

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 10 October 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

Page No.

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 Items withdrawn from the Agenda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

Continued Over/:

Issued on 2 October 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
8. Disclosures of lobbying
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
10. Minutes of the meeting held on 19 September 2013 1 - 8
11. Presentation of Petitions (if any)
12. Report of the Head of Planning and Development - Deferred Item 9
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PLEASE NOTE

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

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

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 19 SEPTEMBER 2013

Present: Councillor Lusty (Chairman) and Councillors Ash, Collins, Cox, Garland, Harwood, Hogg, McLoughlin, Moriarty, Mrs Robertson, Vizzard and Mrs Wilson

Also Present: Councillor Mrs Blackmore

128. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Chittenden, Nelson-Gracie, Paterson and J A Wilson.

129. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

Councillor Garland for Councillor J A Wilson
Councillor McLoughlin for Councillor Nelson-Gracie
Councillor Vizzard for Councillor Paterson
Councillor Mrs Wilson for Councillor Chittenden

130. URGENT ITEMS

Update Report

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

131. NOTIFICATION OF VISITING MEMBERS

Councillor Mrs Blackmore indicated her wish to speak on the report of the Head of Planning and Development relating to application MA/13/1147.

132. ITEMS WITHDRAWN FROM THE AGENDA

MA/13/0682 - ERECTION OF NEW 4/5 BEDROOM DWELLING WITH DETACHED DOUBLE GARAGE - 35 KNAVES ACRE, HEADCORN, ASHFORD, KENT

MA/13/0966 - PROPOSED ERECTION OF 7 NEW DWELLINGS AND GARAGING TOGETHER WITH THE PROVISION OF LANDSCAPING, ACCESS

AND ANCILLARY WORKS ON HOCKERS FARM - LAND AT HOCKERS FARM,
OFF ORCHARD VIEW, DETLING, KENT

The Committee considered the urgent update report of the Head of Planning and Development recommending that these applications be withdrawn from the agenda due to the ongoing discussions regarding the five year housing land supply which was considered to be a material consideration in their determination.

In response to a question by a Member, the representative of the Head of Planning and Development confirmed that the opportunity could be taken in the interim period to address other issues which had been raised in relation to these applications.

RESOLVED: That agreement be given to the withdrawal of applications MA/13/0682 and MA/13/0966 from the agenda due to the ongoing discussions regarding the five year housing land supply.

133. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

134. EXEMPT ITEMS

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

135. MINUTES OF THE MEETING HELD ON 29 AUGUST 2013

RESOLVED: That the Minutes of the meeting held on 29 August 2013 be approved as a correct record and signed.

136. PRESENTATION OF PETITIONS

There were no petitions.

137. MA/12/0152 - AN APPLICATION TO REMOVE CONDITIONS 1 AND 2 AND VARY CONDITIONS 3 AND 4 OF APPEAL DECISION DATED 29 NOVEMBER 1995 IN ORDER TO ALLOW PERMANENT UNRESTRICTED OCCUPANCY BY GYPSIES AND TRAVELLERS AND ALLOW THE STATIONING OF FIVE CARAVANS (INCLUDING ONE TOURER) AND THE PARKING OF FOUR COMMERCIAL VEHICLES - LITTLE CLOCK HOUSE, GEORGE STREET, HUNTON, MAIDSTONE, KENT

All Members stated that they had been lobbied.

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

Mrs Kelly, for objectors, and Councillor Heaton of Hunton Parish Council (against) addressed the meeting.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, Members felt that the proposed development, by way of the constrained nature of the site and the intensification of the use with additional residential caravans and commercial vehicles, would result in a harmful impact on the character and appearance of the open countryside and the Greensand Ridge Special Landscape Area hereabouts distinct in its character by virtue of the number of listed buildings in the vicinity. This would be contrary to policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and central government planning policy as set out in paragraphs 109, 129 and 132 of the National Planning Policy Framework 2012 and paragraph 23 of Planning Policy for Traveller Sites 2012.

RESOLVED: That permission be refused for the following reason:

The proposed development, by way of the constrained nature of the site and the intensification of the use with additional residential caravans and commercial vehicles, would result in a harmful impact on the character and appearance of the open countryside and the Greensand Ridge Special Landscape Area hereabouts distinct in its character by virtue of the number of listed buildings in the vicinity, contrary to policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and central government planning policy as set out in paragraphs 109, 129 and 132 of the National Planning Policy Framework 2012 and paragraph 23 of Planning Policy for Traveller Sites 2012.

Voting: 9 – For 3 – Against 0 – Abstentions

138. MA/13/1292 - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF CONVENIENCE STORE AND 8 NO. DWELLINGS WITH NEW ACCESS, PARKING AND ASSOCIATED WORKS - AMBULANCE STATION, LOOSE ROAD, MAIDSTONE, KENT

The Chairman and Councillors Garland, Hogg and Mrs Wilson stated that they had been lobbied.

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

Mr Abbott, an objector, Mrs Day of the North Loose Residents' Association (against) and Mr Atkinson, for the applicant, addressed the meeting.

RESOLVED:

- (a) That permission be granted subject to the conditions and informatives set out in the report, as amended by the urgent update report, and the additional condition set out in the urgent update report, with the amendment of condition 7 and informative 6 and an additional informative as follows:

Condition 7 (amended)

The retail premises hereby permitted shall only open to customers within the following times: 07:00-23:00 Mondays to Sundays, and no deliveries shall be taken or dispatched outside of these hours.

Reason: To safeguard the enjoyment of their properties by nearby residential occupiers.

Informative 6 (amended)

Construction vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 08:00 and 19:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays and at no time on Sundays and Bank Holidays.

Additional Informative

An area adjacent to the convenience store should be clearly identified as a parking/turning/loading area for delivery vehicles and be reserved for that purpose by way of hatching on the ground.

- (b) That the reason for approval should be as set out in the urgent update report.

Voting: 10 – For 1 – Against 1 – Abstention

139. MA/13/1147 - CONVERSION AND CHANGE OF USE OF WORKSHOP AND OFFICE BUILDING (B1 USE) TO FORM A DWELLING AND DEMOLITION OF EXISTING INDUSTRIAL BARN (RE-SUBMISSION OF MA/13/0411) - LITTLE SHEEPHURST FARM, SHEEPHURST LANE, MARDEN, TONBRIDGE, KENT

The Committee considered the report of the Head of Planning and Development.

Mr Larkin, the applicant, and Councillor Mrs Blackmore, a Visiting Member, addressed the meeting.

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

Voting: 10 – For 2 – Against 0 – Abstentions

140. MA/12/2022 - OUTLINE APPLICATION FOR THE DEMOLITION OF EXISTING BUILDINGS AND THE ERECTION OF RESIDENTIAL DEVELOPMENT WITH ASSOCIATED PARKING AND LANDSCAPING TOGETHER WITH THE EXTINGUISHMENT OF THE EXISTING ACCESS TO STRAW MILL HILL AND THE FORMATION OF A NEW ACCESS FROM STRAW MILL HILL/STOCKETT LANE. ACCESS TO BE DETERMINED AT THIS STAGE WITH APPEARANCE, LANDSCAPING, LAYOUT AND SCALE RESERVED FOR SUBSEQUENT APPROVAL - TOVIL QUARRY SITE, STRAW MILL HILL, TOVIL, MAIDSTONE, KENT

Chris Hawkins, Principal Planning Officer, said that he knew the agent for the applicant, but he was not the Case Officer and their acquaintance had no bearing on the determination of the application.

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

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

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 following:

- The provision of a minimum of 40% affordable housing;
- A contribution for Kent County Council of £1,389/applicable flat (excludes 1-bed flats of less than 56m²) and £5,559.96/dwelling towards build costs and £675.41/applicable flat and £2,701.63/dwelling towards land acquisition costs for the provision of a primary school;
- A contribution for Kent County Council of £589.95/applicable flat and £2,359.80/dwelling towards the extension of existing local secondary schools to cater for the additional demand for places arising from this development;
- A contribution for Kent County Council of £181.96/dwelling for the provision of additional book stock at Shepway Library and the Kent History and Library Centre;
- A contribution for Kent County Council of £28.71/dwelling for Maidstone Adult Education Centre and outreach community learning facilities;
- An Adult Social Services contribution of £46.31/dwelling for Kent County Council to be used with Integrated Dementia Care, Co-location with Health in Maidstone, The Changing Place facility and also Assistive Technology (Telecare); and
- A contribution of £360 per person multiplied by the predicted occupancy once final dwelling numbers and unit sizes are known for NHS Property Services towards improvements to primary care infrastructure at Lockmeadow surgery (Tonbridge Road), Loose (Boughton Lane), Blackthorn Medical Practice (Tonbridge Road/St Andrews Road), Brewer Street surgery and Stockett Lane surgery (Coxheath),

the Head of Planning and Development be given delegated powers to grant outline permission subject to the conditions and informatives set out in the report with the amendment of condition 2 and additional informatives as follows:

Condition 2 (amended to include)

- (vii) A physical barrier between the residential areas and the wooded slopes.

Additional Informatives

To deliver a good quality of life for future residents a high standard of design and landscape led layout which respects the site topography will be required.

The development should seek to achieve an appropriate mix of housing to help meet local need, which should include family homes.

Voting: 12 – For 0 – Against 0 – Abstentions

141. MA/13/1055 - SITING AND OVER WINTER STORAGE OF SEASONAL WORKERS' CARAVANS, ERECTION OF BUILDING FOR COMMUNAL FACILITIES ALONG WITH ASSOCIATED FENCING WORKS - LAND AT SWANTON FARM, BICKNOR ROAD, BICKNOR, KENT

The Chairman and Councillor Mrs Wilson stated that they had been lobbied.

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

Mr Rooke, for the applicant, and Mr Moore, the Chairman of Bicknor Parish Meeting (against) addressed the meeting.

RESOLVED:

- (a) That permission be granted subject to the conditions set out in the report.
- (b) That the reason for approval should be as set out in the urgent update report.

Voting: 12 – For 0 – Against 0 – Abstentions

142. MA/13/1109 - AN APPLICATION TO VARY CONDITION 3 OF MA/06/0804 TO ALLOW THE STATIONING OF FOUR FIELD SHELTERS ON THE LAND - 7-8 ST HELENS COTTAGES, ST HELENS LANE, WEST FARLEIGH, MAIDSTONE, KENT

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

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

Voting: 11 – For 0 – Against 1 – Abstention

143. MA/13/1205 - AN APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR A PROPOSED DEVELOPMENT BEING ERECTION OF SINGLE STOREY REAR EXTENSION - 137 HEATH ROAD, BARMING, MAIDSTONE, KENT

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

RESOLVED:

- (a) That a Lawful Development Certificate be granted for the proposed development for the reason set out in the report.
- (b) That the reason for approval be deleted because the application is for a Certificate of Lawful Development and as such is not subject to consideration against the Development Plan.

Voting: 12 – For 0 – Against 0 – Abstentions

144. MA/12/1793 - AN APPLICATION FOR PERMANENT USE OF LAND AS HOME FOR A GYPSY FAMILY WITHIN A MOBILE HOME, PLUS TOURING CARAVAN, DAYROOM AND STABLES - MAPLEHURST PADDOCK, FRITTENDEN ROAD, STAPLEHURST, TONBRIDGE, KENT

The Chairman stated that he had been lobbied.

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

RESOLVED:

- (a) That permission be granted subject to the conditions set out in the report.
- (b) That the reason for approval should be as set out in the urgent update report.

Voting: 10 – For 0 – Against 2 – Abstentions

145. MA/12/1910 - SIGN 3.2 METRES WIDE BY 3 METRES HIGH, TO BE NO MORE THAN 1.5 METRES ABOVE GROUND LEVEL AND SIGN ILLUMINATION NOT EXCEEDING 100CD/SQR METRE - PILGRIMS RETREAT, HOGBARN LANE, HARRIETSHAM, MAIDSTONE, KENT

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

RESOLVED: That consideration of this application be deferred to enable the Officers to seek to negotiate the removal of the lighting from the sign.

Voting: 12 – For 0 – Against 0 – Abstentions

146. MA/13/0682 - ERECTION OF NEW 4/5 BEDROOM DWELLING WITH DETACHED DOUBLE GARAGE - 35 KNAVES ACRE, HEADCORN, ASHFORD, KENT

See Minute 132 above.

147. MA/13/0966 - PROPOSED ERECTION OF 7 NEW DWELLINGS AND GARAGING, TOGETHER WITH THE PROVISION OF LANDSCAPING, ACCESS AND ANCILLARY WORKS ON HOCKERS FARM - LAND AT HOCKERS FARM, OFF ORCHARD VIEW, DETLING, KENT

See Minute 132 above.

148. APPEAL DECISIONS

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

RESOLVED: That the report be noted.

149. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that the Planning Summer School, which he had attended with Councillors Collins, Cox and Garland and Catherine Slade, Planning Officer, had been very good this year. The delegates were keen to share their experiences and learning with other Members and Officers.

In response to a question by the Chairman, Councillor Harwood said that in his role as an Emergency Planner, he was working with the Environment Agency, Planning Officers and other colleagues on the production of planning flood guidance which would be piloted in Maidstone in the first instance. When more work had been done, it might be appropriate to provide an update for Members.

150. DURATION OF MEETING

6.00 p.m. to 9.35 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

10 OCTOBER 2013

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

1. **DEFERRED ITEM**

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

<u>Description of Application</u>	<u>Date Deferred</u>
<u>MA/12/1910 - SIGN 3.2 METRES WIDE BY 3 METRES HIGH, TO BE NO MORE THAN 1.5 METRES ABOVE GROUND LEVEL AND SIGN ILLUMINATION NOT EXCEEDING 100CD/SQR METRE - PILGRIMS RETREAT, HOGBARN LANE, HARRIETSHAM, MAIDSTONE, KENT</u>	19 SEPTEMBER 2013

Deferred to enable the Officers to seek to negotiate the removal of the lighting from the sign.

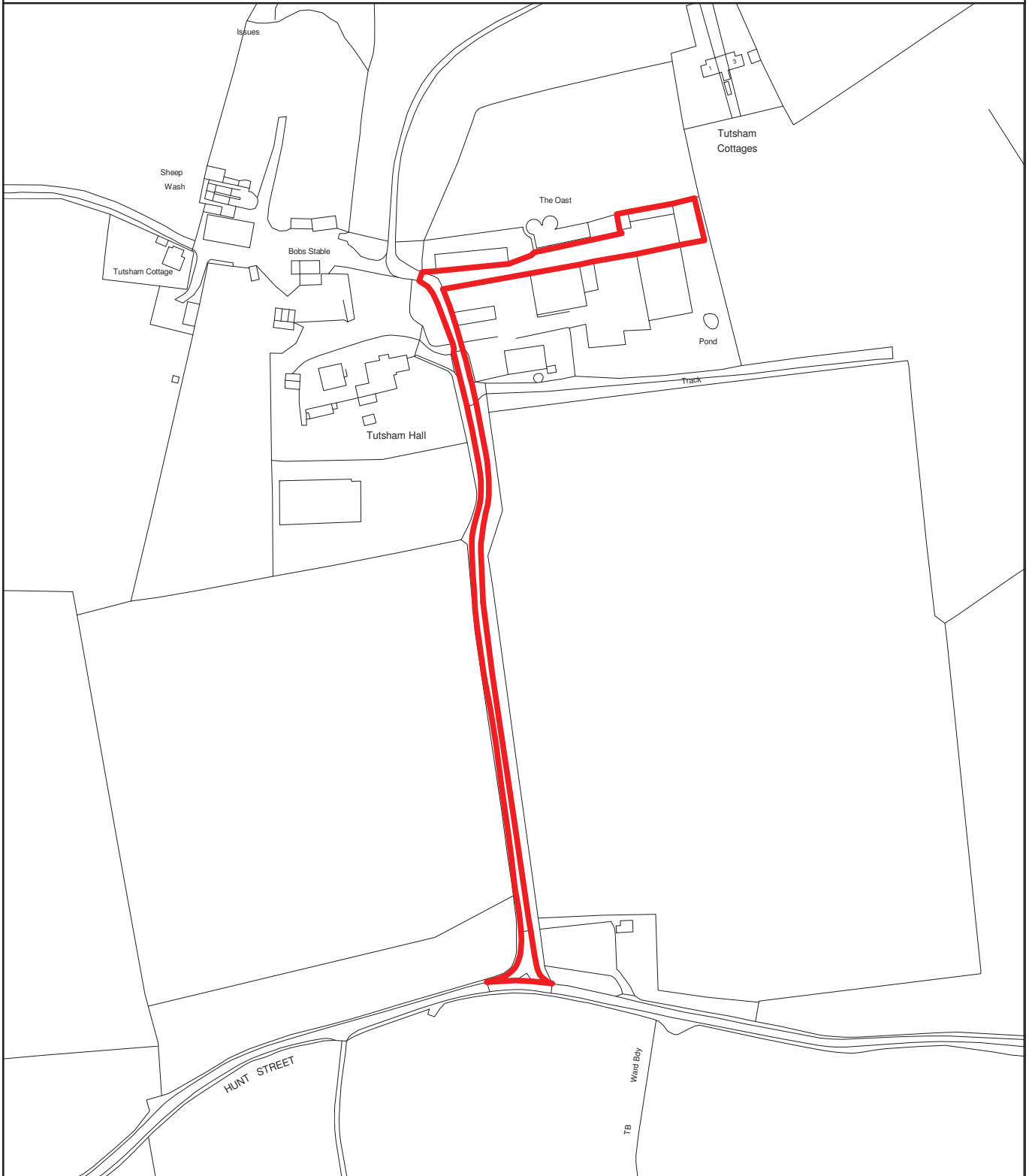
Agenda Item 13

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/0235

GRID REF: TQ7052

TUTSHAM FARM, HUNT STREET,
WEST FARLEIGH.



