and 90m from Lanorna, the curtilage of which is bounded by a dense tall hedgerow along the site access road.
- 6.5.3 The majority of these properties appear to have purchased additional agricultural land at some point in the past. The additional land at Bumpers Hall has permission for the keeping of horses and there are stables and a manege sited on the land between the site and the dwelling. The land to the rear of the other properties appears to be maintained as paddock with the exception of the land to the rear of The Hollies and Holly Cottage which has been incorporated into the garden and is bounded by a hedgerow along the boundary with the application site. The other paddock land adjacent to the site is bounded by post and rail fencing and is a relatively open boundary.
- 6.5.4 The closest potential element of the proposed development to these properties comprises tennis courts located to the rear of 1 & 2 Bumpers Hall Cottages. These are indicatively shown some 15m from the site boundary and approximately 75m from the closest of the properties. There will clearly be some disturbance from the use of these courts. The two multi-use pitches are indicatively shown sited approximately 65m from the northern site boundary. The use of these will also generate noise and disturbance.
- 6.5.5 The proposed car park would be located to the south east of Bumpers Hall, at 130m approximately from the dwelling itself and around 110m from Lanorna.
- 6.5.6 The illustrative landscaping details indicate the provision of a landscaped bund along this boundary planted as woodland and the full details will be provided as part of a reserved matters application.
- 6.5.7 It is clear that activity on the site will introduce a degree of noise and disturbance into the area which is not currently experienced by adjoining residents and that this will be a noticeable change. However, given the proposed landscaping and boundary treatments and the separation between the noise sources and the dwellings, on balance I do consider that the likely relationship between the site and the existing dwellings is acceptable.
- 6.5.8 The use of the vehicular access that passes directly to the north of Lanorna will also clearly have a much greater impact on the amenities of that property than the current agricultural use of the track.
- 6.5.9 The applicants have submitted a noise survey which has assessed the likely impact of the additional traffic on residents adjacent to the access particularly Lanorna and Bumpers Hall. The survey indicates that the predominant noise

source is traffic along Maidstone Road. The survey demonstrates that at the busiest times for the club in terms of likely traffic generation (1200-1300 on Saturdays and 0800-0900 on Sundays), the impact on the facades of Lanorna and Bumpers Hall would be at its worst on Sunday mornings, when background levels are lower, but are only predicted to rise by +3dB. On Saturdays (peak movements 1200-1300) noise levels are predicted to rise by +2dB. It is recommended in the assessment that vehicles should not enter the site prior to 0800 hours on Sunday mornings.

- 6.5.10 The survey report also makes it clear that a rise of +3db is unlikely to be detected by the human ear. BS4142:1997 advises that rises in noise levels of +5dB or more is the point at which complaints become more likely.
- 6.5.11 The assessment has not addressed the potential impact of the sports activities themselves. Clearly there will also be noise generated by those activities. However, given the likely separation of the proposed playing areas from the adjacent dwellings, I do not consider that any potential disturbance would be so unacceptable as to warrant refusal. The Environmental Health section has not raised an objection to the likely juxtaposition of the sports pitches and the dwellings on amenity grounds.
- 6.5.12 However, In the light of the findings of the acoustic assessment I do consider that activity on the site should be restricted to prevent unacceptable early morning disturbance.
- 6.5.13 The report simply recommends that no traffic should enter the site before 0800 hours on Sunday mornings only. I consider however, that it would be more reasonable to prevent access by vehicles as well as activity on the site in general prior to 0900 hours on any day in recognition of the potential for general noise and disturbance associated with the use of the site other than by moving vehicles.
- 6.5.14 I am advised by the applicants that the club has a licence until 2300 hours on their existing premises and that they wish this time to apply to the proposed site. I am of the view that this is not unreasonable for a cut-off time.
- 6.5.15 The closest residential properties to the west of the site are The Oast House, approximately 160m from the site boundary and Church Farm House, approximately 170m from the site boundary. An orchard will be retained between the rear boundaries of these properties and the application site. The closest pitches will be approximately 170m from The Oast House and 180m from Church Farm House. The floodlit pitch would be approximately 250m from The Oast House and 260m from Church Farm House.

- 6.5.16 The floodlit pitch is indicatively shown some 60-80m from the northern site boundary, a distance of some 140m from The Hollies, approximately 140m in the case of Bumpers Hall and approximately 155m from Lanorna.
- 6.5.17 The applicants have advised that any lighting system will use appropriate cut-off and anti-glare measures to reduce light spillage. A pre-curfew level of 5 Lux measured at the windows of potentially affected properties is the level recommend in the ILE Guidance for Zone E2. The details submitted show a significant level of cut-off can be achieved and that light levels are reduced to 1 LUX or less at around 25m from the site boundary to the north and 50m to the west.
- 6.5.18 The applicants are content that any floodlighting is switched off no later than 22:00 hours, which is before the curfew time of 23:00 hours mentioned in the ILE guidance.
- 6.5.19 The details submitted by the applicants indicate that direct impact of floodlighting on the windows of nearby properties can potentially be adequately mitigated through a well designed lighting scheme and the proposed landscaping. Appropriate details can be secured through conditions.
- 6.5.20 Concern has been raised regarding the increased use of the southern section of PROW KM247 running from the south eastern corner of the site southwards towards Howland Road to gain pedestrian and vehicular access to the site. This it is feared could have an adverse impact on the amenities of the properties that are situated either side of the track at its southern end close to Howland Road.
- 6.5.21 The entrance to the track/PROW is some 600m east of the centre of the village on a part of Howland Road that has no footpath and it also exits onto a sharp bend in Howland Toad. The track/PROW does provide vehicular access to the railway and the agricultural land to the east and south east of the application site. Whilst footfall may increase, it is not intended that this route into the site will be the principal route for pedestrians and neither will it be the vehicular route into the site. Being a PROW, no measures to prevent or restrict access can be put in place without the agreement of the highway authority in any event. I do not consider that development of the site will result in any unacceptable impact on residents along this section of Howland Road and the PROW that leads from it.
- 6.5.22 In terms of the potential impact on residential amenity it is clear that the proposed development would have an impact on the amenities of neighbouring residential properties. This impact should be balanced against the proposed landscaping and boundary treatments and the separation between the noise sources and the dwellings also taken into account.

6.5.23 Given appropriate conditions governing hours of use on the site for both activity and the floodlighting and the proposed landscaping and boundary treatments being secured, on balance, I do consider that the likely relationship between the site and the existing dwellings is acceptable and raise no objections to the proposals in terms of the impact on residential amenity.

6.6 Highways

6.6.1 There are no objections to the development on highway grounds.

6.6.2 The access to the site has appropriate visibility at its junction with Maidstone Road to ensure safe ingress and egress. The access road is of sufficient width to accommodate vehicles entering and leaving the site. A safe footpath within highway limits can be provided along Maidstone Road to provide pedestrian access to the site.

6.6.3 I consider the indicated car parking provision is also appropriate for the intended size of the facility. Cycle and motorcycle parking facilities can also be secured at detailed stage through the imposition of appropriate conditions.

6.6.4 The Club propose a travel plan which will have the aim of reducing single car occupancy trips by 15-20% over a period of three years. It is anticipated that this will be achieved in a number of ways, for example primarily by encouraging car-sharing, but also including the promotion of walking amongst members, secure cycle parking provision on site and the promotion of local bus and train routes within the club. The submission and implementation of a Travel Plan can be secured by means of a condition.

6.7 Landscaping and Ecology

6.7.1 The illustrative landscape masterplan submitted with the application indicates that existing hedgerows along the northern site boundary and around the curtilage of Lanorna would be retained and new hedge and tree planting introduced within the site. New hedgerow and tree planting would be introduced along the western boundary of the site the trees comprising Lime Trees. The southern boundary would be enhanced with new structural planting of Alders at 10m centres along the railway to infill gaps and provide an appropriate screen from this direction. New hedge planting would also be provided on the eastern site boundary. The cricket ground would also be ringed by Lime trees. The proposed 1.5m high landscape bund to the northern boundary would be planted as a woodland and with the following species indicated; Field Maple, Oak, Hawthorn, Blackthorn, Elder and Hazel. The pond and field in the south east corner of the site would be improved to enhance biodiversity and amenity. The

margins of the site would be subject to a less intensive maintenance regime and would be planted and maintained as wildflower meadows.

- 6.7.2 I consider the landscape principles shown in the master plan to be acceptable, subject to full details being prepared and submitted at reserved matters stage. Consideration should be given to a programme for the implementation of the scheme and it should be possible to achieve some of the structural landscaping at an early stage in the development process to allow it to begin to mature earlier.
- 6.7.3 In terms of ecology, a phase one habitat survey has been undertaken and updated and protected species surveys have also been submitted for Amphibians and Reptiles and Dormice.
- 6.7.4 In ecological terms it is the edges of the site where the connecting hedgerows and habitat are located that have the greatest ecological and biodiversity potential. The centre of the site is an apple orchard intensively managed and cropped.
- 6.7.5 It is not considered that there is any suitable habitat for bats in the site. It is however, recommended that bat tubes and bat access panels are installed into the new buildings. In addition, recommendations are made in respect of the external lighting. It is recommended that design features reducing light spillage are used and the use of High-pressure Sodium (SON) or low UV lamps is also recommended with directional features to avoid illuminating the tree line around the edges of the site.
- 6.7.6 Given the intensive use of the centre of the site and the fact that the greatest potential is located around the edges of the site the ecologist has recommended the installation of appropriate Root Protection Zone fencing in accordance with BS5837:2012 to protect hedges and trees and also the provision of exclusion fencing and boundary hoarding. This would enable protection of all the boundary hedging and trees, none of which are directly affected by the development in any event.
- 6.7.8 The submission of detailed mitigation and enhancement proposals can be conditioned and linked to the detailed landscaping scheme that will be required.
- 6.7.9 No objections are raised to the development on landscape or ecology grounds

6.8 Other Matters

- 6.8.1 Issues relating to the potential contamination from the former sheep dip said to have been located within the site and the PLUTO pipeline under the access road

can be covered by appropriate contamination and archaeological conditions respectively.

