

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 20 March 2014
Time: 6.00 pm
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Ash, Black, Chittenden, Collins
(Chairman), Cox, Harwood, Hogg,
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 Items withdrawn from the Agenda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 - 27 March 2014

Continued Over/:

Issued on 12 March 2014

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

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 27 February 2014	1 - 6
11.	Presentation of Petitions (if any)	
12.	Report of the Head of Planning and Development - Deferred Items	7
13.	MA 12 2255 NURSES HOME HERMITAGE LANE MAIDSTONE KENT ME16 9NN	8 - 64
14.	MA 13 1291 LAND TO THE NORTH OF HOWLAND ROAD MARDEN KENT	65 - 102
15.	MA 13 1315 QUARTER PADDOCKS BLETCHENDEN ROAD HEADCORN KENT TN27 9JB	103 - 131
16.	MA 13 1580 LAND AT FISHERS OAST FISHERS ROAD STAPLEHURST TONBRIDGE KENT TN12 0DD	132 - 144
17.	MA 13 1711 97 HOLLAND ROAD MAIDSTONE KENT ME14 1UN	145 - 167
18.	MA 14 0116 AYLESBURY HOUSE 56 LONDON ROAD MAIDSTONE KENT ME16 8QL	168 - 174
19.	MA 14 0175 HAZLITT THEATRE EARL STREET MAIDSTONE KENT ME14 1PL	175 - 180
20.	MA 14 0308 HAZLITT THEATRE EARL STREET MAIDSTONE KENT ME14 1PL	181 - 185
21.	Tree within grass verge of Courtlands to the south of Dolly Bees, Malling Road, Teston	186 - 192
22.	Woodland east side of Dean Street, East Farleigh, Maidstone, Kent	193 - 199
23.	Appeal List 20.03.14	200 - 201
24.	Chairman's Announcements	

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 27 FEBRUARY 2014

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

Also Present: Councillors Burton, Cuming, Lusty,
Newton, Springett, Mrs Stockell and Thick

293. **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

294. **NOTIFICATION OF SUBSTITUTE MEMBERS**

There were no Substitute Members.

295. **NOTIFICATION OF VISITING MEMBERS**

Councillors Cuming, Newton, Springett and Mrs Stockell indicated their wish to speak on the report of the Head of Planning and Development relating to application MA/13/1549.

Councillors Lusty and Thick indicated their wish to speak on the report of the Head of Planning and Development relating to application MA/13/1726.

Councillor Burton was present from 6.55 p.m. to 8.10 p.m. as an observer.

296. **ITEMS WITHDRAWN FROM THE AGENDA**

There were none.

297. **URGENT ITEMS**

Update Reports

The Chairman stated that, in his opinion, the update reports of the Head of Planning and Development should be taken as urgent items because they contained further information relating to the applications to be considered at the meeting and an application considered at a previous meeting of the Committee.

298. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Ash stated that he was a Member of Bearsted Parish Council, but he had not participated in the Parish Council's discussions regarding application MA/13/1549, and intended to speak and vote when it was considered.

With regard to the report of the Head of Planning and Development relating to application MA/13/1549, Mrs Deanne Cunningham (Team Leader, Heritage, Landscape and Design) stated that she knew a Director of Gallagher Properties Ltd (one of the applicant companies) socially. At the invitation of the Chairman, and with the agreement of the Committee, Mrs Cunningham remained in the meeting when the application was discussed to give advice if necessary.

299. EXEMPT ITEMS

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

300. MINUTES OF THE MEETING HELD ON 6 FEBRUARY 2014

RESOLVED: That the Minutes of the meeting held on 6 February 2014 be approved as a correct record and signed.

301. PRESENTATION OF PETITIONS

There were no petitions.

302. DEFERRED ITEMS

MA/13/1711 - AN APPLICATION FOR OUTLINE PLANNING PERMISSION FOR THE ERECTION OF 5 NO. TOWN HOUSES WITH ALL MATTERS RESERVED FOR FUTURE CONSIDERATION - 97 HOLLAND ROAD, MAIDSTONE, KENT

The Principal Planning Officer reported that negotiations were taking place with the applicant concerning the provision of on-site parking, having regard to the potential highway safety implications, and that it was hoped to bring the application back to the Committee in the near future.

303. MA/13/1726 - CONSTRUCTION OF A CLASS A1 RETAIL STORE, ASSOCIATED PARKING AND PETROL FILLING STATION; TRANSPORT INTERCHANGE COMPRISING BUS AND TAXI DROP-OFF/PICK UP FACILITIES, RAILWAY STATION CAR PARKING SPACES, AND COVERED WALKWAY TO EXISTING RAILWAY STATION BUILDING (TO THE SOUTH OF THE RAILWAY LINE); AND COMMUTER CAR PARK AND PUBLICLY ACCESSIBLE NATURE AREA (TO THE NORTH OF THE RAILWAY LINE). RE-SUBMISSION OF APPLICATION MA/12/0232 - LAND AT STATION APPROACH AND GEORGE STREET, STAPLEHURST, KENT

All Members stated that they had been lobbied.

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

Mr Staunton-Lambert, an objector, Councillor Kemp of Staplehurst Parish Council (against), Ms Greenhouse, for the applicant, Councillor Thick (Visiting Member) (against) and Councillor Lusty (Visiting Member) (in support) addressed the meeting.

RESOLVED: That permission be refused for the reason set out in the report as amended by the urgent update report.

Voting: 10 – For 0 – Against 3 – Abstentions

304. MA/13/1549 - HYBRID PLANNING APPLICATION (PART OUTLINE-PART DETAILED) FOR RE-GRADING OF SITE TO FORM DEVELOPMENT PLATFORMS INCLUDING THE CREATION OF NEW BUNDS AND BATTERS; THE DEVELOPMENT OF A NEW INDUSTRIAL ESTATE COMPRISING UP TO 56,000M² OF B1 OFFICE/LIGHT INDUSTRIAL, B2 GENERAL INDUSTRIAL AND B8 STORAGE AND DISTRIBUTION USES; ANCILLARY CAFE AND CRÈCHE FACILITIES; CREATION OF A NEW ACCESS TO THE A20; NEW INTERNAL ACCESS ROADS; PARKING, INTERNAL DRAINAGE, STRUCTURAL LANDSCAPING AND THE DIVERSION OF THE EXISTING PUBLIC FOOTPATH, WITH ACCESS TO BE DETERMINED AND APPEARANCE, LANDSCAPING, LAYOUT AND SCALE RESERVED FOR SUBSEQUENT APPROVAL. DETAILED PERMISSION SOUGHT FOR THE ERECTION OF A NEW WAREHOUSE BUILDING (23,533M²) AND ASSOCIATED OFFICES (4,145M²) WITH ACCESS, SERVICE YARD, PARKING AND LANDSCAPING - WATERSIDE PARK M20 J8, ASHFORD ROAD, HOLLINGBOURNE, 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.

Mr Beck, an objector, Councillor Waite of Hollingbourne and Thurnham Parish Councils and the Joint Parishes Group (against), Councillor Spooner of Bearsted Parish Council (against) Councillor China of Leeds Parish Council (against), Mr Edwards, for the applicant, and Councillors Cuming, Springett, Newton and Mrs Stockell (Visiting Members) (against) addressed the meeting.

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

Voting: 8 – For 3 – Against 2 – Abstentions

305. MA/13/1188 - ERECTION OF 4 DETACHED DWELLINGS (2X 5-BEDROOM, 1 X 4-BEDROOM AND 1 X 3-BEDROOM) TOGETHER WITH ASSOCIATED GARAGING AND PARKING AND AN EXTENSION OF AN EXISTING PRIVATE ACCESS DRIVEWAY TO SERVE THE NEW DWELLINGS - LAND ADJACENT TO SURRENDEN MEWS, HIGH STREET, STAPLEHURST, KENT

All Members stated that they had been lobbied.