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Rob Jarman
Head of Planning and Development

APPLICATION: MA/13/0235 Date: 11 February 2013 Received: 12 February 2013
APPLICANT: I Fern, Ferns Surfacing Ltd.
LOCATION: TUTSHAM FARM, HUNT STREET, WEST FARLEIGH, KENT, ME15 0NE
PARISH: West Farleigh
PROPOSAL: Retrospective application for conversion of stable to a single live/work unit as shown on drawing nos: 2210/P/101c, DHA/9642/01and 2000/P/101B.
AGENDA DATE: 10th October 2013
CASE OFFICER: Graham Parkinson

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

- It is contrary to views expressed by West Farleigh Parish Council

1. **POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV28, ENV35, ENV44, ENV45, T13
- Government Policy: National Planning Policy Framework 2012

2. **RELEVANT HISTORY**

- 2.1 MA/10/0839: Conversion of Oast House to 5 No. live-work units, and external alterations, associated garaging, parking and landscaping – APPROVED -8th June 2011 subject to a S106 legal agreement requiring, amongst other things, implementation of a traffic management scheme control access routes to and from the development.

3. **CONSULTATIONS**

- 3.1 **West Farleigh Parish Council:** Objects to proposal and its comments are summarised as follows:

- Applicant has previously submitted applications for conversions and new homes which the Parish Council has supported and is disappointed that the applicant has not followed the correct procedures in this case.

- Would like it noted that the building was a cattle lean to and bull pen and not a stable.
- Building not worthy of conversion, does not have the necessary foundations and believes that the building was taken down and rebuilt in order to enable foundations to be constructed.
- Will create additional traffic on local road which is unable to cope with existing traffic.
- If application is approved request condition be imposed requiring traffic to use Hunt Street and not Mill Lane.

3.2 **Heritage, landscape and design:** No objection in principle but considers that the following points should be addressed to improve the scheme:

- Despite its late date and minor nature, the building is traditional in form and materials and forms a good group with the oast buildings currently being converted to the west.
- In design terms the external appearance is generally acceptable. However the glazed screen occupying most of the south elevation could have been improved if it had been set back to the rear edge of the supporting posts and dark-stained. This would reduce its visual impact and preserve the former appearance better.
- Where three-light windows have been used, the central non-opening lights have been direct glazed to the frame, giving an asymmetrical appearance and the use of dummy casements would have been preferable.

4. **REPRESENTATIONS**

4.1: 10 properties have been consulted. One combined objection has been received from the residents of Mill Lane which is summarised below:

- Does not consider that this derelict building was ever worthy of conversion.
- Should not be permitted as retrospective consent is sought thereby representing a flagrant abuse of planning restrictions.
- Tutsham Farm has become increasingly urban due to the conversion of numerous buildings to dwellings and live/work units which has put an enormous strain on supporting infrastructure and increased number of vehicles using Mill Lane and as such strongly object to further dwellings on the farm.
- Approval for 5 live/work units approved under application ref:MA/10/0839 brought with it a commitment not to use Mill Lane for vehicular access which is not being honoured by the applicants.
- Legal agreement made in connection with application ref:MA/10/0839 should apply to the residents of this site.
- Challenge traffic statement which suggests that traffic has reduced when in fact there have been significant increases due to the cumulative impact of development allowed at the farm.
- Also wish to object to application ref:MA/13/0226 in traffic grounds.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The site lies within open countryside falling within the Medway Valley Area of Local Landscape Importance (ALLI) and is subject to policy ENV35 of the Local Plan. It is occupied by a long, narrow building, formerly open-fronted, erected between 1896 and 1908 and forms a group with the buildings currently being converted to live/work units sited a short distance to the west.
- 5.1.2 The wider group of buildings forms part of the Tutsham Hall complex located on the southern upward slope from the River Medway just over 200 metres to the north. The group of buildings in which the application site lies is located is approximately 300 metres north of Hunt Street off which access is gained via a private drive to the site over which a public footpath also runs. To the north of the site is Mill Lane, a private road.
- 5.1.3 The site is separated from Tutsham Hall a Grade II listed building and other residential buildings to the west by the bulk of the 'American oast' (being converted to live/work units) and other buildings.
- 5.1.4 Public footpaths run to the south of the site from east to west while a further footpath runs north eastwards from the site along Mill Lane. Both footpaths provide public vantage points of the site which lies on an open north facing slope.

5.2 Proposal

- 5.2.1 Retrospective planning permission is sought for internal and external alterations that have been carried out the building.
- 5.2.2 The interior of the building has been laid out as a 1 bedroom dwelling including a kitchen, hall, utility area and living room. The live/work space is shown occupying an area at on the western side of the building.
- 5.2.3 The building has a gross floor area (including that of the office/work space) of just under 140 sqm metres. As originally submitted the office/work space had an area of just under 18 sqm metres (just under 13% of the gross floor space of the building) provided in an area to be partitioned off from the main living area. This has now been revised with the office work space now in its own self contained area at the west end of the building. The office area has a gross floor area of 37 sqm metres (just over 26% of the floor area of the building).

- 5.2.4 An amenity area enclosed by post and rail fencing has also been erected along with parking provision abutting the western side of the building.
- 5.2.5 The supporting statement states that the development provides a specialist type of accommodation which, it contends, by combining residential and business use reduces overheads and travelling. In addition a dedicated work area is shown, use of which will be restricted to social hours.
- 5.2.6 It is further contended that the use will coexist with the nearby live/work units already permitted helping to create a vibrant and viable rural business hub.

6.1 Discussion:

- 6.1.1 The key issues in relation to this proposal are considered to be (a) principle (b) whether genuine live work unit, (c) whether building meets the criteria for conversion (d) impact on the surrounding countryside and ALLI (e) impact on the character and setting of nearby buildings (f) amenity of the proposed development and (g) highway and parking considerations.

6.2 Principle

- 6.2.1 Policies EN28 and ENV35 of the adopted local plan seeks to resist development which is seen to harm the character of the countryside and ALLI's. In ALLI's maintenance of open space and character of the landscape will be given particular weight.
- 6.2.2 Policies ENV44 and ENV45 of the adopted local plan relate to the conversion of agricultural buildings to commercial or residential use. The criteria for conversion to commercial use, amongst other things, is that the building to be converted is in keeping with a rural area, is of sound construction, that changes reflect the rural character of the building, will not disperse commercial activity harmful to existing towns or villages, will not cause traffic problems, are otherwise environmentally acceptable while seeking to avoid any means of enclosure harmful to the character of the area.
- 6.2.3 The criteria for conversion to residential essentially reflects most of those required for commercial conversion. However a key difference is that every attempt must first have been made to secure a commercial reuse of the building before residential use can be contemplated.

6.2.4 Live/work units are therefore hybrid development to which both elements the above policies can be seen to apply. In the case of the current application, just over 26% of the area of the building is now shown allocated for commercial purposes.

6.2.5 One of the other key criteria is whether the building is of sound construction thereby enabling conversion rather than demolition and rebuild to take place, as is the contention of the Parish Council. In response the applicants advise that a new external shell was erected but the work involved conversion of an essentially sound building. No condition survey was submitted as part of the application to demonstrate this. However in the absence of compelling evidence to the contrary and given the support of the Heritage advisor, it considered that there are insufficient grounds to sustain an objection based on demolition and rebuild rather than conversion of a basically sound building.

6.2.6 The above policies also need to be considered against the guidelines set out in the NPPF. One of the 12 core planning principles set out in paragraph 17 of the NPPF states that Local Planning Authorities should:

- take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;

6.2.7 In addition the NPPF also seeks to promote a prosperous rural economy and at paragraph 28, amongst other things, states that:

Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development by:

-supporting sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings and;

- promote the development and diversification of agricultural and other land-based rural businesses.

6.2.8 The site falls within an ALLI and the NPPF makes clear at paragraph 115, that great weight should be given to conserving landscape and scenic beauty in, amongst other things, AONB's. No specific countryside protection is afforded to areas outside AONB's on landscape quality grounds apart from recognition of the intrinsic character and beauty of the countryside.

6.2.9 There is also the need to acknowledge the recent planning history of the nearby site where planning permission was granted in June 2011 under ref: MA/10/0839 for conversion of the oast house to 5 no: live-work units. Given this recent approval in very close proximity to the application site, it represents a significant material consideration in the determination of this application.

6.2.10 The points made by the applicants relating to the creation of a thriving and viable rural business hub are also noted. In the absence of matters of compelling weight to balance against this, it is considered to represent a factor in favour of the development bringing activity that can be seen to support the rural economy and local services.

6.2.11 In the circumstances, given:

- the general support contained in the NPPF for development in rural areas that can be seen to promote a prosperous rural economy
- that local plan policies do not preclude the principle of reuse of agricultural buildings for either commercial or residential use though is silent on hybrid proposals such as this ;
- the recent approval granted for live/work development nearby

it is considered that it would be difficult to object to the principle of the development and matters therefore turn on detailed considerations.

6.4 Whether genuine live work unit:

6.4.1 Live/work units combine living and working areas in a single entity. In the continuing absence of any specific local or national policies relating to this type of development, consideration needs to be given as to whether the development represents a genuine, practical and useable live/work accommodation.

6.4.2 The work space is now separate from the residential accommodation, in a way that enables it to be used without materially conflicting with the wider residential use of the unit. In addition the work space is now just under 27% of the floorspace of the whole unit which is comparable with the lower range units approved in connection with the conversion of the adjoining Oast House to 5 No. live-work units permitted under ref: MA/10/0839. As such 27% is considered to be an acceptable ratio meeting an accepted floorspace balance for live/work development while still enabling a residential unit of acceptable quality to be provided.

6.4.3 However in order to ensure that the units remains available for live/work purposes conditions should be imposed restricting the use to this purpose along with a monitoring condition requiring records be made available to the Council on demand to ensure that this continues to be the case.

6.5 Criteria for conversion:

6.5.1 Based on the submitted evidence (and balance of probability), it is considered that the building was of sound construction therefore meeting one of the key conversion criteria contained in policies ENV44 and ENV45 of the adopted local plan.

6.5.2 Another requirement is that before residential conversion is considered it must first be demonstrated by market testing that there is no interest in using it for commercial purposes. No such exercise has been carried out in connection with this application.

6.5.3 However given the hybrid nature of the application, where commercial use forms a key element of the proposal with the residential use also forming part of the justification, it would be difficult to separate to the two uses with each being dependent on one another. In view of this it is not considered that market testing is essential in determining the acceptability of the proposal, given that no such test is required for purely commercial development.

6.5.4 Turning to whether the work that has been carried out meets the design criteria set out in policies ENV44 and ENV45 of the adopted local plan, the Heritage advisor concerns relating to the external appearance the building are noted. However these are considered to be relatively minor matters that can be addressed by condition.

6.5.5 Regarding the visual impact of amenity space surrounding the building, the erection of a low post and rail fence does not screen the area or provide privacy. This results in the area being highly visible and incongruous when viewed against the backdrop of nearby large agricultural commercial buildings. In order to minimise this impact, it is considered that a native species hedge should be erected to enclose this area and which should be secured by condition.

6.5.6 In addition to ensure that the use of the building continues to comply with the policy requirements, conditions should be imposed to (a) control any form of open storage in connection with the commercial use of the building and (b) lighting in order to protect the night time rural environment from excessive or poorly directed lighting.

6.5.7 Regarding the withdrawal of domestic 'pd' rights, as permission is specifically sought for a mixed use building it falls outside any use class. As such it does not enjoy 'permitted development' rights and an informative should be appended making this clear.

6.5.8 In the circumstances, it is considered that what has been carried out meets the key requirements of policies ENV44 and ENV45 of the adopted local plan relating to the use of the building, design and layout considerations.

6.6 Impact on the surrounding countryside and ALLI

6.6.1 Given that the size, siting and profile of the building remains as previous, there is no issues raised relating to the impact of additional built mass. The key issue here is whether the external alterations that have been carried out will have any impact of the wider rural character of the area and the ALLI. Long range views will continue to be available to the building from the public footpath to the north of the site running along Mill Lane. From this direction the key aspect will be that of blank, largely ragstone and white render walls capped by steeply sloping pitched roof, which, it is considered will have little material impact on the rural character and setting of the area.

6.6.2 When viewing the site from the open fields to the east, currently there are clear views into it. However once the native species planting required by condition matures this will provide an effective screen from this direction.

6.6.3 In the circumstances it is considered that the changes that have occurred to the building and its immediate environs do not result in any material change to the rural character of the area or harm to the ALLI.

6.7 Impact on the character and setting of nearby development:

6.7.1 This building can be seen to fall within the concentration of buildings and spaces defining the Tutsham Farm complex at this end. For the reasons already amplified above, it is considered that the visual impact of the work already carried out and use of the building, subject to additional boundary landscaping, has an acceptable impact on nearby development forming part of the complex.

6.8 Amenity of the development:

6.8.1 It is considered that the size of the unit and amenity area provides for a reasonable standard of accommodation and there is no objection to the proposal on these grounds.

6.8.2 Regarding the aural environment that the occupants of the unit are exposed to, subject to conditions that the development shall (a) only be occupied by persons intending to live and carry out their occupation from home and (b) that the commercial floor area shall only be used for the benefit of persons occupying the premises, any noise and disturbance associated with the commercial use of the

building shall only be generated by the occupants. A condition should be imposed restricting the commercial use to B1 only given that, by definition, this can be carried on within a residential area without harm to amenity.

- 6.8.3 Regarding the external aural environment, sited within a working farm/commercial complex could result in exposure to noise and disturbance from these sources. Nevertheless given the mixed commercial/residential nature of the unit and that there are other live work units nearby, must bring with it an acceptance that this is not a conventional living environment and that, on occasions, noise levels may exceed residential norms as consequence.

6.9 Highway and parking considerations:

- 6.9.1 One of the main objections to this development is its impact on the local road network. However traffic generated by this small unit is not considered on its own to materially have any impact on the free flow of traffic and highway safety in the locality.
- 6.9.2 The Parish Councils and local residents concerns regarding routing the traffic away from Mill Lane are therefore noted but given the nominal amount of traffic generated by the use of the premises cannot be justified in connection with this development.