6.8.2 Surface water drainage is indicated to be provided using a SUDS based system. The Environment Agency and Southern Water have requested that conditions relating to surface water drainage details are imposed. Southern Water has also requested that a condition is imposed requiring details of foul drainage to be submitted for approval. An existing foul sewer passes immediately to the rear of the properties to the north of the site and across the field from which pedestrian access is proposed. Connection to this may be a possibility but the applicants will need to formally apply to Southern Water for such a connection.

6.8.3 I also consider that it would be appropriate to ensure that the proposed clubhouse building achieves a minimum of a BREEAM very good rating in terms of construction sustainability and energy efficiency.

7. CONCLUSION

7.1 As a proposal for a new sports facility in the countryside, the proposals are considered to be acceptable in principle. The applicants have considerably modified their proposals in response to the refusal of the previous application and have reduced the scale of what is now proposed.

7.2 I consider that the proposed facility is appropriately sited in relation to the village it will serve and that it will not result in any unacceptable highway safety or capacity issues. The scheme will bring enhanced facilities to the club and to the village of Marden as a whole.

7.3 The potential impacts and harm caused by the development have been carefully weighed. The impact of lighting has particularly been carefully considered. The details submitted indicate that direct impact on the dwellings to the north and west can be mitigated in accordance with the ILE guidance. Clearly, there will be some impact on the wider area from the lit columns. However, on balance, I consider that that impact will not be so harmful as to warrant refusal due to the existing and proposed landscape framework that the site is within and the juxtaposition of the site relative to public vantage points.

7.4 I do not consider that the impact of the other facilities at the site will cause unacceptable harm to the character and appearance of the wider countryside, whilst recognising that the use of the facilities will bring a degree of noise and disturbance to existing residential properties they currently do not experience. Appropriate conditions can ensure this disturbance and impact is mitigated to an acceptable level.

- 7.5 Concerns raised by objectors regarding the unacceptability of development on the club's existing site are not for consideration in this application and cannot be taken into account. There is no certainty in any event that the existing Albion Road site will be allocated for development in the emerging Local Plan.
- 7.6 On balance, having assessed the scheme as now revised, I consider that the overall benefits in terms of the enhanced provision in this instance outweigh the acknowledged impacts that the development will cause. Subject to appropriate safeguarding conditions the following recommendation is therefore appropriate.

8. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

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

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

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

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

2. The details submitted pursuant to condition 1 above shall accord with the details indicatively shown on drawing no, JEC/336/01 and shall specifically show:
 - (i) A car park of a maximum of 60 spaces
 - (ii) A club house 'L-shaped' in form with arms of a maximum length of 32m with each arm having a maximum width of 15m and a resultant ground coverage for the building of no more than 750sqm and a maximum of 10m in height to the ridge of the roof.
 - (iii) Not more than one floodlit multi-purpose artificial pitch and 2 floodlit tennis courts.
 - (iv) Details of all surfacing to roadways, pathways and car parking areas within the site.
 - (v) Details of cycle and motorcycle parking.
 - (vi) Details of all fencing (including boundary enclosures) to be erected within the site.

- (vii) The tennis courts and the grounds maintenance machinery shed sited no closer than 15m to the site's northern boundary.
- (viii) The multi-use sports pitches sited no closer than 65m to the site's northern boundary.

Reason: No such details have been submitted and to ensure a satisfactory appearance to the development pursuant to policy ENV28 of the Maidstone Borough-wide Local Plan 2000.

3. The details of landscaping submitted pursuant to condition 1 shall accord with the principles shown on drawing no. JEC/336/01 and shall include:
 - (i) A detailed long-term landscape and ecological management plan for the site.
 - (ii) Details of tree protection measures and an arboricultural method statement in accordance with BS5837 (2012) 'Trees in relation to design, demolition and construction. Recommendations'.
 - (iii) Details of ecological enhancement measures to include the provision of bird and bat boxes, bat bricks/tubes on the clubhouse building, reptile hibernacula and the location of log piles using a portion of the cordwood from the felled orchard trees.
 - (iv) A detailed implementation programme maintenance and management plan for the proposed community orchard including details of public access.

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development and in the interests of ecology and biodiversity pursuant to the policy ENV6 of the Maidstone Borough-wide Local Plan 2000 and the advice in the National Planning Policy Framework 2012.

4. The approved tree protection/ground protection measures approved pursuant to condition 3 above 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 siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas, or works to the trees undertaken no in accordance with the arboricultural method statement without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development pursuant to the policy ENV6 of the Maidstone Borough-wide Local Plan 2000.

5. All planting, seeding or turfing comprised in the approved details of the reserved matter of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building 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.

6. The development shall not commence until, details of the proposed slab levels of the clubhouse building and the existing and proposed site levels for the wider site (to include east -west and north-south cross sections) have been submitted to and approved in writing by the Local Planning Authority and the development shall thereafter 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 pursuant to policy ENV28 of the Maidstone Borough-wide Local Plan 2000.

7. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded pursuant to the advice in the National Planning Policy Framework 2012.

8. The development shall not commence until a scheme for foul drainage and a sustainable surface water drainage scheme for the site have been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100yr critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and so not increase the risk of flooding both on or off-site.

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To ensure adequate and proper drainage of the site and to prevent flood risk from surface water run-off pursuant to the advice in the National Planning Policy Framework 2012.

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

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework 2012.

10. The details of the clubhouse building submitted pursuant to condition 1 shall show that it will be constructed to achieve at least a BREEAM Very Good rating. The building shall not be occupied a final certificate has been issued certifying that the building has achieved at least a BREEAM Very Good rating.

Reason: To secure a sustainable and energy efficient form of development in accordance with Kent Design and the advice in the National Planning Policy Framework 2012.

11. The development hereby permitted shall not commence until details of the proposed floodlighting for the single floodlit multi-activity pitch and the two tennis courts have been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details. The submitted details shall include, inter-alia:

a) Details of the pylons which shall not be higher than 15m and luminaires which shall be of an asymmetric type.

b) Details of lighting plots showing the dispersal and intensity of light/lux level contours within the courts and also including the residential properties 'Church Farm House', 'The Oast House', 'The Hollies', 'Holly Cottage', '1& 2 Bumpers Hall Cottages', 'Bumpers Hall' and 'Lanorna', Maidstone Road and 'Bridgehurst Farmhouse', 'Bridgehurst Cottage' and 'Bridgehurst Oast', Howland Road and demonstrating that the proposed scheme complies with the recommendations of the Institute of Lighting Engineers 'Guidance Notes for reduction of Obtrusive Light' for sites located in Environmental Zone E2.

c) Details of measures to prevent excessive light spillage outside the floodlit areas.

Reason: To prevent light pollution and in the interests of residential amenity pursuant to policy ENV49 of the Maidstone Borough-wide Local Plan 2000.

12. The floodlights within the site shall not be illuminated except between the hours of 09:00 and 22:00 on any day.

Reason: To prevent light pollution and in the interests of residential amenity pursuant to policy ENV49 of the Maidstone Borough-wide Local Plan 2000.

13. No vehicles shall access or leave the site except between the hours 09:00 and 23:00 on any day.

Reason: In the interests of the amenities of nearby residential properties pursuant to policy ENV28 of the Maidstone Borough-wide Local Plan 2000 and the advice in the National Planning Policy Framework 2012.

14. No sporting activity on the site or activity within the clubhouse shall take place except between the hours of 09:00 and 23:00 on any day.

Reason: In the interests of the amenities of nearby residential properties pursuant to policy ENV28 of the Maidstone Borough-wide Local Plan 2000 and the advice in the National Planning Policy Framework 2012.

15. The use of the sports club and facilities hereby permitted shall not commence until the two approved pedestrian accesses as shown on drawing no. DHA/7275/02 have been secured and completed in accordance with a detailed design and specification (showing details of the precise alignment, surface treatments, boundary enclosures and lighting) which have been submitted to and approved by the local planning authority in conjunction with the local highway authority including the completion of an agreement under s278 of the Highways Act as necessary. The pedestrian accesses shall thereafter be maintained and kept available for use as long as the sports club and facilities are in operation.

Reason: To ensure a satisfactory means of access to the site pursuant to policy T23 of the Maidstone Borough-wide Local Plan 2000.

16. Prior to the first occupation and use of any part of the development hereby permitted, a Travel Plan including 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 be implemented in accordance with the approved details of the plan upon first occupation or use of any part of the development.

Reason: In the interests of sustainability pursuant to the advice in the National Planning Policy Framework 2012.

17. 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.

18. The development shall not commence until details of any external lighting (other than floodlighting) to be placed or erected 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: To prevent light pollution and in the interests of residential amenity pursuant to policy ENV49 of the Maidstone Borough-wide Local Plan 2000.

19. The development shall not commence until details of satisfactory facilities for the storage of refuse on the site have been submitted to and approved in writing by the local planning authority and the approved facilities shall be provided before the first occupation of the building or land and maintained thereafter;

Reason: No such details have been submitted and in the interest of amenity pursuant to policy ENV28 of the Maidstone Borough-wide Local Plan 2000.