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

Ms Norris, for objectors, Councillor Kemp of Staplehurst Parish Council (against) and Mr Chapman, for the applicant, addressed the meeting.

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

Voting: 12 – For 0 – Against 1 – Abstention

306. MA/13/1385 - OUTLINE APPLICATION FOR THE ERECTION OF A FOUR STOREY BUILDING COMPRISING EIGHT 1-BEDROOM FLATS WITH ACCESS, LAYOUT, SCALE AND APPEARANCE TO BE DETERMINED AND LANDSCAPING RESERVED FOR SUBSEQUENT APPROVAL - 2-8 BRUNSWICK STREET, MAIDSTONE, KENT

The Committee considered the report and the urgent update report of the Head of Planning and Development. The Principal Planning Officer informed Members that Councillor Mrs Wilson, who had requested that this application be reported to the Committee, was now satisfied that her concerns had been addressed.

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

Voting: 13 – For 0 – Against 0 – Abstentions

307. MA/13/0170 - DEMOLITION OF EXISTING BUILDINGS AND REDEVELOPMENT TO PROVIDE ONE DWELLING AND DETACHED GARAGE - THE WOODYARD, EAST STREET, HUNTON, KENT

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

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

Voting: 13 – For 0 – Against 0 – Abstentions

308. MA/13/2043 - DEMOLITION OF EXISTING GARAGE AND ERECTION OF ATTACHED HOUSE WITH ASSOCIATED WORKS INCLUDING ROOF EXTENSION TO 1 CULPEPER CLOSE - 1 CULPEPER CLOSE, HOLLINGBOURNE, 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 as amended by the urgent update report.

Voting: 13 – For 0 – Against 0 – Abstentions

309. MA/13/1867 - CHANGE OF USE OF RESTAURANT AT GROUND FLOOR LEVEL TO DOMESTIC USE IN CONNECTION WITH THE EXISTING RESIDENTIAL ACCOMMODATION AT FIRST FLOOR LEVEL - RIVERSIDE RESTAURANT, BOW BRIDGE, WATERINGBURY, KENT

Councillor Nelson-Gracie stated that he had been lobbied.

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 set out in the report and the additional condition set out in the urgent update report.

Voting: 9 – For 3 – Against 1 – Abstention

Note: Councillor J. A. Wilson requested that his dissent be recorded.

310. 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.

311. MA/11/1948 - PART RETROSPECTIVE PLANNING APPLICATION FOR THE RETENTION OF TWO LAKES KNOWN AS BRIDGES AND PUMA AND WORKS TO CREATE 3 ADDITIONAL LAKES ALL FOR RECREATIONAL FISHING, ERECTION OF CLUBHOUSE BUILDING AND ASSOCIATED WORKS AND LANDSCAPING - MONKS LAKES, STAPLEHURST ROAD, MARDEN, MAIDSTONE

The Committee considered the report of the Head of Planning and Development updating the position with regard to this application. It was noted that:

- The Council's decision in September 2012 to grant planning permission for the scheme had been challenged by a local resident. The challenge resulted in a two day hearing in the High Court where both the local resident and the Council were represented by leading Counsel. In January 2014, the High Court concluded that the 2012 planning permission should be quashed and that the Council should re-determine the application. The central finding was that the alleged ground water flooding risk to a neighbouring property needed further

consideration, and the Council was now in discussion with the site owner to rectify the issues identified in the judgement.

- The cost of external legal advice and representation amounted to £54,080 and the claimant's costs were limited to £35,000. These sums reflected the size and complexity of the case, and the Council would continue to work with all parties to find an acceptable solution.

RESOLVED: That the position be noted.

312. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that arrangements were being made for representatives of the Environment Agency and Southern Water to attend an Overview and Scrutiny Committee meeting. He suggested that rather than separate arrangements being made for a meeting of the Chairman and the Political Group Spokespersons to discuss the attendance of representatives of these organisations at meetings of the Planning Committee, it might be prudent for all Members to be invited to the meeting of the Overview and Scrutiny Committee instead.

313. DURATION OF MEETING

6.00 p.m. to 9.30 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

20 MARCH 2014

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

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.

1.2. Description of Application

Date Deferred

MA/13/1711 - AN APPLICATION FOR OUTLINE
PLANNING PERMISSION FOR THE ERECTION OF 5 NO.
TOWN HOUSES WITH ALL MATTERS RESERVED FOR
FUTURE CONSIDERATION - 97 HOLLAND ROAD,
MAIDSTONE, KENT

6 February 2014

Deferred to enable the Officers to investigate whether parking can be provided on-site and the potential highway safety implications of this.