6.10 Other matters:

- 6.10.1 The majority of the objections raised to the development have already been addressed above. However the following to the outstanding concerns have been raised:
- 6.10.2 Local residents consider that as retrospective consent is being sought it represents a flagrant abuse of planning control and that the application should be refused accordingly. Notwithstanding, the Council is still required to deal with such applications on their merits and to only refuse planning permission where there is strong evidence of demonstrable harm that cannot be resolved by the imposition conditions. For the reasons set out above it is considered appropriate to grant a conditional planning permission.
- 6.10.3 Approval for 5 live/work units approved under application ref:MA/10/0839 brought with it a commitment not to use Mill Lane for vehicular access which is not being honoured by the applicants. However this legal agreement only applies to this development. Given the small scale of the current development and nominal amount of traffic that will be generated as a consequence, it is not considered appropriate to seek a similar legal agreement here.

6.10.4 Regarding the reference to application 13/0226, this is also a retrospective application for change of use of land to equestrian use for commercial purposes. This application is currently undetermined and the case officer has been made aware of the concerns raised in connection with this application.

6.11 CONCLUSIONS

6.11.1 These are considered to be as follows:

- The general support contained in the NPPF for development in rural areas that can be seen to promote a prosperous rural economy and that the adopted local plan does not preclude the principle of reuse of agricultural buildings for either commercial or residential use.
- The recent approval granted for live/work development nearby and which is considered to be a material factor in favour of this development.
- That the development is seen to represent a genuine example of live/work development.
- That the development will bring further activity to the area thereby supporting the rural economy and local services.
- That the development meets the requirements for conversion of agricultural buildings to other uses while not harming the rural character and special landscape characteristics of the ALLI or the amenity of nearby development.
- Will provide a good sized unit of residential accommodation that will enjoy and acceptable levels of amenity and:
- No objection is identified on highway or parking grounds

6.11.2 In the circumstances it is considered that notwithstanding the concerns that have been raised, for the reasons set out above the development is considered acceptable in its impacts and retrospective planning permission should be granted as a consequence.

7. RECOMMENDATION

GRANT PLANNING PERMISSION SUBJECT TO THE RECEIPT OF ACCEPTABLE REVISED INTERNAL LAYOUT PLAN AND CONDITIONS:

1. The development hereby approved shall only be occupied as a mixed use live/work unit by persons intending to live and carry out their occupation from home and for no other purpose whatsoever.

Reason: To reflect the special circumstances of the application.

2. Within 3 months of the date of the development hereby approved, a native species planting scheme enclosing the perimeter of the amenity area shown on drawing no: DHA/9642/01 shall be submitted to and approved in writing by the Local Planning Authority. This shall include 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 approved scheme shall be carried out in the first available planting season and if any trees or plants which within a period of five years die, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: In the interests of visual amenity.

3. The commercial floor area hereby approved shall only be used for the benefit of persons occupying the premises in accordance with the terms condition 1 and shall not be let or sublet.

Reason: In the interests of aural amenity.

4. The office/workspace shown on drawing no:2210/P/101c shall only be used for purposes falling within Class B1 of the Town and Country Planning Use Classes Order 1987 (as amended) and for no other purpose whatsoever. The remainder of the building and site falling outside this defined area shall only be used as a dwelling or for ancillary amenity purposes in accordance with Class C3 (a) of the Town and Country Planning Use Classes Order 1987(as amended) and for no other purpose whatsoever.

Reason: to retain control over the use in the interests of amenity.

5. Subject to 5 working days notice being given in writing by the Local Planning Authority, the occupants of the live/work development hereby approved shall be required to provide documentary evidence to demonstrate that the premises is being occupied in accordance with the requirements of condition 1 above.

Reason: To ensure that the development is being occupied as approved and to reflect the special circumstances of the development.

6. No open storage of plant, materials, products, goods for sale or hire or waste shall take place on the land;

Reason: In the interests of amenity.

7. Before any external lighting is installed details shall be submitted to and approved in writing by the Local Planning Authority and shall include the design, size, siting of any lamp columns or fitments, details of the output of any luminaires including light spread diagrams. The lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: In the interests of amenity.

8. The parking/turning areas shown on drawing no:DHA/9642/01 shall continue to be retained at all times for these purposes without any impediment to their intended use.

Reason: In the interests of highway safety and the free flow of traffic.

9. Within 3 months of the date of the development hereby approved, all existing joinery shall be dark stained.

Reason: In the interests of visual amenity.

10. Within 3 months of the date of this consent, where three-light windows have been used details of the size and profile of the dummy casements should be submitted for prior approval in writing by the Local Planning Authority and replacing the central non-opening lights direct glazed to the frame. The approved details shall be implemented within 1 month of the date of consent and shall be retained as such at all times thereafter.

Reason: In the interests of visual amenity.

Informatives set out below

You are advised that as this is a mixed use development it is therefore sui generis and as such, does not benefit from 'permitted development' rights to extend or alter the exterior of the building in any way or erect outbuildings or structures in the area identified as amenity space

Note to Applicant:

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals

focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

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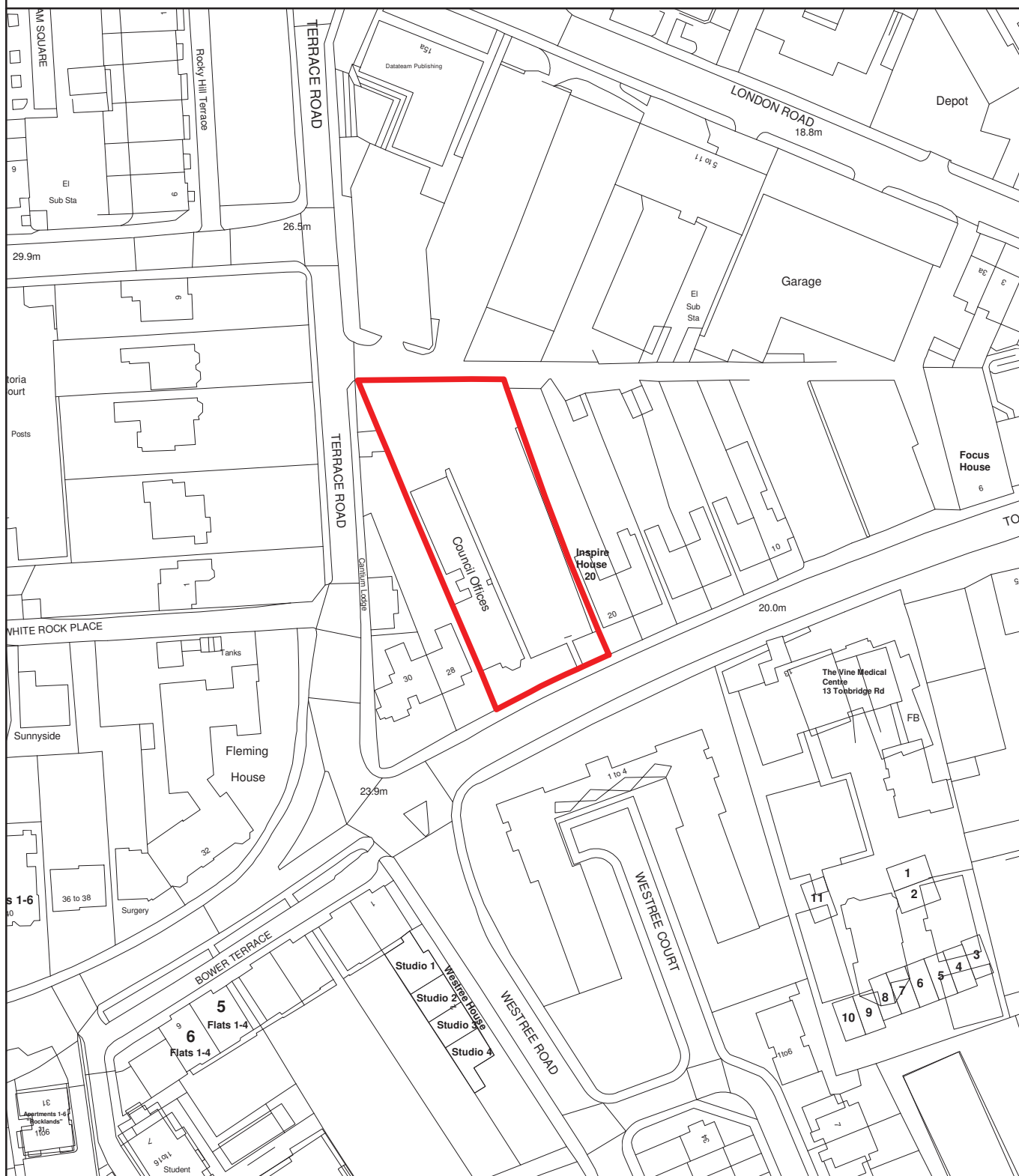
26. 7. 2013

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/0941

GRID REF: TQ7555

22 TONBRIDGE ROAD,
MAIDSTONE.



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Rob Jarman
Head of Planning and Development

APPLICATION: MA/13/0941 Date: 24 May 2013 Received: 28 May 2013

APPLICANT: Chartway Group Ltd.

LOCATION: 22, TONBRIDGE ROAD, MAIDSTONE, KENT, ME16 8RT

PARISH: Maidstone

PROPOSAL: Redevelop redundant site for a housing association supported affordable residential development scheme that comprises 37 flats, associated car parking and cycle storage as shown on drawings 2012-246-01, 02 Rev F, 10 Rev D, 11 Rev D, 012 Rev D, 13, 14, 15, 20 Rev B, 21 Rev C, 23, Landscape Management Plan (151901 Rev A) together with the Planning Statement, Design and Access Statement and Sustainability Report received on the 24th May 2013.

AGENDA DATE: 10th October 2013

CASE OFFICER: Annabel Hemmings

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

- It is a departure from the Development Plan;
- The application site is owned by the Council.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ED2, T13, CF1
- National Planning Policy Framework 2012: Chapters 4, 6, 7, 11, 12

2. HISTORY

MA/10/1230 – Outline application for the erection of a medical centre (Use Class D1) and 4 dwellings and parking with all matters reserved for future consideration. Approved 4th October 2010.

MA/08/1789 – Demolition of existing buildings and erection of 96 bedroom budget hotel with associated bar/restaurant and onsite parking. Approved 11th December 2008.

3. CONSULTATIONS

- 3.1 **Kent County Council (Highways):** The application proposes 37 flats with 38 parking spaces. Use is to be made of the existing access from Terrace Road.
- 3.1.1 The crash record indicates that there have been no injury crashes within the latest 3 year period to 30.9.13 at the junction of the site access with Terrace Road.
- 3.1.2 The development comprises of 11 x 1 bedroom flats and 26 x 2 bedroom flats. The proposed car parking and cycle parking provision are satisfactory and the site lies in an accessible location within walking distance of the town centre and public transport facilities.
- 3.1.3 Confirm that I do not wish to raise objection subject to the imposition of conditions in relation to vehicle loading/unloading and turning facilities, provision of parking facilities for site personnel and wheel washing facilities during construction, provision and permanent retention of parking spaces, garages and cycle parking facilities.
- 3.2 Kent County Council (Mouchel): No objections subject to financial contributions being made to mitigate against the impact that the proposal would have upon the existing infrastructure within the vicinity. The requests for contributions are as follows:
- Primary School – a contribution of £53,700.40 is sought towards enhancement of primary school facilities.
 - Secondary School – a contribution of £15,338.70 towards enhancement of secondary school facilities.
 - Community Learning – To cover the provision of new/expanded facilities and services through dedicated Adult Education centres and through outreach learning facilities a total financial contribution of £1062.22 is sought.
 - Libraries - To cover additional book stock and services at local libraries, a total financial contribution of £3198.07 is sought.
 - Adult Social Services – To cover the various service users and local projects including a local vocational hub, integrated dementia care, co location with Health and hanging place facility in Maidstone and assistive technology fitted to clients' homes, a total financial contribution of £1713.61 is sought.
- 3.3 **Landscape Officer:** *"There are no protected trees on this site.*
- 3.3.1 *The applicant's Planning Application Statement refers to an earlier Tree Survey Report submitted as part of the previous hotel application and refers to the retention of a B grade tree but this evidence does not appear to have been*

submitted in support of the current application. Also, the Landscape Masterplan does not make clear whether there is a proposal to retain this tree.

3.3.2 *I would also comment that the Landscape Masterplan indicates planting which is essentially ornamental in nature. I would therefore like to see a proportion of native or near native species in accordance with LCA guidelines. However, if you are minded to grant consent, all of these issues can be dealt with as part of a pre commencement landscape condition."*

3.4 **Conservation Officer:** *"Whilst the development of this site with residential flats may be considered acceptable in principle, have concerns at the scale of these proposals.*

3.4.1 *Block A affects the setting of the Rocky Hill Conservation Area and the listed buildings at Rocky Hill Terrace, both of which lie very close. A 4-5 storey block of considerable bulk is proposed which in my view will have a significantly detrimental effect by reason of its height and mass – Rocky Hill Terrace is of 3 storeys and other residential properties on the opposite side of Terrace Road comprise largely Victorian houses of 2 storeys.*

3.4.2 *Block B fronts Tonbridge Road and it would have some effect on the setting of the listed buildings at Bower Terrace. In townscape terms it will sit uncomfortably between the retained late Victorian houses either side of it, whose Queen Anne style it unsuccessfully attempts to ape. The frontage block is too tall, disrupting the gradual stepping up of eaves heights along Tonbridge Road as it rises, making the new block appear overscaled and upsetting the rhythm of the street. The height of the rear wing is more appropriate and more closely aligns with the scheme as put forward for pre-application discussion.*

3.4.3 *Object to this application on heritage grounds."*

3.5 **Environmental Health:** *"This site has been the subject of several previous applications, including that of a hotel and other residential submissions. To be consistent with other advice we have given previously for this site, there should be a traffic noise and air quality assessment carried out. This is particularly relevant for Block B which is closest to Tonbridge Road – a very busy major route, and in this location, this is also compounded by a steep hill from traffic lights which means that most traffic accelerates strongly up the hill. Block A is also similarly affected by traffic on Terrace Road, though here the effect of accelerating traffic is lessened. I note that none of this documentation has yet been submitted. The assessments should quantify the noise and air pollution levels on this site and, most importantly, should highlight mitigation measures which would be necessary to ensure that future residents are not adversely affected by these two issues.*

There are also other relevant issues concerning waste disposal provision and land contamination. However, from previous applications it has been recognised that land contamination is not an issue on this site and therefore there is no requirement to submit an assessment.

This application should be refused until a satisfactory noise and air quality assessment have been submitted."

4. REPRESENTATIONS

- 4.1 The application has been publicised by a newspaper advert, site notice and individual letters to surrounding occupiers. No comments have been received.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site is located on the south western fringe of Maidstone's town centre, but outwith it as defined in the Maidstone Borough Wide Local Plan. It is within walking distance of the town centre and its varied facilities, including retail, employment and leisure and the bus and train stations. Due to this location on the centre's edge the locality is characterised by a mix of both land uses and building types.

5.1.2 Its main road frontage is to Tonbridge Road with the rear access leading from Terrace Road. Either side of its Tonbridge Road frontage are large semi detached residential villas, opposite is a large modern block of flats, with a modern hotel (Premier Inn) to the north east of the site.

5.1.3 The site has been cleared following consent to demolish the former council building which formally stood on the site and is surrounded by hoardings. Tonbridge Road falls from west to east

5.1.4 There is limited vegetation of note within the site with the only trees being to the Tonbridge Road frontage.

5.2 Proposal

5.2.1 This application seeks consent for 37 (25 two bedroom flats and 12 one bedroom flats) affordable residential units with associated vehicular access and 38 off street parking spaces.