20. The development hereby permitted shall be carried out in accordance with the following approved plans:
DHA/7275/01revB, DHA/7275/04, JEC336/01, T0072/SK002 and
T0072/SK003revB ;

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers in accordance with

policies ENV6, ENV28 and ENV49 of the Maidstone Borough-wide Local Plan 2000 and the advice in the National Planning Policy Framework 2012.

Informatives set out below

Any information submitted in pursuance of condition 8 should also include detail on how the surface water drainage scheme shall be maintained and managed for its lifetime after completion, and should be accompanied by all appropriate calculations to demonstrate that sufficient attenuation/storage will be provided. Furthermore, any excess surface water generated by an event which exceeds the design parameters should be retained on site in pre-determined areas which are well away from any vulnerable property and where the off-site flood risk will not be exacerbated by its presence. Further guidance on this (and on designing safe and sustainable flood conveyance routes and storage) is provided in 'Designing for exceedance in urban drainage - good practice' (CIRIA publication C635).

It should be further noted that drainage features which rely on infiltration may not prove to be particularly effective at this location owing to the relative impermeability of the underlying Weald Clay; further investigations should therefore be undertaken to determine the suitability of any proposed surface water management scheme prior to any detailed design work.

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 in connection with the construction of the development 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.

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

Where possible, the developer shall provide the Council and residents with a name of a person and maintain dedicated telephone number to deal with any

noise complaints or queries about the work, for example scaffolding alarm misfiring late in the night/early hours of the morning, any over-run of any kind.

The developer may be required to produce a Site Waste Management Plan in accordance with Clean Neighbourhoods and Environment Act 2005 Section 54. This should be available for inspection by the Local Authority at any time prior to and during the development.

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

Consideration should be given in submitting the details of reserved matters pursuant to condition 1 for a club house building of not more than one and a half storeys in height.

When designing the lighting scheme for the proposed development the recommendations by the Bat Conservation Trust must be considered (where applicable)

- a) Low-pressure sodium lamps or high-pressure sodium must be used instead of mercury or metal halide lamps where glass glazing is preferred due to its UV filtration characteristics.
- b) Lighting must be directed to where it is needed and light spillage avoided. Hoods must be used on each light to direct the light and reduce spillage.
- c) The times during which the lighting is on must be limited to provide some dark periods. If the light is fitted with a timer this must be adjusted to the minimum to reduce the amount of 'lit time'.
- d) Lamps of greater than 2000 lumens (150 W) must not be used.
- e) Movement sensors must be used. They must be well installed and well aimed to reduce the amount of time a light is on each night.
- f) The light must be aimed to illuminate only the immediate area required by using as sharp a downward angle as possible. This lit area must avoid being directed at, or close to, any bats' roost access points or flight paths from the roost. A shield or hood can be used to control or restrict the area to be lit. Avoid illuminating at a wider angle as this will be more disturbing to foraging and commuting bats as well as people and other wildlife.
- g) The lights on any upper levels must be directed downwards to avoid light spill and ecological impact.
- h) The lighting must not illuminate any bat bricks and boxes placed on the buildings or the trees in the grounds.

Drainage to soakaway from car parking areas for more than 50 spaces should be passed through an oil interceptor before discharging to ground. Note: cleansing agents can negate the effect of petrol interceptors. The Environmental Permitting Regulations make it an offence to cause or knowingly permit any discharge that will result in the input of pollutants to groundwater

Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment. The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

Foul drainage from the clubhouse should be connected to the main sewer. Where this is not possible and it is proposed to discharge treated effluent to ground or to a surface watercourse the applicant may require an Environmental Permit from us. The granting of planning permission does not guarantee the granting of a permit under the Environmental Permitting Regulations 2010. A permit will only be granted where the risk to the environment is acceptable. No permit will be issued for foul treatment discharges to SPZ1 or when there is a risk to groundwater in terms of volume of discharge or inadequate attenuation capacity in the underlying materials due to soils/rock type or depth to groundwater. We also refer you to our document Groundwater Protection: Policy and Practice (GP3) that is a report that highlights the importance of groundwater and encourages industry and other organisations to act responsibly and improve their practices. This can be found at: <http://www.environment-agency.gov.uk/research/library/publications/40741.aspx>

Due to the close proximity of the proposal to the embankment and Network Rail property the application should immediately contact Network Rail's asset protection team on AssetProtectionWessex@networkrail.co.uk who will assist in managing the construction and commissioning of the project.

You are advised that:

1. No furniture may be erected on or across Public Rights of Way without the

express consent of the Highway Authority:

2. There must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development without the permission of the KCC Public Rights of Way Office.
3. There should be no close board fencing or similar structure over 1.2 metres erected which will block out the views:
4. No hedging or shrubs should be planted within 1.0 metre of the edge of the Public Path.
5. No Materials can be brought onto site or stored on the Right of Way.
6. Please also make sure that the applicant is made aware that the granting of planning permission confers on the developer no other permission or consent or right to close or divert any Public Right of Way at any time without the express permission of the Highway Authority.

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.

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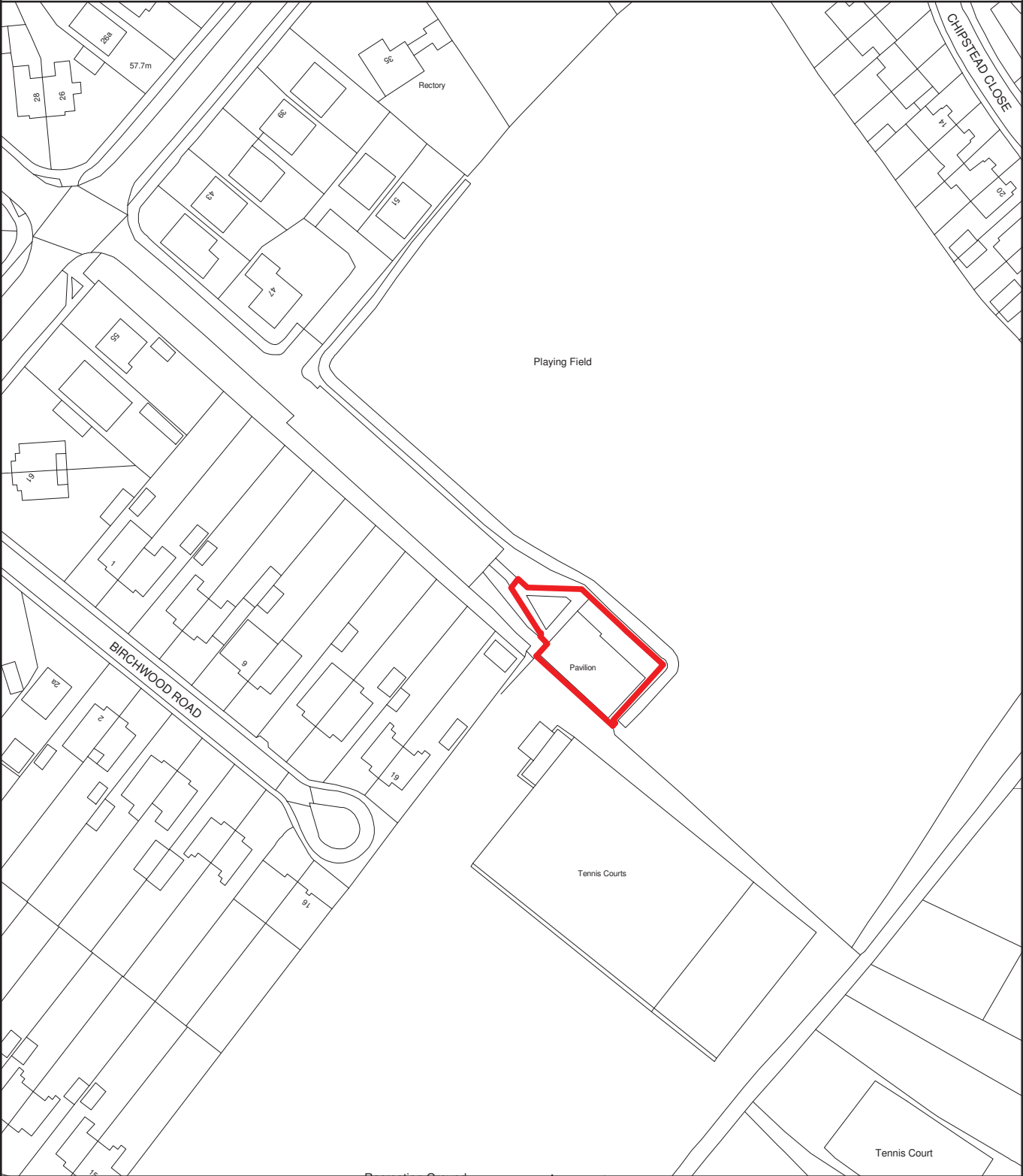
Agenda Item 23

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/0506

GRID REF: TQ7456

GIDDYHORN LANE PAVILION,
GIDDYHORN LANE, MAIDSTONE.



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Rob Jarman
Head of Planning

APPLICATION: MA/13/0506 Date: 18 March 2013 Received: 19 April 2013

APPLICANT: Mrs Beth Allen, Poplar Preschool

LOCATION: GIDDYHORN LANE PAVILION, GIDDYHORN LANE,
MAIDSTONE, KENT, ME16 0AN

PARISH: Maidstone

PROPOSAL: Erection of a freestanding canopy.

AGENDA DATE: 6th June 2013

CASE OFFICER: Louise Welsford

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

- The Council is the owner of the building.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: None specific.
- Government Policy: National Planning Policy Framework.