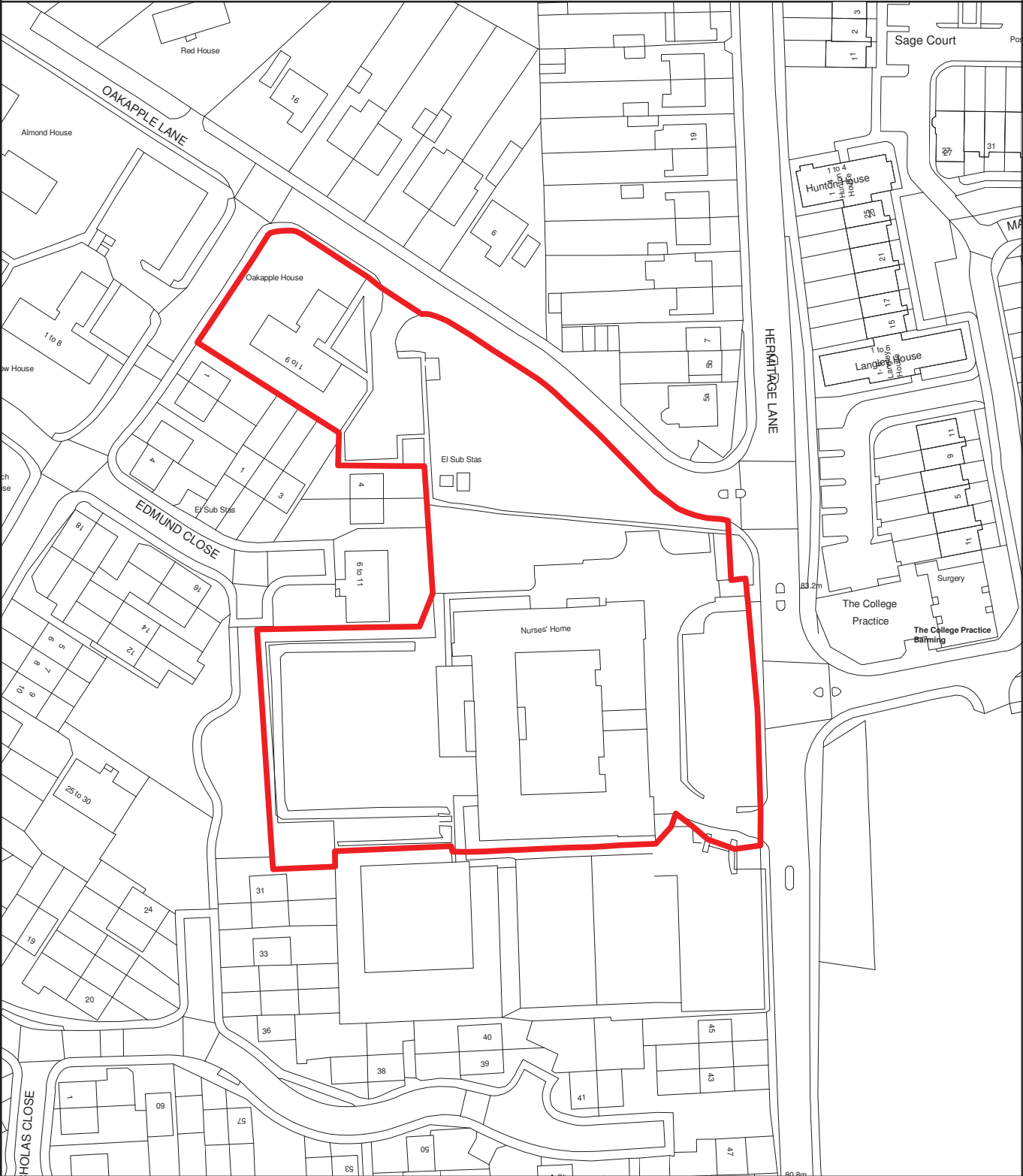
Agenda Item 13

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/12/2255

GRID REF: TQ7355

NURSES HOME, HERMITAGE LANE,
MAIDSTONE.



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Rob Jarman
Head of Planning and Development

APPLICATION: MA/12/2255 Date: 14 December 2012 Received: 18 December 2012

APPLICANT: Mr Roy Davis, Maidstone & Tunbridge Wells Hosp Trust

LOCATION: NURSES HOME, HERMITAGE LANE, MAIDSTONE, KENT, ME16 9NN

PARISH: Maidstone

PROPOSAL: Outline planning permission for the erection of 53 residential units with all matters reserved for future consideration as shown on drawings A/1, 100, 101, 102, 103, 108, 109, 110, 112 and 11150/P1 and (confidential) viability appraisal.

AGENDA DATE: 20th March 2014

CASE OFFICER: Catherine Slade

1. BACKGROUND

This application has previously been considered by Members at the Planning Committee meetings held on and 21st November 2013 and 12th December 2013. I attach copies of the reports to Planning Committee of 21st November 2013 and 12th December 2013 as Appendix 1 of this report.

- 1.1 At the earlier Planning Committee meeting on the 21st November 2013, Members resolved to defer this planning application to enable the viability of retaining and converting the existing building to be examined, and for more robust conditions to be suggested to seek to deliver a high quality development within the site. At the latter Planning Committee meeting on the 12th December 2013, following receipt of a viability assessment it was satisfactorily demonstrated that it would not be financially viable to convert the existing building for residential purposes. Further conditions and informatives were also attached to the original recommendation which sought to safeguard that any ultimate development be of a high quality scheme that would respond positively to the character and appearance of the locality, whether at reserved matters or as an application for full planning permission.
- 1.2 Subsequent to the resolution of a grant of planning permission taken by the Planning Committee at the meeting on the 12th December 2013 it has been recognised that the recommendation did not include all contributions sought by statutory consultees. In particular, the Kent County Council (KCC) contributions towards new build primary school costs, the extension of existing secondary schools, and adult social services, whilst included in the summary of

contributions sought (paragraph 3.5 of Planning Committee report MA/12/2255 21st November 2013) were not discussed in full in Section 5.10 (Section 106 Requirements) of the main text of the report, nor were they included in detail within the recommendation (Section 7 of the report), and consequently were not carried forward to the Recommendation (section 5) of the report to the Planning Committee meeting held on 12th December 2013. I attach copies of the reports to Planning Committee of 21st November 2013 and 12th December 2013 as Appendix 1 of this report.

- 1.3 The omission has been discussed with KCC who have confirmed that the comments provided in support of the application remain valid, and that a legal mechanism omitting these elements will not be considered acceptable to it being insufficient to mitigate against the impact of the development on local services and social infrastructure. I attach a copy of the request for contributions from Mouchel (on behalf of KCC) as Appendix 2 to this report.

2. Amended S106 Contribution Requirements

- 2.1 Approval is sought from the Planning Committee for the substitution of the following sums for those set out in the recommendation of the previous reports.

- (1) A minimum of 40% affordable housing;
- (2) Contributions to KCC for primary school provision local to the site (being £2,701.63 per applicable house and £675.41 per applicable flat for land acquisition **and £5,559.96 per applicable house and £1,389.99 per applicable flat towards new build costs**);
- (3) Contributions to KCC for secondary school provision local to the site (being £2,359.80 per applicable house and £589.95 per applicable flat to support extension of existing secondary schools);**
- (4) Contributions to KCC for library book stock – to be spent within Maidstone (£144.64 per dwelling or flat);
- (5) Contributions to KCC for community learning and skills – to be spent within Maidstone (£28.71 per dwelling or flat);
- (6) Adult education services – to be spent within Maidstone (£46.31 per dwelling or flat); and**
- (7) Contributions of £1,575 per residential unit for the enhancement of open space within a 1 mile radius of the application site.

- 2.2 Members will note that (2), (3) and (6) (in bold) set out in paragraph 2.1 above differ from those previously approved and I discuss these below; contributions included in the recommendation and discussed in the text of the report included in the agenda of the Planning Committee meeting held on 21st November 2013 are not discussed here as they have previously been interrogated in the previous report and agreed by the Planning Committee. Similarly, this report does not

reassess any other planning considerations previously considered in respect of this application.

- 2.3 Any request for contributions needs to be scrutinised, in accordance with Regulation 122 of Community Infrastructure Regulations 2010. These stipulate that an obligation can only be a reason for granting planning permission if it meets the following requirements: -

It is:

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

- 2.4 The County have requested that £5,559.96 per house be provided towards primary school education (or £1,389.99 per flat) in addition to the land acquisition costs previously reported to Planning Committee. These sums would contribute to a new two form entry primary school within the locality that would be required due to the additional strain placed upon the existing school network by virtue of this development. There is an identified need for primary school provision within the locality, and there is a realistic opportunity for a new school to be provided through the site allocation process of the emerging Local Plan. This contribution would go towards meeting the additional strain placed upon the school facilities within the locality, and is considered to be a reasonable sum, related to the scale of the development. I am therefore satisfied that this contribution meets the tests as set out above.

- 2.5 The County have requested that £2,359.80 per house be provided towards secondary school education (or £589.95 per applicable flat). These sums would contribute to providing additional secondary accommodation within the locality that would be required due to the additional strain placed upon the existing school network as a result of this development. There is an identified need for secondary school provision within the locality, and there is a realistic opportunity for the expansion of existing secondary school facilities. This contribution would go towards meeting the additional strain placed upon the school facilities within the locality, and is considered to be a reasonable sum, related to the scale of the development. I am therefore satisfied that this contribution meets the tests as set out above.

- 2.6 A financial contribution of £46.31 per residential unit towards adult social services in Maidstone has also been requested by the County in order to provide new and expanded integrated dementia care, co-location with Health in Maidstone, a changing place facility and assistive technologies for older people

and adults with learning or physical disabilities. Again, a significant level of justification has been submitted by the County for this provision, which would be brought about by the additional demand placed upon the facilities by the new development. I consider that the contribution would be necessary to make the development acceptable, and that it would be of a scale related to the development. I therefore consider that this would be in accordance with the regulations.