- 5.2.2 The development would be split between two blocks, a traditional looking block (Block B) fronting onto Tonbridge Road and a more modern block (Block A) to the rear of the site linking through to the modern Premier Inn.
- 5.2.3 Block A would be located to the rear of the site and would be relatively contemporary in design taking inspiration from the Premier Inn and other modern buildings to the rear of the site. It would utilise a palette of modern materials such as coloured renders and cladding panels combined with elements of more traditional red bricks and tiles. The Block would be five storeys in height (maximum 15.5m) and would have a footprint of approximately 416sqm (26m by 16m). The elevations of this block would be well articulated via materials, the use of set back and balconies. It would run north south within the site, with its entrance to the north. It would house a total of 25 residential units (17 two bed and 8 one bed).
- 5.2.4 Block B would front Tonbridge Road and has, therefore, been designed in a much more traditional manner than Block A to reflect the character and appearance of this frontage of the site. It would have a much more traditional palette than Block A including red and buff bricks and vertical tiling. It would be four storeys in height (14m) with a footprint of approximately 340sqm. It would front onto Tonbridge Road but would be set back from the footpath edge by 5 metres. An area of planting, including trees would be introduced to this area to make a feature of the frontage. The block would house 12 two bed units
- 5.2.5 38 parking spaces would be provided to serve the development comprising 23 undercroft spaces (17 Block A and 6 Block B) and 15 surface spaces (6 Block A and 9 Block B). Communal cycle and bin storage is would also be provided. The layout of the site has been designed to reflect its urban location, but takes opportunities to introduce landscaping principally along the site boundaries and to soften footpaths and paving areas within the site. Vehicular access would be taken exclusively from the rear access road leading from Terrace Road.
- 5.2.6 The applicants state that the development will achieve Code for Sustainable Homes Level 4 by including measures such as providing cycle storage, energy efficient lighting and highly insulated and efficient construction.
- 5.2.7 The applicants have accepted that there would be a requirement for financial contributions to mitigate the impact of the development on the local area which will be secured under a Section 106 Agreement. They state that they are willing to accept the contributions requested in relation to libraries, community learning, adult social services and open space (parks and leisure). They do not accept the request for a contribution to education (either secondary or primary). This is on the basis that the scheme is 100% affordable and its occupation would be by

residents already located within the borough and there would, therefore, be no additional impact on educational resources.

5.3 Supporting Documentation

5.3.1 The application is supported by a Planning Statement, Design and Access Statement and Sustainability Report.

5.4 Principle of Development

5.4.1 The site falls within an area allocated in the Maidstone Borough Wide Local Plan 2000 for employment uses. This proposal is, therefore, contrary to the Development Plan.

5.4.2 Saved policy ED2 of the Maidstone Borough Wide Local Plan (2000) states -

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

5.4.3 A public decision was made to sell the land in October 2006. Following this agreement, the land was marketed through a combination of the property press and the Kent Messenger over a five week period (in June 2007). This included advertising within the Estates Gazette (national), Property Week (national) following this initial marketing.

5.4.4 Of the bids submitted, none were solely for B1 (commercial) use of the site, but rather for a mix of B1 and residential and for a hotel use. Following negotiations, a hotel operator placed an offer for the site and obtained planning permission for a budget hotel in late 2008. Following this grant of planning permission the applicant withdrew their offer, citing changes in the economy. Following the withdraw of this offer from the hotel operator and given that there were no further bids on the land, the Council (as then owners of the site) withdrew the site from the market in 2009. An outline application was made for a medical centre and four dwellings in 2010 with the aim that the site could be sold at auction with outline planning consent. This planning consent was granted in October 2010.

5.4.5 Harrisons took over the marketing of the site from the Council in May 2011. Harrisons marketing comprised the erection of agency boards on the Tonbridge and Terrace Road frontages, the preparation and circulation of site specific brochures and supporting information and advertisements in local, regional and national newspapers.

- 5.4.6 As Policy ED2 was formulated prior to the adoption of the Local Plan in 2000, it is thirteen years since it was first researched and drafted, and as a result central government guidance and advice has changed in this intervening period. It is also acknowledged that there has been a significant shift in the requirements for office accommodation in within the town centre of Maidstone. Evidence indicates that there is an over provision of office space within the town centre, with most being of a relatively poor quality.
- 5.4.7 The National Planning Policy Framework states that the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose should be avoided. 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. In this instance, there is a clear need for small affordable units of the type being proposed.
- 5.4.8 Adding this to the planning history of the site with its consent for a mixed medical centre and residential use, the mix of uses in the surrounding area confirming the shift away from pure commercial uses within this area over the recent years and the site's sustainable location within walking distance of the town centre and its facilities, it is considered that this departure from the local plan can be supported in principle.

5.5 Design/Impact on Conservation Area

- 5.5.1 The applicants have sought to respect the character and appearance of the local context when designing their scheme. The introduction of the two blocks reknit the townscape and 'close a gap' in this locality, and their layout and form completes the street scenes and this physically isolated development block. The proposal considers the local character, distinctiveness and function of this area of the town centre, and reintroduces a development of an appropriate scale, density and massing. Block A reflects and compliments the more modern development to the north of the site, including the Premier Inn, 15a London Road and their car parks, and the more traditional styled Block B respects and recreates a strong urban edge with the Tonbridge Road frontage of the site.
- 5.5.2 The comments and objections of the Conservation Officer are noted. However, due to the change in levels between Terrace Road and the site, Block A will only be seen against the backdrop of the Premier Inn and not against the houses in Rocky Hill Conservation Area. There would be limited short distant views of Block A from Tonbridge Road as it would be set behind Block B and it would be some distance from the properties in Terrace Road. Block A varies in height with

its four-storey flat-roof, slightly 'winged' element to the south, and its five storey flat-roof element to the north. This form marks and defines the corner fronting onto Terrace Road, and will help to screen the rear access of the buildings fronting onto Tonbridge Road and London Road. 1 to 9 Terrace Road with their long front gardens, 15a London Road and Rocky Hill Terrace are sufficiently set back from Terrace Road, to be able to accommodate a taller building in this locality. Only a narrow section of the façade of the five storey element would front onto Terrace Road, and this would act as an 'end-stop', adding an interesting architectural feature to this streetscene. The building is well articulated with building setbacks, projecting windows, balconies and recesses, and has a vertical emphasis that is appropriate to this style of architecture. The use of a variety of materials, including coloured cladding, coloured render, brick and tiling also add interest to the building and help to reduce the bulk of the block. The interruptions and choice of brick will link Block A with Block B, and provide some cohesion between the two contrasting styles of architecture.

- 5.5.3 Block B has been revised following pre-application discussions to introduce elements and take architectural references from adjacent properties. These include fully hipped roofs of a similar pitch to adjacent properties, deep eaves and additional entrance doors to strengthen the building's vertical rhythm. The proposed elevational detailing with the two main hipped projections, 3-storey bay windows, flat-roof dormer windows, traditional 2-light casement windows with stone quoins and cills, and the introduction of chimneys, add visual interest to the building and allow the block to be read as part of and compliment the existing street scene. It is considered important to ensure this detailing is of a high quality and a condition is recommended to secure this. Its materials, mainly brick, tile-hanging and white windows to the Tonbridge Road frontage, are more traditional in nature and respect surrounding buildings. It is noted that the Tonbridge Road is varied in character, appearance and age of its buildings, mix of uses. It is, therefore, not considered that this building, which takes inspiration from its surroundings, would adversely affect the character and appearance of the area.
- 5.5.4 Block B would be read as a three storey building with rooms in the roof. It is acknowledged that the Block B will be taller than its immediate neighbours but variations in building heights are common place within the area and it is not considered that it would overwhelm them or destroy the rhythm of the street. It is also sufficiently 'divorced' in terms of location from Bower Terrace, located on the opposite side of the road and screened by mature trees, to have a detrimental visual impact on the setting of this listed terrace.
- 5.5.5 It is considered that the proposal respects and takes inspiration and guidance from the surrounding area without blankly mimicking it. The design of the

proposed development is considered acceptable, subject to the imposition of conditions.

5.6 Highways

5.6.1 As mentioned above, vehicular access to the site would be exclusively from Terrace Avenue leading from Terrace Road. This road also provides vehicular access to the Premier Inn and a small number of other properties fronting Tonbridge Road which adjoin the site. The County Council's Highway Officer raises no objection to the use of this access and states that there have been no injury crashes within the last three years at the junction of the site access with Terrace Road. It must also be recognised that a residential development on this site would bring a reduction in the number of vehicles utilising the access than the site's former use as a Council offices and also that which would have been associated with the 96 bedroom budget hotel granted consent in 2008. Therefore it is not considered that there are any highway safety issues associated with the access to the proposed development.

5.6.2 The development would be served by a total of 38 parking spaces, this gives 1 parking space per unit with 1 additional space. Cycle parking would also be provided within the scheme. Given the sustainable location of the site on the edge of the town centre and in walking distance of many facilities and amenities, including retail, leisure, employment and transport facilities, the level of parking is considered acceptable.

5.7 Landscaping

5.7.1 The site has been cleared following the demolition of the former council offices and there is limited vegetation to the site's Tonbridge Road frontage remaining within it. It is proposed to introduce a landscape element to soften and enhance the development, for the benefit of both its future occupiers and the wider area as a whole. The submitted Landscape Masterplan indicates planting which is essentially ornamental in nature and indicates a proportion of native and species. Notwithstanding these details, I would suggest it appropriate to recommend a condition that seeks to provide tree planting along the Tonbridge Road frontage – these should be heavy duty trees – prior to the occupation of the development. This would provide an instance impact, and would further enhance the vertical character of this development along this road frontage.

5.7.2 The commitment to landscaping is welcomed and in this instance it is considered that tree planting along the Tonbridge Road frontage should be a key element of any landscaping proposals. Lime tree are considered suitable here. The details of the landscaping can be secured via a condition requiring details of a landscaping scheme to be submitted and agreed.

5.7.3 Due to the level of hardstanding on site, the fact that it was cleared of buildings and given that it is not located within close proximity of waterways or ponds it is not considered that the proposal raises any ecological issues. Indeed the development is likely to give rise to greater opportunities for biodiversity due to the provision of landscaping within the scheme.

5.8 Residential Amenity

5.8.1 The properties immediately adjacent to the site are in commercial use. Given this a reason for refusal on the impact on the occupiers of these buildings through loss of light, overwhelming or loss of privacy could not be sustained.

5.8.2 The nearest residential properties (18 and the opposite side of Terrace Road) are in such a position that there would be no significant impact on the residential amenity enjoyed by their occupiers.

5.8.3 The development would, in my opinion, enhance the local area, allowing the hoardings that have been in place for a number of years to be removed, landscaping and high quality buildings to be erected. The scheme will allow the site to once again play an active role in and contribute to the surrounding area and its community.

5.9 Code for Sustainable Homes

5.9.1 The applicant has stated within the application that the proposed development would achieve a Code for Sustainable Homes rating of Level 4. It is proposed that this will be achieved using water saving fittings, photovoltaic arrays supplying electricity to the flats and high insulation in the walls, windows, roof and floors.

5.9.2 The commitment to reach level 4 is welcomed as it is considered a high standard appropriate for this key site.

5.10 Other Matters

5.10.1 The comments of the Council's Environmental Health in relation to noise and air quality are noted. In relation to noise, it is noted that residential development has been previously permitted on site and whilst it is acknowledged that there is the potential for noise to be an issue at this site, it is considered that this could be overcome by a scheme of noise mitigation. A condition requiring such a scheme to be submitted and approved is proposed.

5.10.2 In terms of air quality, once again the previous consent on the site for residential development is noted and that other residential schemes have also been granted in the surrounding area (for example George Street MA/12/0590 refers). It is, therefore, not considered that the residential development of this site would be unacceptable on air quality grounds.

5.11 S106 and Other Matters

5.11.1 All of the 37 residential units proposed in this scheme would be affordable and for available for people on the housing list within the Borough. This, and the fact that the development comprises a mix of small one and two bed units (of which there is a shortage of in the Borough) is welcomed.

5.11.2 Any request for contributions needs to be scrutinised, in accordance with Regulation 122 of the CIL Regulations and paragraph 204 of the NPPF 2012. These have strict criteria that set out that any obligation must meet the following requirements: -

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

5.11.3 Both central government, and subsequently this Authority has agreed that the provision of affordable housing is a priority. Indeed, Maidstone has identified affordable housing and highways as its two priorities. This proposal would see 100% of the residential units provided as affordable. The Council's adopted DPD requires a minimum of 40% to be provided, and as such, this proposal accords with the Development. I am therefore satisfied that this proposal would meet the requirements of the Development Plan.

5.11.4 A sum of £1,575 per dwelling is set out in the Supplementary Planning Guidelines and using Fields in Trust Guidelines to assist in the enhancement, maintenance and repair of play equipment in three parks within the a one mile radius of the vicinity of the application site – Whatman Park, Mote Park and South Park. It is considered that such works would be reasonably related to this development and there is no space within the site to provide any on-site open space (except for limited landscaping) and Maidstone Borough Council does have an adopted Development Plan Document (DPD) that requires applicants to provide open space on site. So, when open space is not provided on site, off-site contributions are sought, to improve the facilities within the locality, that will ensure that the additional strain placed upon the open spaces is addressed.

5.11.5 Kent County Council (Mouchel) has requested that a total contribution of £3198.07 for libraries and community learning is made. This would be spent on

projects local to the application site, providing additional book stock, extended opening hours, additional staff and equipment and new/expanded community learning facilities and services. This contribution would meet the tests of Regulation 122, in that it would be necessary, directly related and of a suitable scale.

5.11.6 A request of £1713.61 for adult social services has also been made, to cover local projects in the Maidstone urban area including assistive technology and integrated dementia care. It is not as important for these services to be provided within walking distance of the site and, in any case, many of these services are provided by way of home based visits by carers/assessors. This request is reasonable, necessary and related to the proposed development.

5.11.7 A further £1062.22 has been requested as a contribution to community learning. This would be spent on the provision of new and expanded facilities and services both through dedicated Adult Education centres and through outreach community learning facilities in the vicinity of the development. This request is reasonable, necessary and related to the proposed development.

5.11.8 Mouchel have also requested contributions for primary and secondary education (£1389.99 and £589.95 per applicable 2 bed flats respectively. The applicants have advised that they consider this contribution unnecessary. This is on the basis that the scheme will be 100% affordable for people already living within the borough and therefore there would be no requirement for additional school places. In this instance, given the detail of this proposal, I am satisfied that contributions towards education are not required.

5.11.9 Overall I consider that this proposal would provide a significant level of contributions, as well as providing a high level of affordable housing. As such, I consider the provision of these S106 contributions to be a positive factor in the balancing of this planning application.

6. CONCLUSION

6.1 In conclusion, I therefore conclude that this is a well designed proposal that would respond positively to the character and appearance of the locality. The proposal would not have a significant impact upon the existing residents of the locality, and would not be to the detriment of highway safety.

6.2 I therefore recommend that, subject to the receipt of a suitable S106 agreement, and the conditions set out below, Members should give this application favourable consideration and grant delegated powers to the Head of Planning to approve.

7. RECOMMENDATION

That the Head of Planning be given DELEGATED POWERS to approve subject to the completion of a suitable S106 obligation that provides the following:

- i) The provision of 100% affordable housing provision in accordance with the adopted Development Plan Document on Affordable Housing;
- i) The provision of a sum of £58,275 to contribute towards the up-grade, improvement and renewal of Maidstone's amenity space and play equipment to be spent in a radius of one mile of the development site;
- ii) The provision of a sum of £5973.90 for contributions towards the additional demands placed upon community facilities, libraries and adult social service facilities within the locality by virtue of the granting of this permission;

And the imposition of planning 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. No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, measures for their protection in the course of development, and a programme of maintenance, and shall include the provision of heavy standard trees along the Tonbridge Road frontage (minimum of four). This scheme shall be based on the Landscape Masterplan (1519.01 Rev A) and shall include lime trees to the Tonbridge Road frontage of the site. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding season following commencement of the development (or such other period as may be agreed in writing by the Local Planning Authority) and any trees or plants which within a period of 5 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 that the proposed development is satisfactorily integrated with its immediate surroundings and provides for landscaping.

3. Vehicular access to the proposed development shall be from the existing access road from Terrace Road only and there shall be no other means of vehicular access to the site whatsoever.

Reason: In the interests of highway safety and amenity.

4. Prior to the commencement of the use hereby permitted the car and cycle parking spaces shown on the approved plans shall be provided and delineated on-site in accordance with the approved plans. Notwithstanding the Town & Country Planning (General Permitted Development) Order 1995 (or any subsequent re-enacting Order) no development shall be carried out on the site so as to preclude vehicular access to those car parking spaces. The car parking spaces shall be available in their entirety during the whole of the time that the building is open to the staff employed thereat or to persons visiting the building.