2. HISTORY

The most recent history is:

MA/10/0948 – Change of use of recreation land to outside play area for Pre-school, erection of fencing and canopy - Approved.

This application sought a different design of canopy to that proposed, but in a similar position.

3. CONSULTATIONS

- 3.1 Environmental Health Manager: No objections. Recommends an informative regarding the construction phase.

4. REPRESENTATIONS

4.1 None received to date.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 This application relates to a single storey building, which is in use as a nursery. It lies within the urban area of Maidstone.

5.1.2 There is an outdoor play area to the north of the building, facing a playing field. To the west is a car park, with dwellings lying to the south west.

5.2 Proposal

5.2.1 Planning Permission is sought for the erection of a freestanding canopy to the north elevation, abutting the building.

5.2.2 The canopy would have a polycarbonate roof and is required to provide protection to children using the play area during adverse weather conditions.

5.3 Visual Impact

5.3.1 The canopy would be of a subordinate scale to the host building and of minimal visual impact, due to its nature and type of roof. Its design is considered acceptable in relation to the existing building and in this location, set well back from the road, it would have a satisfactory visual appearance.

5.4 Residential Amenity

5.4.1 The proposal would have no significant adverse impact upon residential amenity for any neighbouring property. This is an existing play area, with no change of use being proposed and the development would be shielded from properties to the south west by the existing host building.

5.5 Other Matters

- 5.5.1 The site lies upon a former landfill site. However, the Environmental Health Manager has confirmed that previous excavation work indicates that there are no significant issues arising from this for future users. He does, however, recommend an informative regarding the construction phase and this is considered appropriate.

6. CONCLUSION

- 6.1 The proposal would have a satisfactory visual appearance and would preserve residential amenity. It is considered to comply with the National Planning Policy Framework and approval is recommended.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans: a Site location plan received on 19/04/13, a block plan received on 25/03/13 and drawing no. GAA2 received on 17/04/13.

Reason: To ensure the quality of the development is maintained in accordance with the National Planning Policy Framework.

Informatives set out below

As the land is located upon a former landfill site, the applicant is advised to ensure that construction workers are informed of the status of the site and that they are satisfied that the contractor has carried out a suitable risk assessment for completing the works safely which will include, as a bare minimum, the use of appropriate Personal Protective Equipment (PPE) during the construction phase.

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 application was approved without delay.

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.

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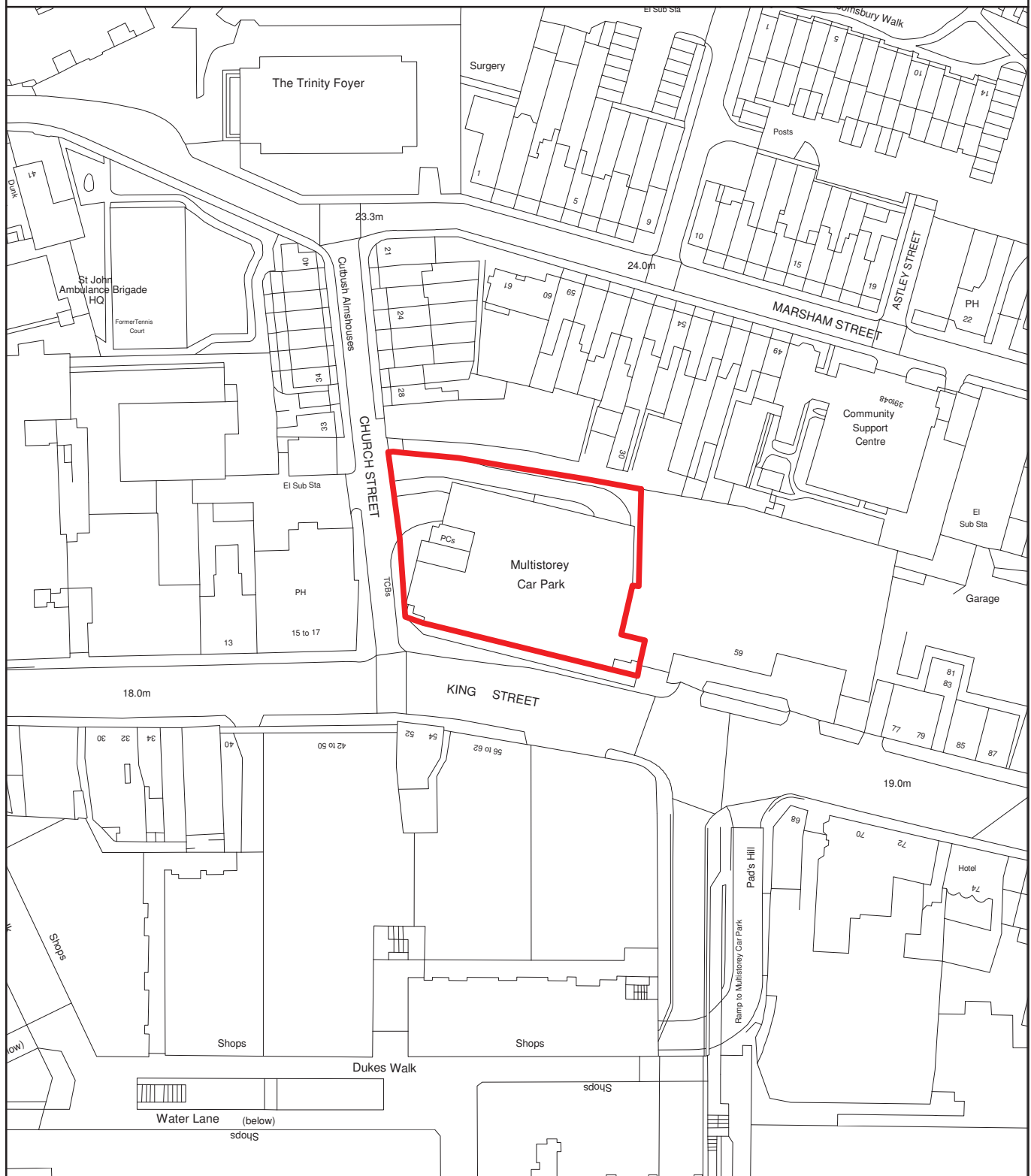


THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/0772

GRID REF: TQ7655

APCOA PARKING KING STREET MULTI STOREY,
CHURCH STREET, MAIDSTONE.



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Rob Jarman
Head of Planning

APPLICATION: MA/13/0772 Date: 29 April 2013 Received: 1 May 2013

APPLICANT: Mr David Tibbit

LOCATION: APCOA PARKING KING STREET MULTI STOREY, CHURCH STREET,
MAIDSTONE, KENT, ME14 1EN

PARISH: Maidstone

PROPOSAL: Demolition of existing multi storey car park, ground floor shop unit and public toilets and provision of surface level car park with 64 spaces, spaces for bikes and additional landscaping (resubmission of MA/13/0060) as shown on drawing numbers P115-2111-03, KSCP 0007/002C, KSCP 0007/003C1 and KSCP 0007/004C1 received on 1/5/13.

AGENDA DATE: 6th June 2013

CASE OFFICER: Peter Hockney

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

- The Council is the applicant

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, R8
- Government Policy: National Planning Policy Framework 2012

2. HISTORY

- MA/13/0060 – Demolition of existing multi storey car park, ground floor shop unit and public toilets and provision of surface level car park with 64 spaces, spaces for bikes and additional landscaping – APPROVED WITH CONDITIONS.

2.1 This application is made following amendments to the above approval. The amendments include the retention (in part) of the existing stairwell in the south eastern corner of the site and the retention of telecoms equipment along the western boundary of the site.

3. CONSULTATIONS

3.1 None received

4. REPRESENTATIONS

- 4.1 None received

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site relates to an existing multi-storey pay and display car park with a retail unit on the ground floor at the junction of Church Street and King Street. The car park has a vehicular access from Church Street. The site is within the town centre area of Maidstone and near to the shopping and other town centre facilities and falls within the secondary shopping area as designated by policy R8 of the Maidstone Borough-Wide Local Plan (2000).
- 5.1.2 The site is bounded to the north of the site by the Holy Trinity Church Conservation Area. There are a number of listed buildings in the vicinity including 52 and 54 King Street (on the opposite side of King Street) and 56-60 Marsham Street (located to the north of the site).
- 5.1.3 The multi-storey car park covers the majority of the site and provides 239 car parking spaces, including 16 disabled spaces, over 6 floors (including the rooftop). The retail unit at ground floor is currently vacant and was last occupied by the foodstore 'Somerfield'.

5.2 Proposal

- 5.2.1 The application is a revision to the approved application MA/13/0060. This application is made following amendments to the above approval. The amendments include the retention (in part) of the existing stairwell in the south eastern corner of the site and the retention of telecoms equipment along the western boundary of the site. These are minor material amendments to the previous permission. In addition, details have been submitted to fulfil the requirements of the previous conditions that were imposed.

5.3 Principle of Development

- 5.3.1 The proposal would involve the loss of the existing multi-storey car park and the retail unit at ground floor. The site is within the secondary shopping area as designated by policy R8 of the Maidstone Borough-Wide Local Plan (2000). Within this area the policy states that the Council will permit a range of A1 (retail), A2 (financial and professional services) and A3 (food and drink) uses or any other uses appropriate in a shopping street. The policy does not explicitly

prevent the loss of such uses but the spirit is clearly to retain the vitality and viability of the town. The loss of the A1 retail unit and its replacement with a surface level car park would remove a vacant unit and replace it with a landscaped car park which is an appropriate alternative town centre use that would add to the vitality of the town centre and therefore to my mind would not be contrary to this policy.