3. CONCLUSION

- 3.1 The sums sought in respect of the mitigation of the proposal on social infrastructure are considered to satisfy the tests set out in S122 of the Community Infrastructure Regulations, and I have not been provided with any substantive evidence to suggest that they should not be secured for this purpose. I am therefore satisfied that the amendments to the recommendation are reasonable and necessary, and furthermore that to fail to recommend the amendments discussed above, the Local Planning Authority would be failing in its duties.
- 3.2 I am satisfied that, subject to the mitigation set out above and the conditions set out in the previous reports pertaining to this application, the proposal would provide a high quality development, and it is for this reason that I am recommending that delegated powers be given to grant planning permission subject to the receipt of a suitable S106 legal agreement drafted in the terms set out above in paragraph 2.1.

4. RECOMMENDATION

The Head of Planning and Development be given DELEGATED POWERS to GRANT PLANNING PERMISSION subject to:

The completion of a legal agreement in such terms as the Head of Legal Services may advise providing the following:

- (1) A minimum of 40% affordable housing;
 - a. Contributions to KCC for primary school provision local to the site (being £2,701.63 per applicable house and £675.41 per applicable flat for land acquisition and £5,559.96 per applicable house and £1,389.99 per applicable flat for new build costs);
 - b. Contributions to KCC for secondary school provision local to the site (being £2,359.80 per applicable house and £589.95 per applicable flat for extension of existing secondary schools);
 - c. Contributions to KCC for library book stock – to be spent within Maidstone (£144.64 per dwelling or flat);

- d. Contributions to KCC for community learning and skills – to be spent within Maidstone (£28.71 per dwelling or flat);
- e. Adult education services – to be spent within Maidstone (£46.31 per dwelling or flat); and
- f. Contributions of £1,575 per residential unit for the enhancement of open space within a 1 mile radius of the application site.

And subject to the following conditions:

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

Reason: To ensure a satisfactory appearance to the development.

2. Details submitted pursuant to condition 1 (reserved matters submission relating to landscaping) shall include details of tree planting (small leaf lime) at regular intervals along the site frontage onto Hermitage Lane together with a landscaped area between the highway and the built development. .

Reason: In the interests of visual amenity and air quality.

3. The dwellings shall achieve at least Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.

Reason: To ensure a sustainable and energy efficient form of development in accordance with the NPPF 2012.

4. The height of the development shall be restricted to that shown on drawing no: /A/112.

Reason: To ensure that any development remains in scale and character with the area.

5. No part of the development hereby approved shall come closer than 10 metres to the back edge of the public highway fronting the site.

Reason: To ensure good landscaping provision and to secure an acceptable living environment for future occupiers in the interests of amenity.

6. The approved details of the accesses submitted pursuant to condition 1 shall be completed before the commencement of the use of the land or buildings hereby permitted and the sight lines maintained free of all obstruction to visibility above 1.0 metres thereafter;

Reason: In the interests of road safety.

7. The approved details of the parking/turning areas submitted pursuant to condition 1 shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

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

8. As part of the reserved matters submitted pursuant to condition 1, details shall be provided of the siting of a ragstone wall no less than 900mm high running along the whole site frontage. The approved wall shall in place before first occupation of the development hereby permitted and retained as such at all times thereafter.

Reason: In the interests of amenity.

9. The development shall not commence until, details of all fencing, walling (which shall include ragstone walling at the point of access, and railings) and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

10. The development shall not commence until, details of satisfactory facilities for the storage of refuse on the site have been submitted to and approved in writing by the Local Planning Authority and the approved facilities shall be provided

before the first occupation of the buildings or land and maintained thereafter;

Reason: No such details have been submitted and in the interest of amenity.

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

Reason: To ensure a satisfactory setting and external appearance to the development.

12. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

13. The development shall not commence until details of the proposed materials to be used in the surfacing of all access roads, parking and turning areas and pathways within the site, and the design of kerb-stones/crossing points which shall be of a wildlife friendly design, have been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To ensure a high quality external appearance to the development.

14. The development shall not commence until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of

measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area in general.

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

Reason: In the interest of pollution and flood prevention.

16. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reasons: To protect vulnerable groundwater resources.

17. No development shall take place until a sample panel of the ragstone wall, and brickwork has been constructed on site, and agreed in writing by the Local Planning Authority. Such details as are approved shall be fully implemented on site.

Reason: To ensure a high quality design.

18. No development shall take place until the applicants or their successors in title have submitted a full Transport Assessment which shall include the full mitigation required to address the harm of the proposal upon the highway network. Any mitigation that is required shall be provided prior to the first occupation of the dwellings hereby permitted, unless otherwise agreed in writing.

Reason: In the interests of highway safety.

19. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-
 - a. Layout
 - b. Scale
 - c. Appearance
 - d. Access
 - e. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

20. No demolition of the existing building (Nurses Home) on site shall take place until a photographic record of its exterior and interior has been completed, and made available to a local public archive centre.

Reason: In order to retain an historical record of this important non-designated heritage asset.

21. Pursuant to condition 1 a full arboricultural report, to the necessary standard shall be completed, and shall be submitted as part of any submission in order to address both the layout and the landscaping provision of any subsequent reserved matters application.

Reason: To seek to protect the existing trees and to ensure a high quality layout.

Informatives set out below

You are advised that Southern Water seeks to emphasise the development must be served by adequate infrastructure.

Given that the nurse's home is an imposing and prominent building only a building of exceptional design quality and detailing will be considered acceptable as a replacement. You are therefore advised that the proposed indicative design for the building to replace the nurse's home is wholly unacceptable on design grounds, and that any proposal that comes forward on this site would need to be of a high standard of design to reflect its historic setting. Should a contemporary approach be taken, the development would be required to have a high level of articulation, and high quality detailing, responding positively to the character and appearance of the locality, and to mitigate the loss of the existing building.

It is considered that the indicative layout concept generally represents an appropriate response in unlocking the development potential of this site in an acceptable manner. Nevertheless, and reserved matters application should incorporate a significant increase in soft landscaping to the front of the site

(fronting Hermitage Lane), with the proposed car parking at a reduced level and well screened from the public vantage point.

You are advised that the indicative layout shows potential privacy conflicts between 1st/2nd floor windows in the flats looking down into the rear garden of the houses attached to the flats. This will need to be addressed at the reserved matters stage

Any reserved matters application should incorporate features to enhance biodiversity within the application site. The use of bat boxes, swift bricks, log piles (where appropriate) and a suitable landscaping scheme is requested to form part of any future submission.

Any layout as submitted at reserved matters stage should respond positively to the siting and form of existing trees within the application site. Where possible, trees of value should be retained and utilised as positive features of any development.

The design of the any proposed buildings within the site, and particularly those along the Hermitage Lane frontage shall be designed in such a way as to provide a good level of articulation, and 'layering' along the key elevations. These buildings should respond positively to the quality development within the locality, and to take reference from the existing building.

Any building upon the Hermitage Lane frontage shall be provided with high quality fenestration, which shall respond to the form and quality of the existing building upon the site.

The importance of providing a varied roofscape within the application site shall be fully considered when any reserved matters applications are formalised, and thereafter submitted.

If any commemorative plaque referring to the opening of the building is located, then the applicants, or successors in title, are encouraged to seek to retain this feature within any new development upon the applicant site.

APPENDIX

APPLICATION: MA/12/2255 Date: 14 December 2012 Received: 18 December 2012

APPLICANT: Mr Roy Davis, Maidstone & Tunbridge Wells Hosp Trust

LOCATION: NURSES HOME, HERMITAGE LANE, MAIDSTONE, KENT, ME16 9NN

PARISH: Maidstone

PROPOSAL: Outline planning permission for the erection of 53 residential units with all matters reserved for future consideration as shown on drawings A/1, 100, 101, 102, 103, 108, 109, 110, 112 and 11150/P1 and (confidential) viability appraisal.