Reason: In the interests of highway safety and amenity.

5. Prior to the commencement of the use hereby permitted the turning head shown on the approved plans shall be provided and delineated on-site in accordance with the approved plans. Notwithstanding the Town & Country Planning (General Permitted Development) Order 1995 (as amended) no development shall be carried out on the site so as to preclude vehicular access to those car parking spaces. The car parking spaces shall be available in their entirety during the whole of the time that the building is open to the staff employed thereat or to persons visiting the building.

Reason: In the interests of highway safety and amenity.

6. Notwithstanding the information on the approved plans, no development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved details.

Reason: In the interests of amenity and to ensure that the proposed development is satisfactorily integrated with its immediate surroundings.

7. Notwithstanding the details illustrated on the approved plans, prior to the first residential occupation of any of the residential units hereby permitted a detailed lighting plan for the development including the road, car parking areas, footways/cycleways, shall be submitted to and agreed in writing with the Local Planning Authority. Such details shall include the siting and design of any lighting together with details of the spread and intensity of the lighting. The lighting shall be installed in strict accordance with the agreed details prior to first

residential occupation of the dwellings hereby permitted and thereafter retained and maintained in the agreed form without any further additions.

Reason: In the interests of highway safety and amenity.

8. Prior to the first residential occupation each block of flats hereby permitted shall be equipped with a communal TV and radio aerial and satellite dish. Details of the size, external appearance and the positions of the communal TV and radio aerial and satellite dishes shall be submitted to and agreed in writing with the Local Planning Authority prior to the installation of such systems. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no satellite dishes or aerials shall be fixed to the buildings hereby permitted without the prior written approval of the Local Planning Authority.

Reason: In the interest of visual amenity and the integrity of the design.

9. All electrical and telephone services to the development shall be run underground.

Reason: In the interest of visual amenity and the integrity of the design.

10. The development hereby permitted shall be built to a minimum four star rating within the Government's 'Code for Sustainable Homes' (2006). No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.

Reason: To ensure that development takes place in an environmentally sensitive way and to assist the Government in meeting its targets of reducing carbon dioxide emissions.

11. Prior to the commencement of development hereby approved details of the foul and surface water drainage systems to serve the development, incorporating sustainable drainage principles and an assessment of the hydro-geological context of the development and the site, shall be submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall be implemented in strict accordance with the approved plans prior to the first occupation of the development hereby permitted.

Reason: To ensure that adequate drainage is provided for the development.

12. Prior to the commencement of any development, details shall be submitted to, and agreed in writing by, the Local Planning Authority showing the existing and proposed site levels and the finished floor level of the building(s) hereby permitted. Development shall be in strict accordance with the details agreed.

Reason: In the interest of amenity.

13. Prior to the first residential occupation of any of the development hereby permitted, a scheme detailing for the control of access to all communal car parking areas shall be submitted to and agreed in writing with the Local Planning Authority. The scheme shall be designed to provide controlled access by occupiers of the units, which those parking areas serve, and visitors to those units. [Informative: Such a scheme may be required to include controlled access barriers]. The scheme as agreed shall be installed in strict accordance with the agreed details prior to the first residential use of the units and shall thereafter be permanently retained and maintained in the agreed form.

Reason: In the interest of controlling access to the parking spaces.

14. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority details of the locations, heights, designs, materials and types of all boundary treatments to be erected on site. The boundary treatments shall be completed in strict accordance with the approved details before the buildings hereby approved are occupied.

Reason: In the interests of visual amenity, privacy and to ensure that the proposed development is satisfactorily integrated with its immediate surroundings.

15. The development shall not commence until details of a scheme for the insulation of the proposed development against the transmission of both airborne and impact sound have been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be completed before any residential unit is first occupied and shall be retained thereafter.

Reason: To mitigate the effects of potential noise nuisance.

16. Construction of the development hereby permitted shall not commence until details of the proposed means of foul sewage disposal have been submitted to, and approved in writing by, the Local planning Authority in consultation with Southern Water.

Reason: In the interests of the amenities of the existing properties.

17. The developer shall arrange for 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. No works shall start on site until a written programme and specification for the work has been submitted to, and approved in writing by the Local Planning Authority.

Reason: to enable the recording of any items of historical or archaeological interest.

18. 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. The facilities shall be provided before the first occupation of the development hereby permitted and maintained thereafter.]

Reason: In the interests of visual and residential amenity.

19. Notwithstanding the details illustrated on the approved plans, detailed plans of proposed roof overhangs, window recesses and projections, eills, soldier arches, dormer windows and balconies to be used by section and elevation at scales between 1:20 and 1:1 as appropriate shall be submitted to and approved by the Local Planning Authority in writing prior to commencement of the development. Installation shall be in strict accordance with the details agreed.

Reason: In the interest of visual amenity and the integrity of the design.

20. The development hereby permitted shall be carried out in accordance with the following approved plans:
2012-246-01, 02 Rev F, 10 Rev D, 11 Rev D, 012 Rev D, 13, 14, 15, 20 Rev B, 21 Rev C, 23, Landscape Management Plan (151901 Rev A) together with the Planning Statement, Design and Access Statement and Sustainability Report received on the 24th May 2013.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

Informatives set out below

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.

No burning shall take place on site.

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.

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

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

The developer shall implement a scheme for the use of wheel cleaning, dust laying and road sweeping, to ensure that vehicles do not deposit mud and other materials on the public highway in the vicinity of the site or create a dust nuisance.

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

Should any future development of the site include the erection of a front boundary wall, this wall should be constructed of Kentish Ragstone

The applicants, or their successors in title, are advised to seek to improve biodiversity within the application site. It is suggested that any development incorporate the use of bat boxes, swift bricks and, if appropriate, cordwood.

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 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.

Whilst the proposed development does not comply with the Policy ED2 of the Development Plan, it is considered that due to the length of time that the property has been marketed for employment purposes without success, and with the significant planning history borne in mind, it is considered acceptable in this instance to depart from this Policy, and allow for residential use.

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14. 6. 2013

Chartway Group
01622 671 824
www.chartwaygroup.co.uk

14. 6. 2013




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Classical Osteopathy
14. 6. 2013

14. 6. 2013

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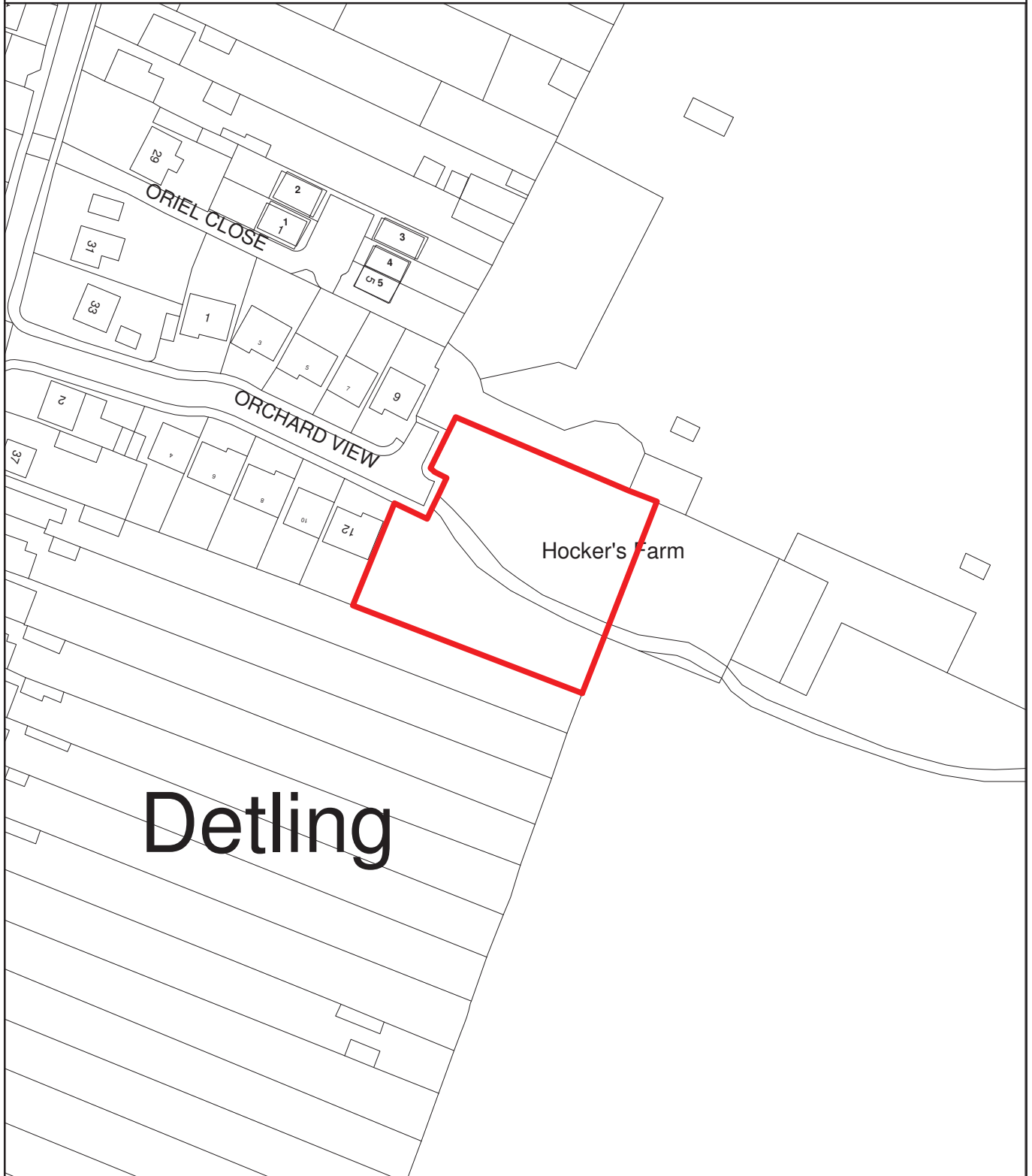
Agenda Item 15

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/0966

GRID REF: TQ7957

LAND AT HOCKERS FARM,
OFF ORCHARD VIEW, DETLING.



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Rob Jarman
Head of Planning and Development

APPLICATION: MA/13/0966 Date: 30 May 2013 Received: 3 June 2013

APPLICANT: Hillreed Homes

LOCATION: LAND AT HOCKERS FARM OFF, ORCHARD VIEW, DETLING, KENT

PARISH: Detling

PROPOSAL: Proposed erection of 7 new dwellings and garaging, together with the provisions of landscaping, access and ancillary works on Hockers Farm as shown drawings DHA9710/01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11 and JEC/338/01A and 02, together with the Planning Statement, Design and Access Statement, Extended Phase 1 Habitat Survey and Landscaping Specification Notes and Planting Schedule received on the 30th May 2013

AGENDA DATE: 10th October 2013

CASE OFFICER: Annabel Hemmings

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, ENV33, H1, T13
- National Planning Policy Framework 2012: Chapters 4, 6, 7, 9, 10, 11

2. RELAVENT HISTORY

MA/07/1371 – Erection of nine dwellings and garaging. Refused 6th September 2007. Appeal dismissed 27th November 2008.

MA/04/1750 – Outline application for the construction of new housing development with all matters reserved for future consideration apart from means of access. Refused 5th November 2004.

MA/02/2181 – Outline application for the construction of a new housing development with public open space, with all matters reserved for future consideration. Refused 19th September 2003. Appeal dismissed 15th December 2004.

MA/97/0747 – Erection of 11 detached houses with associated garages (Orchard View). Approved 6th February 1998.

MA/91/0527 – Outline application for redevelopment of farmyard for residential purposes. Refused 30th April 1991.

MA/91/0526 – Outline application for redevelopment of farmyard for residential purposes. Refused 30th April 1991.

MA/89/2098 – Outline application for redevelopment of existing farmyard and adjoining orchard for residential purposes and public open space. Withdrawn 29th August 1990.

MA/89/2097 – Outline application for redevelopment of existing farmyard for residential purposes. Approved 19th October 1990.

3. CONSULTATIONS

- 3.1 **NHS Property Services (14th June 2013):** Will not be asking for S106 contributions in this instance, as the application is for fewer than 10 dwellings.
- 3.2 **UK Power Networks (19th June 2013):** No objection to the proposed works.
- 3.3 **Natural England (26th June 2013):** Statutory nature conservation sites – no objection. This application is in close proximity to the Wouldham to Detling Escarpment Site of Special Scientific Interest (SSSI). This SSSI forms part of the North Downs Woodlands Special Area of Conservation (SAC).
 - 3.3.1 The proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which North Downs Special Area of Conservation has been classified. Natural England, therefore advises that your authority is not required to undertake an appropriate assessment to assess the implications of this proposal on the site's conservation objectives.
 - 3.3.2 In addition, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the Wouldham to Detling Escarpment SSSI has been notified.
 - 3.3.3 We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(I) of the Wildlife and

Countryside Act 1981 (as amended), requiring your authority to reconsult Natural England.

- 3.3.4 This application falls within Kent Downs AONB. Natural England has no comments to make on this proposal as we do not believe that this development is likely to adversely affect the purpose of the Kent Downs AONB
- 3.3.5 Given the location of the development, your Authority should seek the view of the AONB Unit, prior to determining this planning application, as they may have more detailed comments to make on the location, nature or design of this development.
- 3.3.6 It is noted that a survey for European Protected Species has been undertaken in support of this proposal. Natural England does not object to the proposed development would be unlikely to affect bats and great crested newts.
- 3.3.7 For clarity, this advice is based on the information currently available to us and is subject to any material changes in circumstances, including changes to the proposals or further information on the impacts to protected species.
- 3.3.8 The advice we are giving at the present time relates only to whether, in view of the consultation materials presently before us (including with reference to any proposed mitigation measures), the proposal is likely to be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range (i.e. the 'Favourable Conservation Status' test). We have not considered whether the proposal satisfies the three licensing tests or whether a licence would be issued for this proposal. This advice is based on the information currently available to us and is subject to any material changes in circumstances, including changes to the proposals or further information on the protected species.
- 3.3.9 We have not assessed the survey for badgers, barn owls and breeding birds², or widespread reptiles. These are all species protected by domestic legislation and you should use our protected species standing advice to assess the adequacy of any surveys, the impacts that may results and the appropriateness of any mitigation measures.
- 3.3.10 This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural

Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

- 3.3.11 This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.
- 3.4 **Environment Agency (28th June 2013):** Have assessed this application as having a low environmental risk. Therefore have no comments to make.
- 3.5 **Kent County Council (Highways) (4th July 2013):** *"The development comprises 5 x 4 bedroom houses and 2 x 3 bedroom houses and a new access road is proposed leading from Orchard View. The access is a shared surface 4.1m in width narrowing to 3m within the site.*
- 3.5.1 *Each of the 4 bedroom houses are provided with adequate parking, however the 2 x 3 bedroom houses have only 1 independently accessible space each which is likely to lead to parking on street or in the visitor parking space.*
- 3.5.2 *The Interim Guidance Note recommends a minimum of 2 independently accessible spaces for each 3 and 4 bedroom dwelling in village/rural locations with an additional 0.2 spaces per dwelling for visitor parking.*
- 3.5.3 *Whilst the shortfall in parking is not great I am concerned as the access road is 4.1m wide therefore any parking on street will obstruct access for deliveries, refuse collection and emergency services vehicles. For this reason I would recommend that the initial section of the access is widened to 4.8m or an additional parking space is provided for the 3 bedroom houses.*
- 3.5.4 *The applicant is proposing to provide trees each side of the site entrance and 2m x 2m pedestrian vision splays should be maintained from the accesses."*

- 3.6 **Southern Water (4th July 2013):** There is a foul sewer crossing the site. The exact position of the foul sewers must be determined by the applicant before the layout of the proposed development is finalised.
- 3.6.1 It might be possible to divert the foul sewer, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions.
- 3.6.2 Alternatively, the applicant may wish to amend the site layout, or combine a diversion with amendment of the site layout.
- 3.6.3 Southern Water requires a formal application for connection to the public sewer to be made by the applicant or developer.
- 3.6.4 Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer.
- 3.7 **Environmental Health (12th June 2013):** The site is in a semi rural area, but located between the A249 on one side (approximately 500m) and the M20 plus Channel Tunnel Rail link on the other side (approximately 400m). At this distance do not believe that noise is likely to be a significant problem at this site.
- 3.7.1 The site is outside the Maidstone Town Air Quality Management Area and do not consider the scale of this development and/or its position warrant an air quality assessment. Any demolition or construction activities may have an impact on local residents.
- 3.7.2 Given the historic use of the site for agricultural purposes and, the fact that this currently continues, it would be prudent to set a contaminated land condition Section 54 of the Clean Neighbourhoods and Environment requires developers 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.
- 3.8 **Parish Council (5th July 2013):** 'Wish to register its objections to the above planning application and wishes to make the following comments:
- Have concerns over the access and consequent loss of a turning facility in Orchard View;
 - Feel that access to the farm should be through the proposed development and not via the existing hammerhead turn facility;

- The plans show no pavements along the road through the development, which narrows, making access difficult, beyond the existing Orchard View road; and
- Feel that the lack of adequate parking facilities will add to the congestion in Orchard View.