5.3.2 The proposal would result in the reduction of the overall number of spaces available at the site but this would not be contrary to any national or local policies. The main use of the site would remain as a public car park as such is acceptable in principle.

5.3.3 The principle was accepted under the previous application.

5.4 Visual Impact

5.4.1 The existing multi storey car park is a large and monolithic building of unpleasant design which severely adversely affects the setting of the adjacent Holy Trinity Conservation Area and the listed building on the opposite side of King Street. The demolition of this building would negate this adverse impact and would open up views into the Conservation Area. This would be a visual improvement on the current situation. The Conservation Officer welcomes the demolition of the existing building and states that "whilst the best option for the townscape would be to redevelop the site with a suitably scaled and designed building, the use of the site for a surface car park along the lines proposed would be acceptable. The important part of the proposal is the strong boundary planting to the street edges which is necessary to maintain visual enclosure of the street frontages as well as to screen the parked cars."

5.4.2 The proposed surface level car park would include a significant level of landscaping which would add considerable greenery to this part of the town centre that is severely lacking in vegetation. This landscaping including the hardwood clad planters along the boundary with King Street, which is integral to the layout of the car park, would result in a considerable visual improvement to the site and the character and appearance of the surrounding area. The retention of the stairwell element or the telecoms development would not significantly change the visual impact.

5.4.3 Overall, the loss of the existing unattractive building and its replacement with a well landscaped surface level car park would have a positive visual impact on the character and appearance of the surrounding area and would improve the setting of the Conservation Area and nearby listed buildings.

5.5 Residential Amenity

- 5.5.1 There are residential properties in the vicinity to the north of the application site. The demolition of the building would remove a large and dominant building from south of many of these properties. It would undoubtedly improve the outlook from many of these properties.
- 5.5.2 The proposed use would not result in a significant adverse impact on the residential amenity level of nearby occupiers and would be acceptable on these grounds. There would be no significant change in relation to the minor changes to the proposal.

5.6 Highways

- 5.6.1 The proposal would alter the access arrangements from an access in and out of the multi-storey car park from Church Street to an access point to the surface level car park from King Street. This change to the arrangement has been examined by Kent Highway Services, who are happy with the access arrangements with regard to highway safety considerations.
- 5.6.2 A letter of objection has been received from a nearby resident on the grounds that the proposed car park would provide a significantly lower number of spaces than the existing car park and as a result this would impact on the availability of on street car parking for nearby residents. The loss of the existing car park would remove some off street car parking capacity. However, I do not consider that this would be significant given that there is currently a charge for overnight car parking at the multi-storey whereas overnight parking (7pm to 7am) at the Sainsbury car park on the opposite side of King Street is free. Even if there is some displacement of car parking from the multi-storey car park to surrounding streets then this may cause inconvenience but would not in itself result in an adverse impact on highway safety.
- 5.6.3 The proposal would have no significant impact on highway safety and would be unchanged from the approved development.

5.7 Landscaping

- 5.7.1 The proposed scheme includes a significant amount of landscaping that would soften the appearance of the car park and screen the cars from views from King Street. The landscaping proposals would add considerably to the improvement of the area and it would be essential to ensure the proposals are planted prior to the commencement of the use of the car park. The species proposed include beech hedging and dogwood and full details of numbers of plants and their size at planting have been provided and would provide a suitable level of coverage

for the landscaped areas. These areas would be managed by the Council's Grounds Maintenance Team. These details are acceptable and the implementation should be conditioned.

5.8 Other Matters

- 5.8.1 Details of lighting have been submitted. These show a total of 7 light columns at 6m in height (2 doubles and 5 singles). A light spillage plan has been submitted that ensures that there would be no light spillage to any residential property and any spillage outside the application site would be negligible. These lighting details are acceptable and a condition requiring further details would not be required.
- 5.8.2 Details of the surfacing to the car park have been provided. These include black asphalt for the majority of the surfacing with a band of 100mmx100mmx100mm of granite sets at the entrance to the car park. These would assist in improving the visual appearance of the car park as well as reducing the speed of cars entering and leaving the site. These details are considered acceptable and would be appropriate for the use.

6. CONCLUSION

- 6.1 The proposal would result in the demolition of the existing multi-storey car park and therefore the loss of the large, monolithic building that has a significant adverse impact on the character and appearance of the area. The loss of the building would also improve the historic character of the Conservation Area and the setting of the nearby listed buildings. The Conservation Officer raises no objections to the proposals.
- 6.2 The proposed surface level car park with a significant level of landscaping would improve character and appearance of the area and the view from King Street. There would be no significant impact on residential amenity and the demolition of the existing car park would improve the outlook from many residential properties.
- 6.3 The changes to the access arrangements have resulted in no objections being raised by Kent Highway Services and the proposals would have no significant impact on highway safety. I do not consider that there would be a significant displacement of parking to the surrounding streets and even if there was the additional on street car parking pressures this would not result in a significant impact on highway safety.

- 6.4 The proposals are acceptable and would result in a significant improvement to the character and appearance of the site and its contribution to the surrounding area.

7. RECOMMENDATION

Following the expiry of the consultation period and no issues being raised that have not been considered 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 be constructed using the approved surface materials as submitted;

Reason: To ensure a satisfactory appearance to the development in accordance with guidance contained in the National Planning Policy Framework (2012).

3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out prior to the first use of the car park; 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).

4. The development shall be carried out in accordance with the approved details as submitted;

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers and the visual amenity of the surrounding area in accordance with guidance in the National Planning Policy Framework 2012.

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

KSCP 0007/002C, KSCP 0007/003C1 and KSCP 0007/004C1;

Reason: To ensure the quality of the development is maintained in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan (2000).

Informatives set out below

There shall be provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.

There shall be provision of measures to prevent the discharge of surface water onto the highway.

There shall be provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: www.kent.gov.uk/roads_and_transport.aspx or telephone: 08458 247800) in order to obtain the necessary Application Pack.

The applicant is encouraged to maximise the number of dedicated disabled parking bays, but not at the expense of the overall numbers of parking spaces.

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 application was approved without delay.

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 there are no overriding material considerations to indicate a refusal of planning consent.



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7. 3. 2013



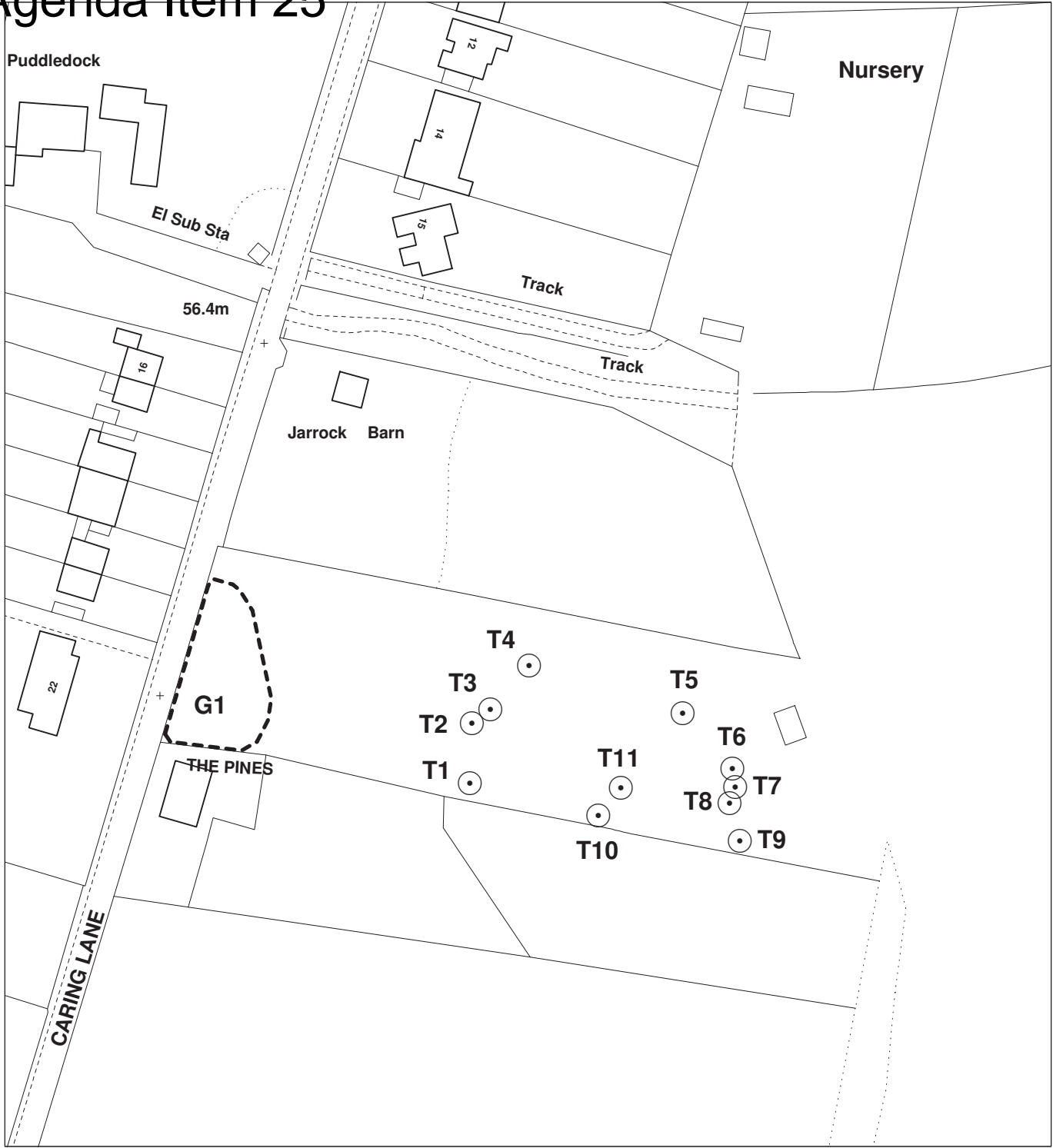
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7. 3. 2013

Agenda Item 25



THE MAIDSTONE BOROUGH COUNCIL
Tree Preservation Order No. 10 of 2012
Trees on land north of The Pines,
Caring Lane, Thurnham.