AGENDA DATE: 12th December 2013

CASE OFFICER: Chris Hawkins

1. BACKGROUND

- 1.1** At the previous Planning Committee meeting on the 21 November 2013, Members resolved to defer this planning application to enable the viability of the existing building to be examined, and for more robust conditions to be suggested to seek to deliver a high quality development within the site.

2. VIABILITY

- 2.1** In terms of the viability report, this has now been circulated to all Members of the Planning Committee, for them to view. It was circulated in advance as it consists of some 280 pages, and therefore would take some time to digest.
- 2.2** The report sets out that in 2009 it was proposed to convert the accommodation into office use, and for use as a birthing centre. However, the cost of this conversion would have been in excess of £6m. In addition to the conversion costs of such a development, the ongoing maintenance of the building would have been a figure in excess of £5m. Particular issues raised are the requirement for new windows to be installed, a new roof, and a full upgrade of all internal fittings, including lighting, power systems, and security systems. It is also likely that there would be a significant amount of asbestos within the building that would need to be removed – the cost of this is estimated at £100,000.
- 2.3** This demonstrates a significant cost to any developer, or potential purchaser to retain the building.

APPENDIX

- 2.4 In terms of its conversion to living accommodation, the applicants opine that the building is too narrow to accommodate modern housing standards. The existing building would only allow for long, thin, rooms, with poor internal circulation. I agree with this assessment, having seen the building on site.
- 2.5 As such, any conversion of the building would require the removal of a significant number of internal walls, many of which would be load bearing. The costs of this would be in excess of the conversion costs given above. I therefore conclude that it would not be financially viable to convert the existing building for residential purposes.
- 2.6 It is my opinion however, that the viability report is not the crucial factor in the determination of the application, but rather a background paper for consideration. As set out within the previous report (which is appended to this report), the Council currently has a shortfall in its 5 year housing supply. There is a need to provide housing sites within the Borough, in sustainable locations, whether they be brownfield sites, or (less preferably in many instances) greenfield sites. In this case, the proposal is for the demolition of an unlisted building, within a sustainable location. To my mind, this carries significant weight when formulating my recommendation. Brownfield sites within urban areas remain preferable, both at a local and a national level when determining applications, and allocating sites.

3. CONDITIONS

- 3.1 Members raised concerns at the previous meeting with regards to ensuring that the conditions placed upon the outline planning application ensured a high quality of development would be delivered at the reserved matters stage. To this effect, conditions were already suggested requiring the following detail (amongst others) to be provided:
- Level 4 of the Code for Sustainable Homes;
 - Tree planting to be provided along the Hermitage Lane frontage;
 - Restriction of heights of the buildings to that currently shown;
 - A soft buffer of 10metre from the rear of the existing highway;
 - The provision of a ragstone wall along the site frontage – 900mm in height.
- 3.2 Informatives were also suggested that would provide the following advice to any future developer:
- Any replacement building will be required to be of exceptional design quality to mitigate the loss of the existing building;

APPENDIX

- The layout should address the position of the existing trees – be a landscape led approach;
 - Any reserved matters application should include the provision of swift bricks/bat boxes and log piles (where appropriate).
- 3.3 However, following the concerns raised, that the conditions could be made more robust, this has been re-assessed. As such, additional conditions are suggested that would address the following matters:
- Specific details of tree planting and landscaping along the road frontage;
 - Materials to reflect the local vernacular;
 - Retention of any trees of value within the site.
- 3.4 I would also suggest that the following matters be addressed through informatives upon any permission granted:
- Articulation of the buildings;
 - Details of fenestration;
 - The proposal should provide a varied roofscape.
- 3.5 Should these additional conditions and informatives be included, I am of the view that the outline proposal would provide any future developer/owner with a robust framework within which they could develop a high quality scheme, that would respond positively to the character and appearance of the locality.
- 4. Conclusion**
- 4.1 As set out within the previous report, whilst the loss of the existing building is regrettable, as it is a building of some merit, the Council currently has a shortfall in housing provision for the next five years. This, together with the condition of the existing building, and the problems indicated with its conversion – which in any event is not proposed – leads me to conclude that its loss is acceptable.
- 4.2 Clearly, as a non-listed building, it could be demolished in any event – something which has to carry some weight when determining the application.
- 4.3 This site has however a former residential use, and is a brownfield site, within a sustainable location; I therefore consider it suitable in principle for residential use.
- 4.4 Members raised concerns at the last meeting with regards to ensuring that the conditions imposed provided a 'framework' to secure a high quality design. Additional conditions and informatives have been suggested to address this

APPENDIX

concern. Whilst there are no numerous additions, these have been made with Circular 11/95 in mind, and the specific tests that are required to be applied.

- 4.5 I am satisfied however, that the proposal would now provide a high quality development, and it is for this reason that I am recommending that delegated powers be given, to grant planning permission subject to the receipt of a suitable S106 legal agreement.

5. **RECOMMENDATION**

The Head of Planning and Development be given DELEGATED POWERS to APPROVE subject to:

The completion of a legal agreement providing the following:

- (1) A minimum of 40% affordable housing;
 - (1) Contributions to KCC for primary school provision (£2,701.63 per dwelling and £675.41 per applicable flat);
 - (2) Contributions to KCC for library book stock – to be spent within Maidstone (£144.64 per dwelling or flat);
 - (3) Contributions to KCC for community learning and skills – to be spent within Maidstone (£28.71 per dwelling or flat)
 - (4) Contributions of £1,575 per residential unit for the enhancement of open space within a 1 mile radius of the application site.
1. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;
- Reason: To ensure a satisfactory appearance to the development.
2. Details submitted pursuant to condition 1 (reserved matters submission relating to landscaping) shall include details of tree planting (small leaf lime) at regular intervals along the site frontage onto Hermitage Lane together with a landscaped area between the highway and the built development. .
- Reason: In the interests of visual amenity and air quality.
3. The dwellings shall achieve at least Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.

APPENDIX

Reason: To ensure a sustainable and energy efficient form of development in accordance with the NPPF 2012.

4. The height of the development shall be restricted to that shown on drawing no: /A/112.

Reason: To ensure that any development remains in scale and character with the area.

5. No part of the development hereby approved shall come closer than 10 metres to the back edge of the public highway fronting the site.

Reason: To ensure good landscaping provision and to secure an acceptable living environment for future occupiers in the interests of amenity.

6. The approved details of the accesses submitted pursuant to condition 1 shall be completed before the commencement of the use of the land or buildings hereby permitted and the sight lines maintained free of all obstruction to visibility above 1.0 metres thereafter;

Reason: In the interests of road safety.

7. The approved details of the parking/turning areas submitted pursuant to condition 1 shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

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

8. As part of the reserved matters submitted pursuant to condition 1, details shall be provided of the siting of a ragstone wall no less than 900mm high running along the whole site frontage. The approved wall shall in place before first occupation of the development hereby permitted and retained as such at all times thereafter.

Reason: In the interests of amenity.

APPENDIX

9. The development shall not commence until, details of all fencing, walling (which shall include ragstone walling at the point of access, and railings) and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

10. The development shall not commence until, details of satisfactory facilities for the storage of refuse on the site have been submitted to and approved in writing by the Local Planning Authority and the approved facilities shall be provided before the first occupation of the buildings or land and maintained thereafter;

Reason: No such details have been submitted and in the interest of amenity.

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

Reason: To ensure a satisfactory setting and external appearance to the development.

12. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

APPENDIX

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

13. The development shall not commence until details of the proposed materials to be used in the surfacing of all access roads, parking and turning areas and pathways within the site, and the design of kerb-stones/crossing points which shall be of a wildlife friendly design, have been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To ensure a high quality external appearance to the development.

14. The development shall not commence until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area in general.

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

Reason: In the interest of pollution and flood prevention.

16. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reasons: To protect vulnerable groundwater resources.

17. No development shall take place until a sample panel of the ragstone wall, and brickwork has been constructed on site, and agreed in writing by the Local Planning Authority. Such details as are approved shall be fully implemented on site.

APPENDIX

Reason: To ensure a high quality design.

18. No development shall take place until the applicants or their successors in title have submitted a full Transport Assessment which shall include the full mitigation required to address the harm of the proposal upon the highway network. Any mitigation that is required shall be provided prior to the first occupation of the dwellings hereby permitted, unless otherwise agreed in writing.

Reason: In the interests of highway safety.

19. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

a. Layout b. Scale c. Appearance d. Access e. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

20. No demolition of the existing building (Nurses Home) on site shall take place until a photographic record of its exterior and interior has been completed, and made available to a local public archive centre.

Reason: In order to retain an historical record of this important non-designated heritage asset.

21. Pursuant to condition 1 a full arboricultural report, to the necessary standard shall be completed, and shall be submitted as part of any submission in order to address both the layout and the landscaping provision of any subsequent reserved matters application.

Reason: To seek to protect the existing trees and to ensure a high quality layout.

Informatives set out below

You are advised that Southern Water seeks to emphasise the development must be served by adequate infrastructure.

APPENDIX

Given that the nurse's home is an imposing and prominent building only a building of exceptional design quality and detailing will be considered acceptable as a replacement. You are therefore advised that the proposed indicative design for the building to replace the nurse's home is wholly unacceptable on design grounds, and that any proposal that comes forward on this site would need to be of a high standard of design to reflect its historic setting. Should a contemporary approach be taken, the development would be required to have a high level of articulation, and high quality detailing, responding positively to the character and appearance of the locality, and to mitigate the loss of the existing building.

It is considered that the indicative layout concept generally represents an appropriate response in unlocking the development potential of this site in an acceptable manner. Nevertheless, any reserved matters application should incorporate a significant increase in soft landscaping to the front of the site (fronting Hermitage Lane), with the proposed car parking at a reduced level and well screened from the public vantage point.

You are advised that the indicative layout shows potential privacy conflicts between 1st/2nd floor windows in the flats looking down into the rear garden of the houses attached to the flats. This will need to be addressed at the reserved matters stage

Any reserved matters application should incorporate features to enhance biodiversity within the application site. The use of bat boxes, swift bricks, log piles (where appropriate) and a suitable landscaping scheme is requested to form part of any future submission.

Any layout as submitted at reserved matters stage should respond positively to the siting and form of existing trees within the application site. Where possible, trees of value should be retained and utilised as positive features of any development.

The design of the any proposed buildings within the site, and particularly those along the Hermitage Lane frontage shall be designed in such a way as to provide a good level of articulation, and 'layering' along the key elevations. These buildings should respond positively to the quality development within the locality, and to take reference from the existing building.

Any building upon the Hermitage Lane frontage shall be provided with high quality fenestration, which shall respond to the form and quality of the existing building upon the site.

The importance of providing a varied roofscape within the application site shall be fully considered when any reserved matters applications are formalised, and thereafter submitted.

APPENDIX

APPLICATION: MA/12/2255 Date: 14 December 2012 Received: 18 December 2012

APPLICANT: Mr Roy Davis, Maidstone & Tunbridge Wells Hosp Trust

LOCATION: NURSES HOME, HERMITAGE LANE, MAIDSTONE, KENT, ME16 9NN

PARISH: Maidstone

PROPOSAL: Outline planning permission for the erection of 53 residential units with all matters reserved for future consideration as shown on drawings A/1, 100, 101, 102, 103, 108, 109, 110, 112 and 11150/P1.

AGENDA DATE: 21st November 2013

CASE OFFICER: Chris Hawkins

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

- Councillor Gooch and Councillor Vizzard have requested it be reported for the reason set out in the report.

1. **POLICIES**

Maidstone Borough-Wide Local Plan 2000: ENV6, CF1, T13
Government Policy: National Planning Policy Framework (2012).

2. **RELEVANT HISTORY**

MA/10/0365: Conversion of nurses home and training accommodation to office premises and training facility including demolition of existing rear extension the addition of disabled access ramps to external doors and the creation of an additional 61 car parking spaces with associated landscaping – APPROVED-01-Jun-2010

3. **CONSULTATIONS**

- 3.1 **Maidstone Borough Council Parks and Open Space Officer:** Raises no objection subject to contributions of £1,575 per dwelling being sought. These contributions would be spent on the enhancement of open spaces within the locality of the application site.

APPENDIX

3.2 Maidstone Borough Council Conservation Officer made the following comments:

- 3.2.1 'The site contains two existing buildings – the original, large Nurses' Home and Oakapple House, a smaller building of late 20th Century date. The latter is a building of no architectural or historic value and I have no objections to its demolition, but the original home is a grand building of architectural quality, historic interest and townscape importance which I consider should be regarded as a non-designated heritage asset.
- 3.2.2 The NPPF refers to the importance of heritage assets as a consideration when determining planning applications. Paragraph 131 states that in determining planning applications local planning authorities should take account of:
- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.
- 3.2.3 Heritage assets are defined in the NPPF as:
- 3.2.4 "A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing)".
- 3.2.5 The Historic Environment Planning Practice Guide originally published to accompany and elucidate PPS5 still remains as the latest Government guidance on historic environment matters and was not cancelled with the PPS. The Practice Guide describes the distinction between designated heritage assets, which include listed buildings, conservation areas, scheduled ancient monuments and registered parks and gardens, and other heritage assets which are not the subject of national or statutory designations but nevertheless have heritage value in their local area. Paragraph 15 of the Practice Guide notes that these may be formally identified by a local authority, for example by local listing, but continues to say that the "process of deciding planning permissions...may also lead to the recognition that a heritage asset has a significance that merits some degree of protection."
- 3.2.6 The original nurses' home comprises a large and impressive building developed around a central courtyard. It is in an attractive neo-Georgian style with Baroque touches to the impressive central gateway feature. It was designed by the Kent

APPENDIX

County Architect, Wilfrid Harold Robinson, probably in 1926. It was formally opened on 7th June 1927 by H R H The Princess Mary, an event which was extensively covered in The British Journal of Nursing in July 1927, which noted:-

3.2.7 "...the many excellencies of the design selected. A handsome, substantial, red-brick building, standing four square on rising ground, with steeply pitched roof covered with red tiles, and having dormer windows, being painted white, it is a Home to which the Nurses of the Hospital can point with pride, as comparable with any, and superior to most, of the Nurses' Homes attached to hospitals in this country. Owing to the form adopted every room is light and airy, looking out either on to the green sward of the quadrangle, or over the beautiful Kentish Downs"

3.2.8 The Home not only provided living accommodation for the nurses but also acted as a training centre and included a lecture room, a silent room, a demonstration room and recreation rooms.