3.8.1 The Parish Council are aware that these concerns have also been raised by some residents of Orchard View therefore wish to see this application refused or referred to the Planning Committee.'

4. REPRESENTATIONS

4.1 Five letters of objection have been received from local residents. Their comments are summarised below:

- Loss of privacy from windows and rooflights within the new houses;
- Concerned about intrusion and loss of light from the proposed development;
- The plans show 3 bed detached houses which are not in keeping with the appearance of the detached properties in Orchard View;
- When was the village envelope changed to incorporate housing on Hockers Farm;
- Proposed development is outside the village envelope and not an area that has , or is defined as an area of, permitted development
- Site is within an Area of Outstanding Natural Beauty (AONB) and should not be developed;
- This is a variation on a theme of many previous similar planning applications, made by the same applicant, all of which have been refused;
- One previous application went to appeal and was declined based on the fact that it was AONB, would be seen from the North Downs and was perceived as a blot on the landscape;
- The application states that the site has been neglected by the current owners, but this is not a valid reason to building an AONB;
- Although Maidstone Borough Council has a remit for 700 houses to be built in the Borough, Detling has not been identified as a suitable area for these;
- Detling has built many new houses recently. Consequently, there is unlikely to be a real need for any further housing in the village;
- The design of the proposal is hazardous. There is no turning circle and a single width road;
- There will be parking problems on the site, overspill parking, on the already busy, Orchard View plus difficulties for bin collections and emergency services to access the development;
- If this development is allowed, a dangerous precedent will be made. There will be no restrictions that can be imposed on any future proposals to build on the remainder of the farm land;

- Any rural countryside will soon be swallowed up by a sea of concrete with no break between linear settlements;
- Worrying potential for further linked development behind the gardens of properties in Hockers Lane;
- Note that the scheme has been designed to allow further development of the rest of the farm land at Hockers Farm at a later date;
- The village profile has changed in the last five years, we have lost the school, local shop, post office and three major employers reducing the rationale for further development beyond the recent developments;
- Each new house only has parking for two cars – a garage and a driveway for 1 car. Garages are rarely used for parking. The allocation of parking for 15 vehicles (including 1 visitor space) is insufficient; and
- There are no pavements in the proposed development raising issues of safety.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application relates to an area of land to the east of Hockers Lane, Detling and immediately beyond Orchard View, a small cul-de sac of houses built following the grant of planning permission in 1997. The properties within Orchard View are two storey detached properties, that are set back between 6 and 8 metres from the highway. This highway is constructed of tarmac, with paths on either side. The properties are each provided with off street car parking.
- 5.1.2 The site is rectangular and has an area of 0.25 hectares (54m by 46m). A disused agricultural barn lies adjacent to the north of site, with an operational storage building sited to the east. The residential curtilages of existing dwellings to the south form the southern boundary. The site is however very open when viewed from the north and the east, and appears from longer distances as relatively open despite being previously developed land.
- 5.1.3 The site comprises scrub and grass ground cover with hardstanding forming an access track from Orchard View to the existing barn buildings.
- 5.1.4 The site lies within the village envelope of Detling and within the Kent Downs Area of Outstanding Natural Beauty, a Special Landscape Area and a Strategic Gap.

5.2 Proposal

- 5.2.1 This application seeks consent for the erection of seven dwellings, comprising 5 detached dwellings and a pair of semi detached units at a density of 28 dwellings per hectare.
- 5.2.2 Orchard View would be extended into a new private driveway giving access to all 7 dwellings which would be laid out in a U shape extending the form of dwellings fronting Orchard View and then closing off the view out across open countryside at the eastern end of the site. A new access to Hockers Farm would be created adjacent to no 9 Orchard View.
- 5.2.3 Plots 1 and 2 would be located adjacent to the new farm access and no 9 Orchard View with their rear gardens to the north. Plots 3, 4 and 5 would be located from the eastern edge of the proposed development, with their rear gardens to the east. The remaining 2 plots (6 and 7) would be orientated north south with their rear gardens running down to meet the gardens of the existing residential dwellings to the south.
- 5.2.4 Plots 1 and 2 would be semi detached two storey dwellings. Their ground floor would house a hall, kitchen diner and living room and toilet and the first floor would have three bedrooms (one with ensuite) and a family bathroom. An attached garage would serve each property together with an additional parking space. Plot 1 would have a garden of approximately 117sqm and plot 2 100sqm.
- 5.2.5 Plots 3, 4, 5, 6 and 7 are all detached two storey dwellings served by attached single garages, except plot 3 whose garage is detached. Their ground floors would comprise a hall, kitchen diner (or dining room), utility room, lounge, study and wc and their first floor four bedrooms (one with ensuite) and a family bathroom. Their gardens would be approximately 133, 114, 186, 101 and 164.32sqm respectively.
- 5.2.6 Plots 1, 2 and 4 would be red brick with weatherboarding to the 1st floor on the front and side elevations. Plots 3 and 5 would be red brick as would plot 6 which would have tile hanging to the first floor front and sides. Plot 7 would be yellow brick.
- 5.2.7 The proposal is supported by a Planning Statement, Design and Access Statement, Extended Phase 1 Habitat Survey and Landscaping Specification Notes and Planting Schedule. The applicant's have confirmed that the dwellings will be constructed to meet Code for Sustainable Homes Level 3. In addition, the applicants have indicated a number of the features that would be incorporated within the dwellings. This includes water butts, high levels of insulation, increased levels of air tightness, slow flow taps and showers. Furthermore,

features such as bat boxes and swift bricks are to be incorporated in the fabric of the building.

5.2.8 The applicant has provided a good level of detail with regards to the proposed landscaping within the development. This includes the provision of a double staggered hedge along the exposed boundaries, as well as a good level of tree planting both within the site, and along its boundaries.

5.3 Principle of Development

5.3.1 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.

5.3.2 The site is an allocated site (vii) under policy H1 of the Maidstone Borough Wide Local Plan 2000. The allocation within the plan is for 7 dwellings and the allocation is shown on the proposals map. The site is also part of the Kent Downs Area of Outstanding Natural Beauty and Special Landscape Area.

5.3.3 As can be seen from the planning history, planning applications for residential on this site have previously been refused. The reason for these refusals was on the basis that a Moratorium had been placed on the release of a number of Greenfield housing sites, including the application site. This moratorium was reaffirmed in 2008. This decision was taken in the context of:

- National guidance (PPG3 Housing) that directed local authorities to develop sites for housing before releasing Greenfield sites for development;
- A government target for residential development of 60% brownfield sites, and a focus on higher density development;
- The Maidstone Borough Council Urban Capacity Study (2002 and 2006), which demonstrated that Maidstone could deliver its housing target through the potential development sites listed in the document; and
- A healthy 5 year housing land supply supported by the availability of town centres for higher density flatted development.

5.3.4 However, the position has significantly changed since 2008. The NPPF was published in March 2012, and the transition period for local plan compliance with the NPPF ended in March 2013 and there is now a presumption in favour of development in sustainable locations unless any adverse impacts would significantly and demonstrably outweigh the benefits of the development when assessed against the NPPF as a whole. Although the NPPF still encourages local authorities to make best use of brownfield land, the 60% target has been removed, and local authorities can set out their own approaches towards housing densities. The NPPF moves away from the urban capacity study approach and

local authorities must identify deliverable sites for 5- year housing land calculations and specify developable sites or locations for years 6 to 10 and (where possible) years 11 to 15.

5.3.5 The importance of demonstrating a 5-year housing land supply was highlighted in an appeal decision where the Inspector referred to the NPPF and concluded:

“The Framework says that where the relevant policies in a Local Plan are out-of-date permission should be granted unless any adverse impacts would significantly outweigh the benefits when taken against the policies in the Framework as a whole, or the policies in the Framework indicate it should be restricted. It also confirms that, in accordance with the Government’s aim to promote housebuilding, relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites.” (Ref: Valley Drive APP/U2235/A/12/2174289).

5.3.6 Until such times as a 5-year supply can be demonstrated, planning applications on greenfield sites cannot be refused on the grounds of prematurity and must be assessed on individual merit (including sustainability). The Council has already received a number of residential planning applications on greenfield sites and further applications, particularly for the strategic site allocations, are expected to be submitted after March.

5.3.7 The reasons for reaffirming the moratorium in 2008 no longer applied, by virtue of the change from PPS3 to the NPPF, the lack of a five year supply (at that point in time) and by virtue of an imbalance in the type of property provided, and its location. There was therefore no justification in maintaining it. As such, the Council revoked the moratorium on the release of the balance of Greenfield housing sites allocated in the Maidstone Borough Wide Local Plan 2000 in March 2013. I consider that irrespective of whether the Council has a five year supply or not, by virtue of the changes in the policy landscape, the moratorium would not be re-confirmed. As such, I see no policy objection to this site coming forward at this point in time.

5.3.8 Whilst the issue of the Council’s five year land supply is a material consideration in determining this application, it is only one of many. Firstly and principally, the site is allocated within the Local Plan and it would be seen against the existing village and is previously developed land with its agricultural buildings and hard standing. The National Planning Policy Framework published in 2012 states that “the purpose of planning is to achieve sustainable development. In this instance, given the site’s character and proximity to the village boundary, the site would be seen in the context of the residential development within Detling rather than

open undeveloped countryside and would be an example of sustainable development. This proposal can therefore be supported in principle.

5.4 Design and Residential Amenity

- 5.4.1 The proposed development has been designed to act as a terminus to Orchard View and would be seen against this and the wider built up area of Detling.
- 5.4.2 The proposed houses take their lead from existing properties and are largely traditional in design and would utilise a mix of red and yellow brick, tile hanging and weatherboarding within the site reflecting those within the village. This approach is considered appropriate. In addition, I consider that the detailed design of the proposed dwellings is acceptable. The properties have brick plinths, chimneys, exposed rafter feet, and all elevations are articulated when visible from a public vantage point. However, to ensure that these features are delivered to a high standard, I recommend that a condition be imposed upon any permission that requires precise details to be submitted and approved prior to works commencing. To my mind, due to the sensitive location of the site – within an AONB – and the fact that the site would be highly visible from long distance views, the materials, and the detailing are key to ensure a high quality finish, which would not detract from this landscape of importance.
- 5.4.3 The applicants have also sought to introduce elements from the surrounding area into the design of the proposed dwellings, these include half hips and porches. These will help to add interest to the houses and link them to the existing dwellings in Orchard Close.
- 5.4.4 The proposed dwellings would be of a similar scale to those in Orchard Close and have been designed to respect the residential amenities of existing occupiers.
- 5.4.5 In terms of the layout of the development, I consider this to be a natural continuation of the existing development within Orchard View. The existing road would retain its turning head, with a new turning area created within the site. The properties would be spaced in an acceptable manner – I do not consider the development to be over dense – and they would be provided with adequate open space, both to the front and to the rear.
- 5.4.6 The landscaping scheme is discussed in more detail later within the report, however, I consider that the scheme proposed would provide a suitable level of planting within. At pre-application stage, the importance of tree planting within the boundary was stated, in order to soften the proposal from the north and the east. The tree planting shown, together with the double staggered hedge would provide a suitable boundary treatment, which would not screen, but rather soften the development from these longer distance views.

- 5.4.7 Internally, I would wish to see all driveways and parking areas to be constructed of brick/block paving. This would reduce the levels of tarmac within the site, and provide a softer finish, more appropriate for a site within the AONB.
- 5.4.8 Should the materials be of a suitably high standard, and the details as set out above provided, I am of the opinion that this would be of a suitable design quality to approve.
- 5.4.9 No issues of overlooking, loss of light or overcrowding would result from the development. The proposed dwellings would essentially reflect the relationships between the existing dwellings and continue these on into the new area.
- 5.4.10 The properties would be served by adequate amenity space and landscaped to enhance the street scene.
- 5.4.11 Some local residents in Orchard View and the properties to the south of the proposed plots 5 and 6 have raised concerns about the details of the proposed dwellings and their properties. The applicants have provided clarification on these points.
- 5.4.12 The proposed dwellings have been orientated in such a way to prevent overlooking and loss of privacy to the occupiers of existing dwellings. Close boarding fencing would also be provided to the boundaries of the development to secure them prior to the landscaping becoming fully established.

5.5 Highways

- 5.5.1 Vehicular access would be taken from the site from Orchard View with a new vehicular access to serve Hockers Farm located between number 9 Orchard View and plot 1 of the proposed development.
- 5.5.2 KCC highway guidance recommends that a minimum of two independently accessible spaces for each 3 and 4 bedroom dwelling in village/rural locations with an additional 0.2 spaces per dwelling for visitor parking. This has not, however, been formally adopted by Maidstone Borough Council.
- 5.5.3 Fifteen parking spaces, including one visitor space, would serve the development and each dwelling would also be provided with a single garage.
- 5.5.4 Kent County Council's Highway advisor expressed concerns that whilst the shortfall in parking is modest, there is the possibility that onstreet parking had the potential to obstruct access. They suggested that the initial section of the

access could be widened or an additional parking space created for the 3 bedroom houses.

5.5.5 In this instance, given the end of the cul-de-sac location and scale of the proposed development, it is not considered that traffic generation and parking would be of such a concern that would give rise to any highway safety issues. It is my opinion that the parking spaces and garages proposed are considered sufficient to serve the proposed scheme without an overspill on the neighbouring highways that would result in additional safety concerns.

5.7 Landscaping and Ecology

5.7.1 The site is located within the Kent Downs Area of Outstanding natural Beauty and is currently an agricultural yard with areas of associated hard standing access. The areas of vegetation on the site have been left unmanaged for some time and, as a result, the habitat mosaic on the site is dominated by dense continuous scrub fringe with areas of rough semi-improved grassland. An Extended Phase 1 habitat Study was carried out in support of this application and its conclusions are set out below.

5.7.2 Badgers may use the site for foraging and commuting, but due to the relative abundance of suitable habitat in the local area around the site, the development of the site would not have a significant effect on the local badger population. The trees boarding the site appear to have a negligible potential for roosting bats and the development would not be constrained by the presence of bats within the buildings or trees within the site. There were no ponds within the site boundary at the time of the survey, although there is one pond within 500 metres of the site. 500 metres is the natural range of Great Crested Newts (GCN) from their breeding ponds as long as the surrounding habitat is suitable. In this instance, the pond is separated from the site across a heavily grazed field which is not suitable habitat for GCNs as it provides no cover.

5.7.3 The areas of rough semi improved grassland within the site are thought to have good potential to support common reptiles and due to the nature of the development and potential for habitat loss it is recommended that a pre-development reptile survey be undertaken to ascertain whether a population of common reptiles is present and to gauge its size. If the presence of reptiles on site is confirmed an appropriate mitigation strategy should be developed.