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Schedule

- Individual Trees: T1 - T10 Oak and T11 Hazel.
- Groups of Trees: G1 Consisting of 18 Oak and 3 Pine.
- Areas of Trees: None
- Woodlands: None

Extract from OS Map TQ 8154
Scale 1:1250

[Director of Change, Planning and The Environment]
[Head of Planning]
[delete as appropriate]
as authorised signatory

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

6 June 2013

REPORT OF THE DIRECTOR OF CHANGE, PLANNING AND THE ENVIRONMENT

REFERENCE: Tree Preservation Order No. 10 of 2012 Date made: 19/12/12

TITLE: Trees on land north of The Pines, Caring Lane, Thurnham

CASE OFFICER: Nick Gallavin

Tree Preservation Order (TPO) No.10 of 2012 was made under section Regulation 4 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 to protect 18 Oak, 3 Pine and 1 Hazel. One objection to the order has been received and the Planning Committee is, therefore, required to consider this before deciding whether the Order should be confirmed.

The recommendation on whether to confirm this TPO is being reported to Committee for decision because:

- one objection has been received

POLICIES

National Planning Policy Framework

Maidstone Borough Council, Landscape Character Assessment, published 2012 & Landscape Guidelines, 2000

Government Policy: ODPM, 'Tree Preservation Orders: A Guide to the Law and Good Practice'

BACKGROUND

On 21st November 2012, Landscape Officers received a request to consider making a Tree Preservation Order on trees at the site, as the site was to be offered for sale at Auction on December 10th 2012 and concern was raised that it is common practice for a new owner to remove trees before submitting a planning application. The lot description stated "the land may be suitable for grazing or, perhaps, equestrian use, subject to all the necessary consents being obtainable. Equally, the land may offer future development potential, again subject to all necessary consents being obtainable."

As a result, it was considered expedient to protect the trees by the making of a TPO.

The grounds for the making of the order were stated as follows: -

The Oak, Pine and Hazel trees are visible from Caring Lane and are considered to make a valuable positive contribution to the character and amenity of the area. A change in ownership of the land following its sale at auction as land with potential for development is considered to place the trees on the site under threat of felling. Therefore, it is considered expedient to make the trees the subject of a Tree Preservation Order.

The six month provisional Order expires on 19 June 2013, after which the Order automatically lapses if not confirmed. The order cannot be confirmed after this date.

OBJECTIONS

The TPO was served on the new owner of the land in question and any other parties with a legal interest in the land.

One objection has been received to the order, within the statutory 28 day period from its making by Estate and Corporate Solicitors on behalf of the new owner of the site. The main text of the objection is reproduced here:-

"...Our Client wishes to object and has instructed us to object to the order. The tree preservation order it will appear focuses solely on the parcel of land purchased by our client which in itself puts our client at a very serious disadvantage as it was issued after our client purchased the property on Auction.

Our client would like to know if there was any consultation had prior to the imposition of the previous owners and if not why.

Our client is concerned that his property has been unfairly selected and would like to know why his land was the only property in the area affected by the order. Why was a blanket order not issued for the entire area if the objective is to make a valuable and positive contribution to the character and amenity of the area? The imposition of the order will adversely affect the intended use of the land and significantly has dire financial consequences on our client.

Our client also would like to have access under the freedom of information Act to the paperwork that led to the imposition of this tree preservation order [sic]. We are further authorised to receive any correspondence on this matter on behalf of our client."

The grounds of the objection/s are summarised as follows: -

- The property was unfairly selected
- The new owner is at a very serious disadvantage as the order was made after the property was sold at auction.
- The order adversely affects the intended use of the land and has significant dire financial consequences on the new owner.

CONSIDERATIONS

SITE AND SURROUNDINGS

The site is a plot of land on the north side of Caring Lane, Thurnham. It is rural in character, with trees and grassland. Currently, there is no direct access to the plot from Thurnham Lane.

DESCRIPTION OF TREE/S

There is a large group of trees on the Caring Lane frontage, consisting of 18 Oak of varying maturity and 3 mature Pine, which form a prominent group that are considered to make a positive contribution to the character of the area. Various other trees are set further back in the site and are therefore less visible, but can still be seen from public viewpoints. Of these, 10 individual Oaks and 1 Hazel were considered to be of sufficient size to merit protection.

LEGAL CONTEXT

Local Planning Authorities (LPAs) may make a TPO if it appears to them to be:

'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

The Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees should therefore normally be visible from a public place, such as a road or footpath. The benefit may be present or future. It is, however, considered inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous.

LPAs are advised to develop ways of assessing the 'amenity value' of trees in a structured and consistent way, taking into account the following key criteria:

- (1) visibility
- (2) individual impact
- (3) wider impact

Officers use an amenity evaluation assessment form based on Government guidance and an industry recognized system which enables Arboricultural Officers to make an objective decision on whether trees fulfill the criteria for protection under a TPO.

However, although a tree may merit protection on amenity grounds, it may not be expedient to make it the subject of a TPO. For example, it is unlikely to be expedient to make a TPO in respect of trees which are under good arboricultural management. It may, however, be expedient to make a TPO if the LPA believe there is a risk of the tree being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate.

RESPONSE TO OBJECTION/S

The response to the principle points of objection set out above is as follows:-

The site was considered for protection because of a change in ownership. Whilst this might be considered as unfair, the making of a Tree Preservation Order only arises where it is expedient to do so. This means that the making of orders is generally reactive, in response to a perceived threat to trees. This site was considered alone because it was only this site that was subject to a change in ownership that potentially threatens the trees present.

Tree Preservation Orders can be made at any time. The new owner considers that they have been placed at disadvantage as the order was made after the auction, but the seller could make an objection on the same grounds when an order is made prior to an auction.

It is not known what the intended use of the land is. The objection states that the making of the order will adversely affect the intended use of the land and significantly have dire financial consequences. This implies that tree removals were intended, and that it was indeed expedient to protect trees on the site.

Note: The financial issues raised above are not considerations that relate to the making of Tree Preservation Orders. The Local Planning Authority might, in certain circumstances, be liable to pay compensation for financial losses resulting from a refusal of consent following an application for works to protected trees, but such liability does not arise from the making or confirming of Tree Preservation Orders.

CONCLUSION:

For the reasons set out above it is considered that:

There are no grounds of objection above which are sufficient to throw the making of the Order into doubt. The ongoing protection of the trees will prevent tree removals from being carried out for the sole purpose of enabling development proposals and ensure that the trees are appropriately considered in any proposal.

RECOMMENDATION:

CONFIRM **WITHOUT** MODIFICATION Tree Preservation Order No. 10 of 2012.

BACKGROUND DOCUMENTS:

TPO No. 10 of 2013

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THE PINES

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THE MAIDSTONE BOROUGH COUNCIL
Tree Preservation Order No. 11 of 2012
Tree at 26 Sittingbourne Road, Maidstone.

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Schedule

Individual Trees: T1 Pine.

Groups of Trees: None

Areas of Trees: None

Woodlands: None

Extract from OS Map TQ 7656
 Scale 1:1250

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

6 June 2013

REPORT OF THE DIRECTOR OF CHANGE, PLANNING AND THE ENVIRONMENT

REFERENCE: Tree Preservation Order No. 11 of 2012 Date made: 20/12/12

TITLE: Tree at 26 Sittingbourne Road, Maidstone

CASE OFFICER: Nick Gallavin

Tree Preservation Order (TPO) No.11 of 2012 was made under section Regulation 4 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 to protect one Pine tree. One objection to the order has been received and the Planning Committee is, therefore, required to consider this before deciding whether the Order should be confirmed.

The recommendation on whether to confirm this TPO is being reported to Committee for decision because:

- One objection has been received

POLICIES

Maidstone Borough Council, Landscape Character Assessment published 2012 & Landscape Guidelines, 2000
Government Policy: ODPM, 'Tree Preservation Orders: A Guide to the Law and Good Practice'
National Planning Policy Framework

BACKGROUND

In November 2012 Landscape Officers received a request to consider the tree for protection. The tree owner stated that there has been pressure from the neighbour to prune the tree over the last 12 years and the owner was concerned that the neighbour at 24 Sittingbourne Road may remove a large branch from the tree that overhangs their garden, which they would be legally permitted to do without the owner's consent. The owner was concerned that, following advice from tree surgeons, such action would unbalance the tree, perhaps seriously enough to require further works on the opposite side, leaving the tree open to disease.

As a result, it was considered expedient to protect the tree by the making of a TPO.

The grounds for the making of the order were stated as follows: -

'The Pine tree is a mature, prominent specimen, highly visible from Sittingbourne Road and makes a valuable contribution to the character and amenity of the area. It overhangs an adjacent garden and is under threat of works that would be detrimental to its long term health and amenity value It is therefore considered expedient to make the tree the subject of a Tree Preservation Order.'

The six month provisional Order expires on 20 June 2013, after which the Order automatically lapses if not confirmed. The order cannot be confirmed after this date.

OBJECTIONS

The TPO was served on the owner/occupier of the land in question and any other parties with a legal interest in the land.