3.2.9 I am of the opinion that this building should be considered as a non-designated heritage asset for the following reasons:-

- i) Architectural Quality – it is a fine example of the inter-war neo-Georgian style which was particularly popular for civic and public architecture at the time. Buildings by the architect, W H Robinson, were widely published in the architectural press of the day.
- i) Townscape Quality – it is an impressive building which is a prominent feature in Hermitage Lane and adds to local distinctiveness.
- ii) Group Value – although separated by Hermitage Lane, the Nurses' Home forms a good group with the statutorily listed original hospital buildings to which it was also functionally related. It adds to the significance of this group of listed buildings.
- iii) Social Historical Value – it is a fine example of a modern nurses' home of its day, a period when such facilities were expanding with the increasing view of nursing as a profession trying to attract a well-educated intake. It is particularly apposite that such a well-regarded facility was provided at Oakwood Hospital which had gained a reputation as being one of the more progressive mental hospitals in the early 20th Century.

3.2.10 Paragraph 135 of the NPPF states that:-

3.2.11 "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of harm or loss and the significance of the heritage asset"

APPENDIX

3.2.12 In this particular instance, total demolition of the heritage asset is proposed, amounting to substantial harm to its significance; I also consider that harm would be caused to the significance of the listed buildings at the Oakwood Hospital site by the loss of this important ancillary facility.

3.2.13 I am not persuaded that the existing building could not be converted to some other viable use – either residential or office would seem to be possible – and should not, in my view, be any more difficult to achieve than the conversion of the listed hospital buildings already carried out on the main site. If the building were retained, additional new-build accommodation could still be developed on the remainder of the site. Although the current application is in outline with all matters reserved, reasonably detailed plans and elevations have been submitted as illustrative material; these do not indicate a scheme of equivalent or better architectural quality to that exhibited by the existing building. It does not appear to make a positive contribution to local character and distinctiveness.

3.2.14 Examples of appeal decisions exist elsewhere where development proposals have been dismissed on the grounds of loss of non designated heritage assets.'

3.3 Kent Highway Services; No objection subject to provision of a Transport Assessment with any reserve matters planning application, should this application be approved. **Chase**

3.4 Southern Water: Raised matter of capacity within the locality but are satisfied **that an informative upon any permission would suffice** to ensure that the proposal would provide adequate infrastructure.

3.5 KCC Developer Contributions: These are sought as follows:

- Primary School Requirements: Identification and acquisition of a new primary school site local to the development. This is to be funded on the basis of £1389.99 per applicable flat and £5559.96 per applicable house towards the new build costs. An additional contribution is sought of £675.41 per applicable flat and £2701.63 per applicable house for land acquisition costs.
- Secondary Schools: Funding to support extension of existing secondary school local to the site on the basis of £589.95 per applicable flat and £2359.80 per applicable house.
- Local Libraries: £7667.64
- Community Learning: 1521.57
- Adult Social Services: 2454.68

3.6 UK Power Networks: No objection.

APPENDIX

4. **REPRESENTATIONS**

4.1 Councillors Vizzard and Moss were consulted and made the following comments:

4.1.1 'The proposed application will have a great impact to the existing poor road infrastructure. As a nurses home, the building formally served Maidstone Hospital and prior to that, Oakwood Hospital with nursing staff. This meant little or no vehicular movement as the staff simply walked across the road.

4.1.2 If this application is granted, a building of local historical value will be lost and, with the provision of over 50 houses, create something in excess of 200 vehicle movements daily onto an already excessively used, poor road network that has been in excess of its design capacity for many years.

4.1.3 The Integrated Transport Strategy had identified this area of Hermitage Lane as being in need of both air quality improvement and traffic management improvement at the junctions.

4.1.4 A further 200 additional traffic movements will cause harm to the residents in health problems and cause immense inconvenience and danger from the traffic. This brings into question, the volume of properties proposed to be built on the site.'

4.2 Neighbouring properties were notified and three letters of objection have been received. The concerns raised in these letters are summarised below:

- Noise;
- Increased traffic;
- More careless and inconsiderate parking;
- A greater risk of road accidents;
- Further difficulties with access to and from our estate;
- General disruption during development;
- The design is poor;
- The number of units proposed is excessive;
- Impact upon the existing trees;
- Where will all of the bins go?
- Will there be sufficient bicycle storage?
- Will the properties be built to a lifetime homes standard?
- The proposal would change the character and appearance of the locality;
- A buffer zone of planting should be provided to protect existing residents;
- The density should be reduced.

APPENDIX

4.3 In addition, Teston Parish Council (the site does not fall within their Parish) made the following representation:

4.3.1 The proposed application will have a great impact to the existing poor road infrastructure. As a nurses home, the building formally served Maidstone Hospital and prior to that, Oakwood Hospital with nursing staff. This meant little or no vehicular movement as the staff simply walked across the road. If this application is granted, a building of local historical value will be lost and, with the provision of over 50 houses, create something that is in excess of its design capacity for many years.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site is located within the urban confines of Maidstone. The nurses building, which is unoccupied, occupies an extremely prominent position on the west side of Hermitage Lane just opposite the junction with Marigold Way. The site also fronts Oakapple Lane to the north.

5.1.2 Immediately in front of the nurses building fronting Hermitage Lane is an area of hardstanding used for parking. The nurses building has a rectangular footprint set around a quadrangle. Immediately abutting the building to the north and east are open areas. Abutting these areas are a mix of mainly two storey residential development however abutting the north west corner of the site is a three storey block of flats.

5.1.3 On the opposite side of Hermitage Lane the street scene is characterised by a wide grass verge and footpath. Beyond this is a ragstone wall which is a significant boundary feature along this part of Hermitage Lane separating the road from new housing and existing open space.

5.1.4 In a wider context the area has been the subject of significant recent, mainly housing development, principally in the form of terraced housing and flats.

5.2 Proposal

5.2.1 Outline planning permission is sought, with all matter reserved, to redevelop the site for 53 dwellings (involving demolition of the nurses building and Oakapple House) and development on the open areas abutting the site to the north and west. The application has been accompanied by indicative design and layout details seeking to demonstrate that it is possible to develop the site for the

APPENDIX

number of units proposed while still meeting the Councils design and layout standards.

5.2.2 A dwelling mix has been specified being 12 no: 4 bedroom three storey houses, 4 no: 4 bedroom two storey houses though with rooms in the roof; 8 no: 3 bed three storey houses as affordable rented units, 5 no: 3 bed three storey houses for private sale along with 6 no: two bedroom flats and 18 no: 1 bed flats. The applicants advise that the affordable units will be 'lifetime' homes while the private houses would have the capacity to meet lifetime homes standard if required.

5.2.3 The indicative site layout shows a U shaped three storey block fronting Hermitage Road and separated from it by an area of communal parking. The forward line of the block shows it coming significantly closer to the Hermitage Lane than the existing nurses building.

5.2.4 To the rear/west of the block, the currently open area is shown developed by a mix of terrace and semi-detached houses. To the north of the proposed U shaped block and on currently open land, three storey terraced development is shown while fronting onto Oakapple Lane and returning along Springwood Road for a short distance two storey terraced housing is proposed.

5.2.5 Indicative vehicular site access is shown being gained onto Hermitage Road and Oakapple Lane.

5.3 Determining Issues:

5.3.1 The key issues in relation to this proposal are considered to be as follows being (a) Principle (b) Density (c) Loss of non- designated heritage asset (c) Design and layout (d) Impact on development overlooking and abutting the site (e) highway and parking considerations (f) sustainability and (g) affordable housing and developer contributions.

5.4 Principle of Development

5.4.1 The application site lies within the urban area on brownfield i.e. previously developed land. The site occupies a sustainable location well related to existing infrastructure, services and public transport. Irrespective of the Council's position regarding the five year supply of housing land and emerging Local Plan, given (a) the general presumption in favour of sustainable development in built up areas and (b) the past use of the site for nurse's accommodation, no objection is identified to the principle of redeveloping the site for housing and matters therefore turn on detailed considerations.