5.7.4 The application was also supported by Landscape Proposal, Planting Plan and Specification Notes and Planting Schedule. These set comprehensive landscaping and planting proposals for the proposed development. The Council's Landscape Officer has assessed the proposals, as considered that the species proposed would be suitable for this location. The implementation of the landscaping would

be secured by condition. It is hoped that the introduction of landscaping and planting to the area will also secure ecological benefits. The applicant has also advised that they are happy to increase the biodiversity of the development via the use of bat boxes and swift bricks.

5.8 Sustainability

- 5.8.1 At the heart of the NPPF is a presumption in favour of sustainable development, this is reflected in Council policies. Code for Sustainable Homes is the national standard for the sustainable design and construction of new homes. The code aims to reduce emissions and create homes that are more sustainable. It was introduced in May 2008, but public consultation on the code was carried out from December 2005 to March 2006.
- 5.8.2 In this instance, the agent advises that the proposed dwelling would achieve Code Level 3. This is considered acceptable and would secure benefits such as reduced levels of CO2 emissions by increased levels of insulation, saving energy via low energy light fittings and the provision of Home Users Guides to provide future occupiers of the dwellings with energy saving, water reduction and recycling tips. Code 3 would be secured by a planning condition.

6. CONCLUSION

- 6.1.1 The site is an allocated site under Policy H1 of the Local Plan, is sustainably located on the edge of the village and well located to the existing development. The proposed development is considered acceptable in principle.
- 6.2.1 It would not adversely affect the residential amenities of surrounding occupiers, have a significant adverse effect in terms of highways, contamination or ecology.
- 6.1.3 In formulating the recommendation, all other matters which were drawn to the Council's attention have been taken into account, but nothing of sufficient weight was found to override the factors which led to this recommendation.

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 landscaping of the site shall be carried out in accordance with the details shown on drawings JEC/338/01A and JEC/338/02A. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding season following commencement of the development (or such other period as may be agreed in writing by the Local Planning Authority) and any trees or plants which within a period of 5 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 that the proposed development is satisfactorily integrated with its immediate surroundings and provides for landscaping.

3. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority details of the locations, heights, designs, materials and types of all boundary treatments to be erected on site. The boundary treatments shall be completed in strict accordance with the approved details before the buildings hereby approved are occupied.

Reason: In the interests of visual amenity, privacy and to ensure that the proposed development is satisfactorily integrated with its immediate surroundings.

4. The areas shown on the approved plan as car parking spaces or garages shall be provided prior to the first occupation of the dwellings they serve and thereafter kept available for such use. Notwithstanding the Town & Country Planning (General Permitted Development) Order 1995, or any subsequent re-enacting Order, no permanent development shall be carried out on the site so as to preclude vehicular access to these parking spaces or garages.

Reason: In the interest of highway safety and amenity.

5. The visibility splays shown on the permitted plans shall be implemented with no obstruction to visibility at or above a height of 600mm when measured from the level of the adjoining highway carriageway and the visibility splays shall thereafter be retained and maintained as such.

Reason: In the interest of highway and pedestrian safety.

6. The developer shall give 48 hours notice of commencement of development to the Local Planning Authority and afford access at all reasonable times to any Archaeologist or suitably qualified person nominated by the Local Planning Authority, and shall enable that person to observe the excavations and record items of interest and finds.

Reason: To ensure that the archaeological history of the site is recorded.

7. The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to, and approved in writing by, the Local Planning Authority:

- 1) A preliminary risk assessment which has identified:

- all previous uses;
- potential contaminants associated with those uses;
- a conceptual model of the site indicating sources, pathways and receptors; and
- potentially unacceptable risks arising from contamination at the site.

- 2) A site investigation scheme based on (1) to provide information for a detailed assessment of the risks to all receptors that may be affected, including those off site.

- 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

- 4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in (3). This should 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.

Any changes to these components require the express consent of the local planning authority.

8. No development shall take place until details have been submitted to, and agreed in writing by, the local planning authority showing the existing and proposed site and floor levels of the development hereby approved.

Development shall be carried out in strict accordance with the approved plans.

Reason: In the interest of amenity.

9. None of the buildings hereby permitted shall be occupied until the access roads to the site and the remainder of Hockers Lane have been constructed in accordance with the details on the approved plans.

Reason: In the interests of amenity and highway safety.

10. Notwithstanding the information on the approved plans, no development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved details.

Reason: In the interests of amenity and to ensure that the proposed development is satisfactorily integrated with its immediate surroundings.

11. All electrical and telephone services to the development shall be run underground.

Reason: In the interest of visual amenity and the integrity of the design.

12. The development hereby permitted shall be built to a minimum three star rating within the Government's 'Code for Sustainable Homes' (2006). 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 that development takes place in an environmentally sensitive way and to assist the Government in meeting its targets of reducing carbon dioxide emissions.

13. Notwithstanding the details illustrated on the approved plans, prior to the first residential occupation of any of the residential units hereby permitted a detailed lighting plan for the development including the road, car parking areas, footways/ cycleways, shall be submitted to and agreed in writing with the Local Planning Authority. Such details shall include the siting and design of any lighting together with details of the spread and intensity of the lighting. The lighting shall be installed in strict accordance with the agreed details prior to first residential occupation of the dwellings hereby permitted and thereafter retained and maintained in the agreed form without any further additions.

Reason: In the interests of highway safety and amenity.

14. No development shall take place until a scheme for the incorporation of bat boxes, bird nesting boxes and swift bricks has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall be implemented as agreed prior to the 1st occupation of the residential units hereby permitted and thereafter permanently retained.

Reason: In the interests of supporting and promoting the biodiversity interests of the site.

15. The development hereby permitted shall be carried out in accordance with the following approved plans:
drawings DHA9710/01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11 and JEC/338/01A and 02, together with the Planning Statement, Design and Access Statement, Extended Phase 1 Habitat Survey and Landscaping Specification Notes and Planting Schedule received on the 30th May 2013

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

16. Prior to the commencement of the development hereby permitted, details in the form of large scale drawings (at a scale of 1:20 or 1:50) of the following matters shall be submitted to and approved by the local planning authority;
- i) Details of the roof overhangs.
 - ii) Details of windows and doors and recesses/reveals
 - iii) Details of the brick plinths
 - iv) Details of the exposed rafter feet
 - v) Details of the chimneys

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

Reason: To ensure a satisfactory external appearance to the development in the interests of the visual amenity and character of the surrounding area in accordance with the National Planning Framework (2012).

Informatives set out below

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.

No burning shall take place on site.

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.

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

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

The developer shall implement a scheme for the use of wheel cleaning, dust laying and road sweeping, to ensure that vehicles do not deposit mud and other materials on the public highway in the vicinity of the site or create a dust nuisance.

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

Note to Applicant:

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

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

The 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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12. 9. 2013



12. 9. 2013



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12. 9. 2013

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HOCKERS
FARM

WARNING
24HR CCTV

12. 9. 2013



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12. 9. 2013

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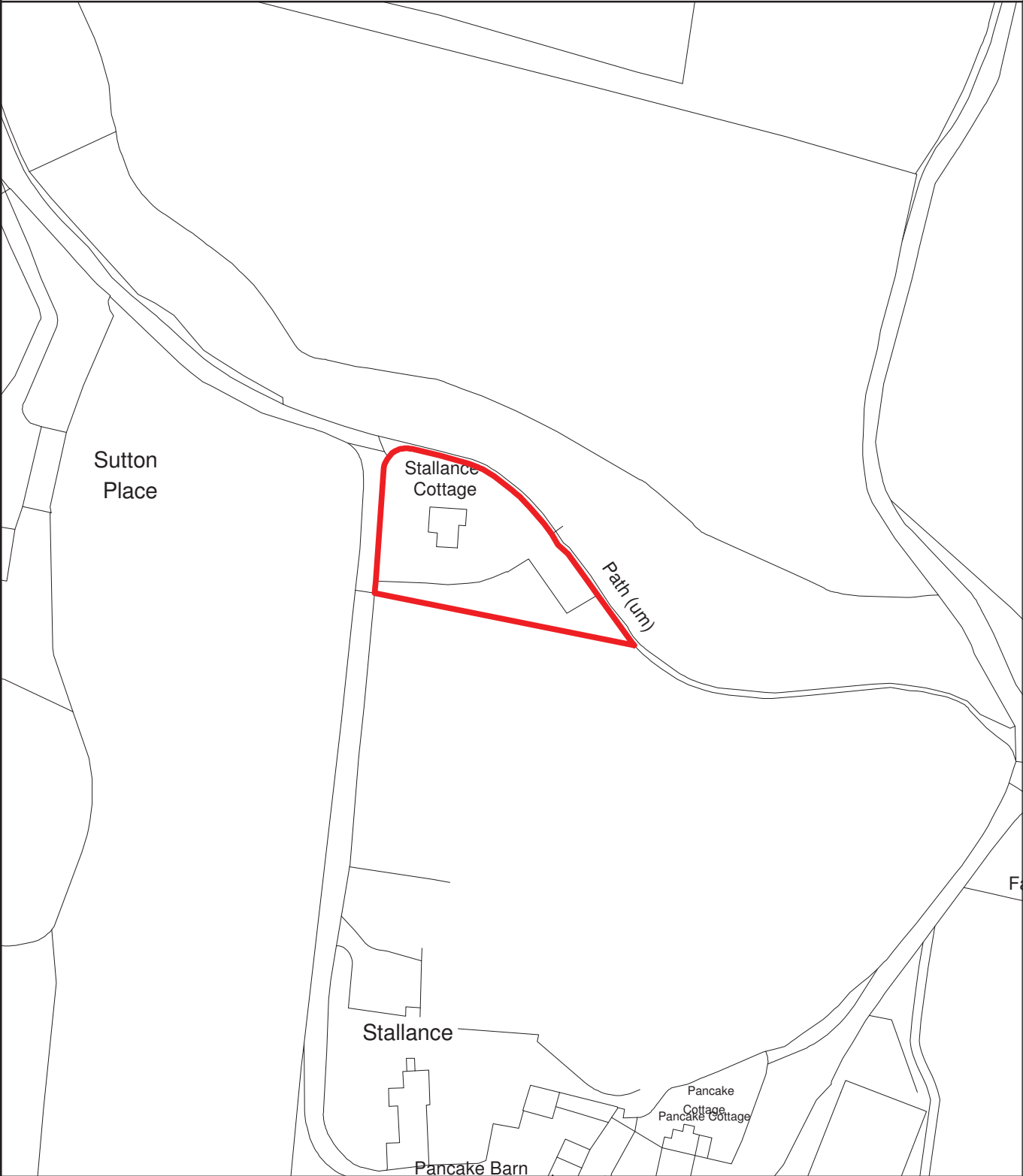
12. 9. 2013

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/1325

GRID REF: TQ8148

STALLANCE COTTAGE, RECTORY LANE,
SUTTON VALENCE.



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Rob Jarman
Head of Planning and Development

APPLICATION: MA/13/1325 Date: 17 July 2013 Received: 25 July 2013

APPLICANT: Mr Ashley Bernhard & Ms Beverley Clack

LOCATION: STALLANCE COTTAGE, RECTORY LANE, SUTTON VALENCE,
MAIDSTONE, KENT, ME17 3BT

PARISH: Sutton Valence

PROPOSAL: Change of use of land from agriculture to residential use - erection of solar panels, garden shed, mower and storage shed and greenhouse and erection of decking to house as shown on drawing nos: A/B/2013/10 and 11.

AGENDA DATE: 10th October 2013

CASE OFFICER: Graham Parkinson

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

- It is contrary to views expressed by the Parish Council

1. **POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV28, ENV34, H31
- Government Policy: NPPF

2. **HISTORY**

- 2.1 MA/96/0084: Two storey side extension new porch & other alterations
APPROVED 14-Mar-1996
- 2.2 MA/07/0347– erection of a detached double garage with workroom above.
APPROVED-28-Mar-2007

3. **CONSULTATIONS**

- 3.1 Sutton Valence Parish Council: Objects to proposal and its comments are summarised as follows:

- Do not wish to see agricultural land converted to gardens as farming plays a significant role in the community which it wishes to see continue.

- 3.2 MBC Heritage advisor: No objection as the development does not have any material impact on the setting of nearby Listed Buildings.
- 3.3 English Heritage: No objection.
- 3.4 MBC Landscape and Design: Regarding the impact of decking that has been constructed on nearby trees, given its completion in 2007 it does not appear to have had any adverse impact on nearby trees. Concerned that the change of use of land to garden will adversely impact on the Special Landscape Area particularly as solar panels are to be sited in this area.

4. REPRESENTATIONS

- 4.1 8 properties consulted. No representation received

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The site is occupied by Stallance Cottage, located in a slightly elevated position above adjoining agricultural land, in use as orchards, to the south.
- 5.1.2 Running along the northern perimeter of the site is a public footpath enclosed by high hedges and closeboarded fencing defining the property boundary on this side.
- 5.1.3 Running along the west of the site is track serving an isolated group of dwellings sited approximately 100 metres south of the application site and separated from it by the area of orchard referred to above.
- 5.1.4 Abutting Stallance Cottage along its southern and eastern sides are elevated areas of decking with handrails above, attached to which to the east is an open sided building having an octagonal 'footprint' capped by a pitched roof with an octagonal profile.
- 5.1.5 Abutting and defining the existing southern boundary of the Stallance Cottage curtilage is a dense hedge, Abutting this to the south is a long narrow roughly triangular area of land having a maximum length of just over 70 metres and an average width of approximately 10 metres. This area of land is separated from the adjoining farmland by a low post and rail fence. This area is used as part of the garden curtilage of Stallance Cottages and on its western side is occupied by an angled row of solar panels having length of just under 10 metres, a height of

approximately 1 metre above ground level and a width of 1.5 metres. At the eastern end of this area a storage shed and greenhouse has been erected.

5.1.6 In a wider context the site lies in open countryside, designated as a Special Landscape Area (SLA).

5.2 Proposal

5.2.1 Retrospective planning permission is sought for the following:

- The decking and octagonal structure erected abutting Stallance Cottage. The elevated decking runs along the much of the southern and eastern elevations of the property and projects on average 2.5 metres out from the building with an height of just under 1 metre topped by railings 500mm in height, The octagonal open side structure has a height of just under 4.5 metres and a width of 3 metres.
- A timber weatherboarded garden shed having a low pitched roof having a 'footprint' of 2.7x3.7 metres and a ridge height of 2.3 metres. This does not require planning permission as it is sited within the acknowledged garden curtilage of the property, is less than 2.5 metres height and on its own and in combination with other buildings covers less than 50% of the existing curtilage.
- The change of use of the land to the south to provide an extension to the existing garden curtilage. This area of land has an area of approximately 700 sqm (0.07 ha). At the eastern end of the area a shiplap timber mower/storage building has been erected having a footprint of 6.5x5.5 metres and low pitched roof having a ridge height of just over 3 metres. Abutting this building to the south is a greenhouse having a footprint of 1.9x3 metres and a height of just under 2 metres.
- An angled row of solar panels having a length of just under 10 metres, a height of approximately 1 metre above ground level and a width of 1.5 metres sited in the western part of the area comprising the garden extension.

5.2.2 In addition the applicants advise that the area of land forming an extension to their garden was purchased in August 2006. Furthermore, the majority of the decking was constructed in 2007 with a small addition to this constructed more recently.

5.3 Discussion:

5.3.1 The key issues in relation to this application are considered to be the impact on the character and setting of the existing building and impact on the character and appearance of the adjoining open countryside and Special Landscape Area (SLA).

5.4 Impact on character and appearance of the Building

5.4.1 Dealing first with the impact of decking and octagonal open sided structure attached to the building, it is considered that these represents small scale minimalist structures that have little material impact on the, character, setting or appearance of the building. As such no objection is identified to their retention and this view is supported by the Councils Heritage advisor.

5.5 Impact on rural character of the area and the SLA:

5.5.1 The existing curtilage of the property has been extended to the south in the form of a long narrow roughly triangular area of land having a maximum length of just over 70 metres and an average width of approximately 10 metres. On its western side, this area is occupied by an angled row of solar panels having a length of just under 10 metres, a height of approximately 1 metre above ground level and a width of 1.5 metres while at the eastern end of this area a storage shed and greenhouse has been erected.