One objection has been received to the order, within the statutory 28 day period from its making by the owner/occupiers of 24 Sittingbourne Road. The text of the objection is reproduced here:

"I am in receipt of your letter dated 23 January regarding the above tree. I would like to make you aware of some issues relating to this tree and the owner living at 26 Sittingbourne Road.

*The owner has lived at 26 Sittingbourne Road since the house was built in the 1970s. I moved into number 24 (next door) 11 years ago and this tree has been a 'bone of contention' between us for all of this time. As you are obviously aware it is a huge Scots Pine tree. You state in your correspondence that it makes a valuable contribution to the character and amenity of the area. From my point of view it certainly **does not**. It greatly overhangs my front garden and when we have strong winds and bad weather it becomes quite threatening to my property. Its branches shed pine cones and unsightly 5 inch needles all the time into my garden and endlessly clog up my gutters. The grass refuses to grow either because it is smothered in these needles or because its roots are taking all the nutrients. The needles get in between my plants and it is an extremely time consuming, irritating, thankless job clearing up all the mess they create.*

The owner periodically over the years has had the tree lopped on her side (presumably to alleviate the mess in her own garden). Towards the end of 2012 I once again approached her with a tree surgeon who I had consulted. He told her that he could trim off some of the offending branches on my side which he said would not affect the stability or health of the tree. I was quite prepared to pay for this as the owner point blank refused to contribute any costs involved...[personal information omitted]... I said I would be arranging this early in 2013. The owner obviously then contacted Maidstone Borough Council and then I received your letter.

As you can appreciate I do not therefore agree with the decision to grant a Tree Preservation Order on this tree. The tree may be a thing of beauty to others but if they had it overhanging their garden they would soon change their minds. It has been nothing but a nuisance to me for the last 11 years"

The grounds of the objection/s are summarised as follows: -

- The tree does not make a valuable contribution to the character and amenity of the area
- Fears that the tree might break or fall.
- That the tree has been a nuisance for 11 years, with cones and needles from the tree being unsightly, creating inconvenience, preventing grass growth and blocking gutters

CONSIDERATIONS

SITE AND SURROUNDINGS

The tree is growing in the front garden of the domestic property 26 Sittingbourne Road. The site is located on the A249 Sittingbourne Road, at the junction with Claremont Road. It is within the urban area on one of the main routes into the town centre. The immediate area is generally urban in feel. Other mature trees are present in the road, including Lime and other Pines.

DESCRIPTION OF TREE

The Pine tree is a mature, prominent specimen, highly visible from Sittingbourne Road. It reaches an estimated height of 11 metres and crown spread of 8 metres. The main stem forks at 3 metres, giving rise to a balanced crown of average form and structure. Visual ground level inspection from the Sittingbourne Road did not reveal any defects to suggest that the tree is unhealthy or unsafe at this time. It overhangs the adjacent garden of 24 Sittingbourne Road.

LEGAL CONTEXT

Local Planning Authorities (LPAs) may make a TPO if it appears to them to be:

'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

The Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees should therefore normally be visible from a public place, such as a road or footpath. The benefit may be present or future. It is, however, considered inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous.

LPAs are advised to develop ways of assessing the 'amenity value' of trees in a structured and consistent way, taking into account the following key criteria:

- (1) visibility
- (2) individual impact
- (3) wider impact

Officers use an amenity evaluation assessment form based on Government guidance and an industry recognized system which enables Arboricultural Officers to make an objective decision on whether trees fulfill the criteria for protection under a TPO.

However, although a tree may merit protection on amenity grounds, it may not be expedient to make it the subject of a TPO. For example, it is unlikely to be expedient to make a TPO in respect of trees which are under good arboricultural management. It may, however, be expedient to make a TPO if the LPA believe there is a risk of the tree being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate.

RESPONSE TO OBJECTION/S

The response to the principle points of objection set out above is as follows:-

Tree Preservation Orders are concerned with public amenity, not private amenity. In public amenity terms, the tree meets the criteria for protection, scoring 18 against a benchmark of 17 in the Council's standard amenity evaluation assessment.

The private amenity considerations relate to the other issues raised, fears that the tree might break or fall and nuisance. There is currently no evidence to suggest that the tree represents an abnormal risk of failure. Should such evidence be found, this can be addressed via an application under the Tree Preservation Order or as exception to the Tree Preservation Order Regulations if there is an immediate risk.

The nuisance issues could be considered reason to confirm the Tree Preservation Order. Whether pruning works might be appropriate to address the specific issues could be dealt with via an application, allowing control over the type and extent of works by the Local Planning Authority and enabling the use of conditions to ensure that works are carried out to an appropriate standard, if permitted. Without such control, there is a risk that works to alleviate the problems cited could result in unbalancing of the crown and significant pruning wounds, to the detriment to the character and amenity of the area and potentially leading to structurally significant decay.

CONCLUSION:

For the reasons set out above it is considered that:

There are no grounds of objection above which are sufficient to throw the making of the Order into doubt. Continued protection of the tree by a Tree

Preservation Order will give the Council some control over the nature and extent of any works proposed, in the interests of public amenity

RECOMMENDATION:

CONFIRM **WITHOUT** MODIFICATION Tree Preservation Order No. 11 of 2012.

BACKGROUND DOCUMENTS:

TPO No. 11 of 2012

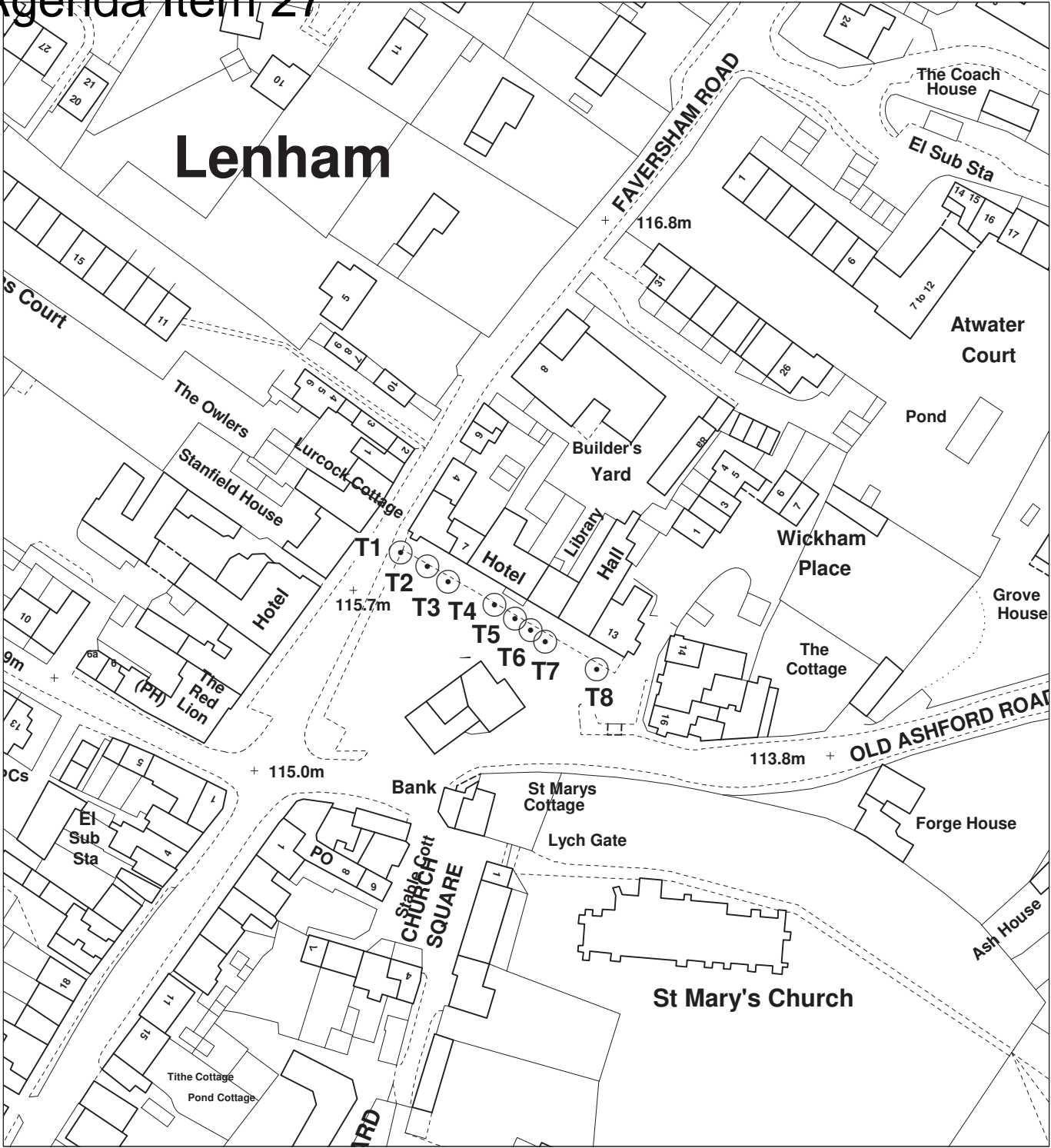












THE MAIDSTONE BOROUGH COUNCIL
Tree Preservation Order No. 1 of 2013
Trees at Lenham Square, Lenham. ME17 2PQ

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Schedule

Individual Trees: T1 Lime, T2 Lime, T3 Lime, T4 Lime, T5 Lime, T6 Lime, T7 Lime, T8 Lime.

Groups of Trees: None

Areas of Trees: None

Woodlands: None

Extract from OS Map TQ 8952
Scale 1:1250

[Director of Change, Planning and The Environment]
[Head of Planning]
[delete as appropriate]
as authorised signatory

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

6th June 2013

REPORT OF DIRECTOR OF CHANGE, PLANNING AND THE ENVIRONMENT

REFERENCE: Tree Preservation Order No. 1 of 2013 Date: 29th January 2013

TITLE: Trees on land at Lenham Square, Lenham, Kent

CASE OFFICER: Paul Hegley

Tree Preservation Order (TPO) No.1 of 2013 was made under Regulation 4 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 to protect eight Lime trees. One objection to the order has been received and the Planning Committee is, therefore, required to consider this before deciding whether the Order should be confirmed.

The recommendation on whether to confirm this TPO is being reported to Committee for decision because:

- One objection has been received

POLICIES

National Planning Policy Framework
Maidstone Borough Council, Landscape Character Assessment & Landscape Guidelines, 2000
Government Policy: ODPM, 'Tree Preservation Orders: A Guide to the Law and Good Practice'

BACKGROUND

Following the submission of a section 211 notice to fell seven Lime trees (reference: TA/0088/12) Tree Preservation Order No. 6 of 2012 was made on the 31 July 2012 on a provisional basis to ensure the trees were retained. Following the making of the order, it was noted that there are in fact 8 Lime trees located within the row that front the northern boundary of the main village square, fronting shops and properties numbered 7 – 13.

This order expired on 31 January 2013 and, whilst no objections were received, it was considered expedient to allow it to lapse and replace it with TPO No. 1 of 2013 to ensure all eight trees within the row are protected.

The grounds for the making of the order were stated as follows: -

Provisional Order No. TPO 6 of 2012 is due to expire on 31st January 2013 and currently protects seven out of eight Lime trees growing to the north of Lenham Square. All eight trees have significant amenity value and it is therefore considered expedient to replace the current order and make all eight trees the subject to a TPO to ensure their continued long-term retention.

The six month provisional Order expires on 29 July 2013, after which the Order automatically lapses if not confirmed. The order cannot be confirmed after this date.

OBJECTIONS

The TPO was served on the owner/occupier of the land in question and any other parties with a legal interest in the land.

One objection has been received to the order, within the statutory 28 day period from its making by the owner of The Corner House, who has also recently purchased the Lime Tree Hotel, both properties of which front onto the row of Lime trees.

The grounds of the objection are summarised as follows (the explanation referred in the text is attached as **Appendix A** to this report):-

"I object to the proposed TPO because it includes a tree that I have permission to fell.

The tree that I have permission to fell is between T4 and T5 of the TPO6 of 2012. I gave my intention to fell this tree on the 19/06/2012 using 'Application for tree works in a Conservation Area'. The LPA did not object to my proposal to fell this tree and I therefore have two years to do so.

I enclose a copy of my explanation why I would like all the Lime trees replanted. Please note that TPO6 of 2012 has not been confirmed and TPO1 of 2013 is defective."

In addition to this, three further letters were received from the same objector on 14 March, 2 April and 29 April 2013. None of these letters raised any new issues and were responded to accordingly but are summarised below:-

1. "In my letter dated 17 February 2013 I explained that I have the right to fell the tree scheduled T4 in your letter.

Are you challenging my right to fell this tree? Would you please explain how you can retract my two year right to fell this tree.

My understanding is the tree owner is the only person or body that could stop this felling."

2. "I agree that any Tree Works application can only be determined in two ways. One way was to T.P.O the trees. This was the determination for six of my seven application trees. The other way was to allow the proposed works. This was the determination for one of my seven application trees. This tree is T4 of T.P.O 1 of 2013.

The guidance notes of TA/0088/12 Application for Tree Works clearly state that:-

Item 10 (ii) I may proceed with the works after six weeks has elapsed.

Item 12 I have two years to carry out the works.

These items are unconditional and you therefore have to wait the two year period to T.P.O this tree, which will be felled by then anyway."

3. "In your letter of 28th March you admit that a tree was omitted from the order. This tree was T4 of TPO No.6 of 2012. Your mistake cannot be rectified by putting a TPO on T4 after the 6 week period has lapsed under 9.7(2) a decision not to make a TPO for this tree has been made. The two year period after submitting the tree works notice is unconditional and therefore binds both parties i.e. MBC and myself.

Mistakes have to be paid for. After all, there would be no need for litigators or P.I. insurance if we could simply change our minds about things.

Has this matter been referred to your legal department?"

REPRESENTATIONS

The order was also copied to any landowners immediately adjacent to the site.

There were no letters of objection to the original order, TPO No.6 of 2012, but two letters of support were received.

CONSIDERATIONS

The eight Lime trees subject to this order are growing within the cobbled path, known as The Limes, which fronts the shops and properties along the northern boundary of The Square, Lenham. All 8 trees have been pollarded in the past (as permitted under application reference TA/0176/06) in order to restrict their size and dominance over the neighbouring shops and properties. They form part of a historic planting of trees that have been present within the square since the 19th century and, although not the original trees, they contribute significantly to the amenity of the conservation area.

Recently re-pollarding has been undertaken in accordance with an approved application, reference TA/0155/12.

LEGAL CONTEXT

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RESPONSE TO OBJECTION/S

The response to the principle point of objection set out above is as follows:-

The Council received a section 211 notification on 20 June 2012 to fell 7 out of 8 Lime trees growing to the north of Lenham Square.

The LPA can deal with a section 211 notice in one of three ways. They may:

- (1) make a TPO if justified in the interests of amenity. The proposal would then have to be the subject of a formal application under the TPO, or
- (2) decide not to make a TPO and allow the six week period to expire, at which point the proposed work may go ahead as long as it is carried out within two years from the date of the notice, or
- (3) decide not to make a TPO and inform the applicant that the work can go ahead.

The LPA cannot refuse consent. Nor can they grant consent subject to conditions.

The applicant clearly received a decision letter dated 31 July 2012 in accordance with current legislation, confirming that the Council's decision was to make a TPO, No. 6 of 2012, in order to prevent the removal of the seven trees.

The Order omitted one tree of this group of 8 as it was made in response to the notice relating to only 7 trees. The omitted tree was still protected by virtue of

being located in Lenham Conservation area. However, when considering confirmation of the original Order, it was considered open to misinterpretation in relation to which of the 7 out of the 8 trees was protected under the TPO. It was therefore considered expedient to let TPO No. 6 of 2012 lapse and remake it as TPO No. 1 of 2013 to protect all 8 trees.

The tree the objector incorrectly believes he can remove could potentially have legitimately been removed during the period after the 6 week notification expired and prior to the new Order being made but it is now clearly protected.

The objector is not believed to own these trees but, with regard to his statement at appendix A, the removal and replacement of the Lime trees may be considered appropriate from a long-term management perspective. The TPO, in itself, does not stop anyone applying to remove and replace these trees. However, even if the objector did submit an application and was granted consent, he would not be able to proceed with the work without the owner's permission. It should be noted, though, that ownership is not a matter for the consideration of the Council in either the confirmation of this Order or in relation to any future application for work to these trees.

CONCLUSION:

For the reasons set out above it is considered that there are no grounds of objection above which are sufficient to throw the making of the Order into doubt.

RECOMMENDATION:

CONFIRM **WITHOUT** MODIFICATION Tree Preservation Order No. 1 of 2013.

BACKGROUND DOCUMENTS:

TPO No. 1 of 2013
TPO No. 6 of 2012.

APPENDIX A

406/122/37

26/12/13
TPO 1 of 2013

TO WHOM IT MAY CONCERN

I would like to clarify some issues regarding my application to fell the lime trees in Lenham Square.

My proposal is not just about felling the lime trees, it includes the replacement of the trees with new lime trees within root barriers. I make this application reluctantly because I do, of course enjoy the trees, especially as they provide dappled shade and enhance the conservation area. Also, it will take several years for the new trees to become established.

The existing lime trees were planted approximately 25 years ago to replace the mature limes that had grown too large. They were negligently planted too close to the buildings along the side of the square known as "The Limes" without regard to the potential damage they would cause. The technology was available to contain the roots and the mechanics of soil and roots was understood, but ignored. The problem is exasperated by impervious surfacing of the square causing the roots to hunt water from the gardens to the rear of the buildings.

I have been in communication with the council since 2004 to limit the spread of the lime trees. Their tree specialist recommended retro fitting root barriers but this was not done. Pollarding was suggested but this was only carried out once 5 years ago and raised local objection. Now, the trees are too large to retro fit barriers and the council have failed to maintain a regime of annual pollarding allowing the trees to increase in size by some 30%. Pollarding does not solve the problem anyway it slows the ingress but does not stop it.

The correct solution to this problem is to re-plant the limes properly in root barriers to rectify the irresponsible planting some 25 years ago. Also tarmac should be removed around trees to allow to create a pervious surface for rain watering. Although having a cost implication now, it will probably be less expensive overall.

I was of course aware of this prior to the purchase of the hotel.

However taking up the challenge of restoring the Lime Tree Hotel includes finding a long term solution to this root damage.

Legally, under the Law of Tort, the council is liable for damage caused by their trees trespassing roots. The size and quality of foundations is immaterial.

Maidstone Borough Council have placed a temporary T.P.O.'s on the trees for six months from 31st July 2012. Should this order become permanent or should the trees be replaced?

The medieval square and its listed buildings are your heritage as much as mine.

What should be done?

REPLACEMENT TREES :- LIME TREES

TILIA CORDATA STREET WISE - UPRIGHT BRANCHES
APHID FREE - 25 YEARS 9 METRES ± 5M DIAMETER

377