5.5.2 Dealing with the extension to the garden curtilage, policy H31 of the adopted local plan states that permission will not be granted if this will harm the character and appearance of the countryside or result in loss of the best and most versatile agricultural land.

5.5.3 This area of land occupies a slightly elevated position which potentially increases its prominence. However given its relatively small area (0.07 ha) and close proximity to an orchard, which screens out potential long range views of the site from the south, it is considered that its impact on the wider landscape is minimal. Regarding loss of land having agricultural potential, given the small area of land affected (and which in any event could substantially revert back to agricultural use should circumstances dictate) it is not considered this represents a sustainable objection to the use of the land for garden purposes.

5.5.4 Turning to the impact of the development that has taken place in this area, the mower/storage shed and greenhouse are both relatively small, low key buildings which do not add greatly to the impression of built mass on the site nor, due to their design and siting, appear incongruous or out of character in a rural setting.

5.5.5 The array of solar panels that has been erected, due to its low height, is also considered to have little visual impact. Nevertheless in order to minimise the visual

impact of this and other buildings on the site, it is considered that the existing low post and rail fence should be supplemented by a native species hedgerow. In addition permitted development rights to erect outbuildings and other forms of development allowable under Class E of the General Permitted Development Order 1995 (as amended) should be withdrawn.

- 5.5.6 Subject to the above measures, it is considered that the impact of the development on the wider landscape is acceptable and concerns raised in this regard are not supported as a consequence.

6. CONCLUSIONS

- 6.1 For the reasons set out above it is considered that the development that has been carried out is acceptable in its visual impact and will not result in material harm to the rural and special landscape character of the area, result in any material loss of productive agricultural land while respecting the character and setting of the existing building.
- 6.2 In the circumstances is considered that the development is acceptable and retrospective planning permission should be granted as a consequence.

7. RECOMMENDATION

GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS:

1. 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), in the area identified as Area B on drawing no: A/B/2013/10, no development within Schedule 2, Part 1, Class E to that Order shall be carried out in this area without first obtaining the permission of the Local Planning Authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area.

2. Within 3 months from the date of this planning permission a native species hedgerow shall be provided along the whole length of the western, southern and north eastern boundaries of Area B. These boundaries are shown on drawing no: A/B/2013/10. The hedgerow shall be allowed to grow up to a height of no less than 3 metres and maintained at this height at all times thereafter. Any part of

the hedgerow that becomes dead, dying or diseased shall be replaced with a similar species of a size to be agreed in writing beforehand with the Local Planning Authority and shall be retained at all times in accordance with the terms of this condition.

Reason: In the interests of visual amenity.

Note to Applicant:

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

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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



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GATE

WINDHAM RD 104 104

3. 10. 2013

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3. 10. 2013



THE MAIDSTONE BOROUGH COUNCIL
Tree Preservation Order No. 2 of 2013
Tree at junction of London Road and Buckland Hill,
Maidstone.

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Schedule

- Individual Trees: T1 Horse Chestnut
- Groups of Trees: None
- Areas of Trees: None
- Woodlands: None

Extract from OS Map TQ 7555
 Scale 1:1250

R. U. Jarman

[Director of Change, Planning and The Environment]
 [Head of Planning]
 [delete as appropriate]
 as authorised signatory

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

10 OCTOBER 2013

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

REFERENCE: Tree Preservation Order No. 2 of 2013 Date made: 18 April 2013

TITLE: Tree at junction of London Road and Buckland Hill, Maidstone

CASE OFFICER: Nick Gallavin

Tree Preservation Order (TPO) No.2 of 2013 was made under Regulation 4 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 to protect one Horse Chestnut. 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

Government Policy: National Planning Policy Framework (2012)
DCLG, Tree Preservation Orders: A Guide to the Law & Good Practice

Local Policy: Maidstone Borough Council Interim Approval of Maidstone Borough Local Plan Policies (13 March 2013) – Policy CS13
Maidstone landscape Character Assessment (March 2012 amended 19 July 2013) and Supplement (2012 – Saved Sections of the Landscape Character Assessment and Landscape Guidelines 2000)

BACKGROUND

History/context

In March 2013, Landscape Officers became aware of proposals for road widening linked to a planning application at Baltic Wharf, St Peter's Street, reference MA/13/0297 (An application for detailed planning permission for the change of use of, and alterations and additions to, the Powerhub building). The road widening proposals would result in the removal of the tree. 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 Horse Chestnut tree is a large, mature specimen located in a very prominent position on one of the main routes into the town centre. The tree is potentially under threat of felling from proposals for road widening linked to planning application MA/13/0297. Therefore, it is considered expedient to make the tree the subject of a Tree Preservation Order.

The six month provisional order expires on 18 October 2013, after which the order automatically lapses if not confirmed.

OBJECTIONS and REPRESENTATIONS (*objections and letters of support from those parties served with the order*)

The TPO was served on the owner/occupier of the land in question and any other parties with a legal interest in land affected by the tree.

One objection has been received to the order, within the statutory 28 day period from its making by the applicant for MA/13/0297. The full text of the objection is reproduced below:-

13th May 2013

Dear Sir,

The Maidstone Borough Council Tree Preservation Order No. 2 of 2013 – Tree at Buckland Hill/London Road junction, Maidstone

We refer to the temporary Tree Preservation Order (TPO) made by the Council on 18th April, 2013, a copy of which has been served on our company, Baltic Wharf (Maidstone) Ltd.

The temporary Order refers to planning application MA13/0297 made by Baltic Wharf (Maidstone) Ltd and the highway improvement proposals in that application for the Buckland Hill/London Road junction. The improvement would require the removal of the tree subject to the Order. The Council allege that this aspect of the planning application represents a threat to the tree.

Baltic Wharf (Maidstone) Ltd objects to the TPO as disproportionate and inappropriate. The tree is on highway land in the ownership or control of Kent Highways. It is not open to Baltic Wharf (Maidstone) Ltd to remove the tree without the express permission of Kent Highways by way of a legal agreement pursuant to s278 of the Highways Act. Such permission has not and will not be given until there is a grant of planning permission for application MA/13/0297. The tree cannot therefore as a matter of fact be under threat.

The decision whether to grant or refuse permission for application MA/13/0297 currently rests with your Council. The Council's Planning Committee will address all aspects of the development proposals in the application in coming to a determination. This includes:

- *Providing a viable use for the Grade 2 listed Powerhub Building which has significant structural problems and has failed economically in its use as a managed workspace*
- *Creation of an estimated 350 new jobs on the Baltic Wharf site*
- *Regeneration of a major town centre site*
- *Delivery of a package of significant public realm improvements, including providing the missing link in the existing riverside footpath*
- *Highway improvements to make sure that traffic conditions local to the Baltic Wharf site and at the bridge gyratory and Buckland Hill/London Road junctions are still acceptable if the redevelopment goes ahead*

It is within this context that the loss of the tree now subject to a temporary TPO needs to be considered. If the proposed Buckland Hill/London Road improvement is seen as a necessary part of the Baltic Wharf redevelopment the loss of the tree will need to be weighed in the balance amongst all other considerations material to the determination of the application.

Furthermore, the Baltic Wharf redevelopment proposals do mitigate for the loss of this tree. The application contains proposals for tree planting along the St Peter's Street frontage of that site and other landscaping along the riverside where none currently exists. This planting will provide a significant public realm improvement and mitigation for the loss of the tree.

In earlier e-mail correspondence with the Council about the TPO, Baltic Wharf (Maidstone) Ltd raised two questions:

- 1) *Will the TPO now be a matter for consideration by the Planning Committee (for confirmation or otherwise) when it considers Baltic Wharf application MA/13/0297 as the matters are directly linked?*
- 2) *Will a planning permission for application MA/13/0297 at Baltic Wharf override the TPO regardless of the stage reached in considering the TPO?*

Following a meeting on 3rd May, 2013, the Council undertook not to progress the TPO pending a decision on application MA/13/0297, provided this decision was made within the 6 month timescale for confirming the temporary TPO. It is for the Council now to consider whether the Planning Committee meeting that determines application MA/13/0297 should at the same time consider whether or not to confirm the TPO. Question 2 above also raises a wider legal point that does require clarification which is whether a TPO can apply to trees within a highway boundary and override the statutory powers of a highway authority to carry out highway works as permitted development. These permitted development rights are transferable to developers under s278 agreements.

We await a formal response from the Council on these two questions.

We would also ask that receipt of this objection to the proposed TPO is acknowledged by the Council confirming that it is validly made within the prescribed time for objecting.

One letter in support of the TPO has also been received from the adjacent landowner at 42 Buckland Hill. The reasons for this support are reproduced below:-

- *The tree is a beautiful mature specimen that is a local landmark and enhances the street scene. Its loss would be very detrimental to the character of the area.*
- *Two adjacent mature Lime trees have already been lost in recent years and their replacements have proved to be completely unsuccessful in improving or even maintaining the local street scene.*
- *The Horse Chestnut acts as an invaluable baffle against the increasing levels of noise from traffic we tolerate at this property.*
- *Pollution levels on the London Road have greatly increased in the 15 years in which we have owned our property and the air quality has become markedly worse. Removing the Horse Chestnut would only add to the levels of noise and pollution tolerated by local residents.*

The letter included further comments, but these referred to the planning application MA/13/0297, were not directly related to the Tree Preservation Order and have therefore been omitted from this report.

CONSIDERATIONS

SITE AND SURROUNDINGS

The tree is growing in the tarmac pedestrian footpath at the junction of the A20 London Road with Buckland Hill, on the south side of the junction. The A20 London Road is one of the main roads between the Town centre and the M20 and within the urban area. Several other mature trees are present in the vicinity, including mature Limes in the grounds of the adjacent property.

DESCRIPTION OF TREE

The Horse Chestnut is a mature, prominent specimen, highly visible from London Road, Buckland Hill and Somerfield Road. It reaches a height of approximately 14 metres and has an average crown radius of 7 metres. The main stem forks at 2.5 metres height, giving rise to a balanced crown of good form and structure. However, one main limb on the southwest side of the crown is dead. A historic large pruning wound with associated decay is present at the base of this limb, which may be related to its demise. Otherwise, visual inspection suggests that the rest of the tree is generally in good health. There is widespread evidence of leaf damage by the Horse Chestnut leaf miner throughout the crown – a common and widespread insect pest of Horse Chestnut, which results in browning of leaves and early leaf fall, but this is a largely cosmetic impact with little effect on the tree's health.

In an amenity evaluation assessment of the tree, using the Council's standard method, the tree scored comfortably above the benchmark score, indicating that the tree meets the amenity criteria for protection by a TPO.

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.

DISCUSSION OF CONSIDERATIONS AND RESPONSE TO OBJECTIONS AND REPRESENTATIONS

In this case, it is important to recognise that the only matter for consideration is whether the Tree Preservation Order should be made permanent (confirmed). Whilst the Order was clearly made in response to the potential felling of the tree as a result of the proposals under planning application MA/13/0297, this report is not a consideration of the merits of that planning application. Therefore, any discussion of the details of that application are irrelevant and as such, are deliberately omitted here.

Similarly, this is not a consideration of a proposal to fell the tree. The felling of the tree could form part of the junction improvements in the future, but that is a matter for separate discussion in the context of a relevant planning proposal.

The matter for determination is whether the tree is of sufficient value to merit protection and if so, whether it is expedient to continue its protection. Its amenity value is not disputed in the objection received and the results of visual inspection and amenity assessments indicate that it merits protection as an individual of good public amenity value.

Whilst it would have been preferable to consider the issue of TPO confirmation alongside the planning application, this is not possible as the provisional TPO is due to expire on 18th October 2013.

The matter of expediency is somewhat complicated by the planning issues. The planning application MA/13/0297 is currently undetermined. Baltic Wharf (Maidstone) Ltd. argue that the tree is not under threat as a matter of fact. Whilst it might not be immediately under threat, there is a clear intention to fell it as part of the junction improvements proposed and the point at which it would become immediately under threat is currently unclear. Having a TPO in place will help to ensure that full consideration has been given to the matter of its removal before a final scheme is approved.

The tree and the junction improvements proposed as part of the planning application actually lie outside of the application site boundary. Normally, where planning consent is granted that necessitates works to protected trees a separate application under the TPO is not required.

It is not clear whether this would apply to protected trees outside of an application site boundary in connection with a s106 agreement relating to highway improvement works. However, if the Council requires junction improvements as a condition of a planning consent, either through planning condition or legal agreement, it follows that the matter of the removal of the tree should have been fully considered in the determination of the planning application. If it transpires that a separate formal application under the TPO is then required before the tree removal can proceed, it is very unlikely that consent would then be refused to fell the tree, as the Council would have already considered the loss of the tree in the context of achieving the junction improvements. Clearly this issue is not a consideration of this report. However, the ongoing protection of a confirmed TPO should at least ensure that its possible removal is noted in consideration of any proposed scheme.

It is asked in the objection:-

“whether a TPO can apply to trees within a highway boundary and override the statutory powers of a highway authority to carry out highway works as permitted development (and whether) these permitted development rights are transferable to developers under s278 agreements?”

TPOs can apply to any trees and a TPO application is usually required in relation to permitted development rights. However, there are exceptions to the need to

obtain the consent of the local planning authority before carrying out works to protected trees, and certain statutory undertakers, including highway authorities, have some powers to carry out their functions without the need to apply for works to protected trees. The view of Kent Highways has been sought on this issue and their response was that:

The Highway Authority's permitted development rights mean that it can remove a TPO tree as part of a scheme and would not need to apply for planning permission to do so. These rights are transferred under a s278 agreement but this would only be entered into if it is supported by a planning permission. Alternatively, the Highway Authority could carry out the works covered by funding through a s106 subject to a copy of the planning permission before the work is progressed.

However, legal advice has been sought by the Highway Authority to confirm the situation. Any such further advice will be provided in an urgent update to this report.

SUMMARY

The considerations relating to planning consents and permitted development rights do not add significant weight to the argument to not confirm the TPO on the basis that it is not necessary and therefore not expedient to continue protection.

Continuing protection with a TPO would bring certain benefits; it would increase recognition of the amenity value of the tree in the consideration of any junction improvement scheme and might lead to the exploration of alternative options that include the retention of the tree. It would also help to secure replacement planting in the event that a scheme is approved that involves the removal of the tree.

CONCLUSION:

For the reasons set out above it is considered that:

The amenity value of the Horse Chestnut tree and the ongoing uncertainty about its future outweigh the grounds for objection to the making of the Order.

RECOMMENDATION:

CONFIRM WITHOUT MODIFICATION Tree Preservation Order No. 2 of 2013.



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Agenda Item 18

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – (10th October 2013)**

APPEAL DECISIONS:

- 1. – MA/ 12/1319 -** An application for a Certificate of Lawful Development for a proposed development being the construction of a swimming pool building and associated works as described in application

APPEAL: ALLOWED WITH CONDITIONS AND COSTS AWARDED

BOW HILL OAST, HUNT STREET, YALDING,
MAIDSTONE, KENT, ME18 6AB

(DELEGATED POWERS)

- 2. – ENF/11176-** Without planning permission, the change of use of land from agriculture to a mixed use for agriculture, vehicle parking, and storage of plant, equipment, machinery and materials unrelated to agriculture , and associated operational development consisting of the laying of hardsurfacing; the erection of post and wire fencing; and the construction of an earth bund.

APPEAL: DISMISSED

FOUR JAYS GROUP, BARLING FARM, EAST SUTTON
ROAD, MAIDSTONE, ME17 3DX

- 3. – ENF/11736 -** Without planning permission, the change of use of land from a mixed use of agricultural, keeping of horses and residential to a mixed use for agricultural, keeping of horses, residential and keeping of dogs; and the carrying out of associated operational development being the erection of kennel/shelter buildings and enclosures and metal fencing enclosures.

APPEAL: ALLOWED, THE NOTICE IS CORRECTED AND QUASHED AND TEMPORARY PLANNING PERMISSION IS GRANTED AS SET OUT IN THE FORMAL DECISION.

LAND AND BUILDINGS AT MORNING DAWN COTTAGE,
RINGLESTONE ROAD, HOLLINGBOURNE, MAIDSTONE,
ME17 1QL