APPENDIX

5.4.2 The Council do not currently have a five year land supply for housing, and as such, the provision of new housing is a strong material consideration in the determination of planning applications. This is not to say that it overrides all other considerations, but that it gains increased weight when a 'balancing up' exercise is undertaken. In this instance, as this is a brownfield site, within the urban area, with facilities close by, this is a suitable site for housing provision.

5.5 Density:

5.5.1 Concern has been raised that the density of development is excessive and will appear out of character with the local area. However in assessing the impact of density regard must be had to existing built mass commitments on a site. In this case, there is already the significant bulk and site coverage of the existing nurses home. Whilst the plans are illustrative, it is shown that it would be possible to erect on the footprint of this a building of similar size and scale to accommodate both flats and three storey houses. This would sit comfortably within the pattern and grain of the existing development.

5.5.2 Turning to the remainder of the development, this comprises a mix of mainly two and three storey terraced houses. As such it is not dissimilar in density terms to the mix of flats and houses already characterising the immediate area. Again, this is illustrative only, and as such, I am of the view that alternative layouts could be achieved within the site. This may result in a lower density, but likewise, should more flats be incorporated see the density increase. To my mind, the key consideration is the scale, and the form of the blocks, and the ability for these to assimilate with the development within the locality.

5.5.3 There is also the need to maximise the development potential of a site where the opportunity exists. Given the sustainable location of the site and nature of the surrounding area, it is considered that subject to the development meeting accepted planning criteria, it represents an appropriate response to securing the proposed development mix.

5.5.4 As such it is considered that it would be difficult to sustain an objection on development density having regard to the existing character of the site and that of the surrounding area.

5.6 Loss of non-designated heritage asset

5.6.1 A key concern raised in connection with this application is the loss of the nurses building. This is an imposing building of some character and historic significance occupying a highly prominent position in the street scene. While not Listed it is considered to represent a Non Designated Heritage Asset as set out in the NPPF.

APPENDIX

- 5.6.2 Given the weight that must be afforded to heritage issues and the significance of this building on the local area, the Council must first be satisfied that it is not possible to renovate the building and incorporate it into a development package for the site before agreeing to its demolition. Certainly the Council's own heritage advisor is strongly opposed to the demolition of the building given its architectural and historic significance while he also contends that its loss would harm the significance of the listed buildings at the Oakwood Hospital site.
- 5.6.3 The applicants advise that the building is surplus to requirements of the Hospital Trust no longer providing facilities meeting modern standards. Furthermore the building has a maintenance backlog such that the Trust no longer considers it viable to refurbish and reuse it.
- 5.6.4 Nevertheless, it is considered that demolition of this non-designated heritage asset would represent a considerable loss to the area. As such its loss can only be justified on the basis that the building had deteriorated to such an extent that it was wholly unviable to restore and that its retention would stand in the way of much needed housing.
- 5.6.5 The applicant has submitted a viability report which it is considered, demonstrates that it is not viable to convert the building to housing or be retained as part of wider proposals capable of delivering a viable housing scheme. It should also be noted that the building, although prominent, is not listed, and as such could be lost in any event. As such, given the pressing need for housing in Maidstone and in order to minimise the possibility of releasing fresh land for housing outside the existing built confines, though highly regrettable, it is considered that, on balance, the loss of this significant, imposing and highly prominent heritage asset is justified in the circumstances.

5.6 Design and layout considerations:

- 5.6.1 Acknowledging that loss of the nursing building is justified for the reasons set out above, it needs to be assessed whether the indicative siting and layout details demonstrate that the site can be redeveloped for the number of units proposed in an acceptable manner.
- 5.6.2 Given the imposing physical presence and highly articulated detailing of the heritage asset to be lost and the longstanding impact that this building has had on the urban fabric, grain and character of the wider area, any building replacing it must self-evidently be of sufficient design quality and presence to replicate this impact.
- 5.6.3 The indicative size and siting details of the U shaped block intended to replace the nurse's home show a three storey building having a similar frontage width

APPENDIX

and height coming slightly closer to Hermitage Lane. Given the design quality and presence of the nurse's home, any replacement building of contemporary design must, it is considered, be of exceptional design quality to compensate for what is being lost. It must also be taken into account that development surrounding the nursing home is all relatively recent. The nursing home represents to all intents the last remaining heritage asset in this section of Hermitage Lane and its very difference compared to modern development surrounding and encroaching onto its setting, further emphasises the need to ensure that any replacement building seeks to replicate this. I would however, not expect to see the large amount of car parking provision to the front of the site, as set out within the submitted plans, instead, the provision of soft landscaping should be encouraged here at reserved matters stage.

5.6.4 The applicants state that the replacement building is intended to take on a townhouse form with projecting bay windows lending a vertical emphasis with the main elevations having a render finish. The long façade facing onto the key Hermitage Lane frontage when compared to the highly articulated nursing home façade, lacks design articulation and visual interest not helped by the suggested use of render. As such it is not considered that the illustrative details indicate a scheme of equivalent or better architectural quality to that exhibited by the existing building while failing to make a sufficiently positive contribution to local character and distinctiveness. As this is outline in form at present, and because the plans are illustrative only, I am satisfied that this can be addressed within any future submission – appearance is not for consideration at this stage.

5.6.5 As such, any permission which may be granted should include an informative making clear that the proposed indicative design substantially fails to meet the design threshold acceptable as a replacement for the nurse's home.

5.6.6 Moving onto the remaining elements of the proposal, it is considered that the principle of a three storey block sited to the north of and set well back from Hermitage Lane, will respect the primacy and setting of the main block fronting Hermitage Lane. This approach will, it is considered help retain the 'memory' of the former nurses home as the prime building along this part of Hermitage Lane. It is also considered that this siting will not materially harm the outlook of the flats and houses abutting the site to the west.

5.6.7 Regarding the two storey housing fronting Oakapple Lane and returning for a short distance along Springwood Road, and that proposed to the west of the U block, given the character and layout of prevailing development, no objection is raised to the indicative design and layout approach of these parts of the development.

APPENDIX

- 5.6.8 As a general comment, it is considered that the indicative layout demonstrates that it is possible to achieve block spacing, privacy and garden size standards for development of the scale proposed. Regarding the flats fronting Hermitage Lane in the U Block, a small private communal space is shown to serve these and in conjunction with the likely provision of balconies provides sufficient indication that the need of the occupants of the flats can also be met. The only significant conflict relates to potential privacy issues from 1st/2nd floor windows in the flats looking down into the rear garden of the houses attached to the flats. At this stage there is no indication how this could be addressed but by a combination of the use of oriel windows and internal flat layout, there is no reason why this could not be satisfactorily resolved.
- 5.6.9 There is also the matter of parking provision and the indicative layout shows mainly communal parking scattered in relatively small parcels around the site. It is considered that this demonstrates that the site is capable meeting parking requirements in a manner that can be acceptably integrated into the wider layout.
- 5.6.10 The layout also shows areas of communal open space/landscaping mainly on the site frontage and along Oakapple Lane. Given that the nurse's home stands in an open landscaped setting, it is considered that the proposed landscape approach will serve to maintain this impression when seen from the principal Hermitage Lane perspective.
- 5.6.11 The key landscaping area to be secured is along the Hermitage Lane frontage. Bearing in mind that surrounding development includes the provision of ragstone walls with planting, it is considered that this proposal should also reflect this approach. A condition is therefore recommended requiring provision of a ragstone wall no less than 900mm high along the whole site frontage in a position to be agreed with tree planting at regular intervals along its length.
- 5.6.12 It is also recommended that a condition be imposed requiring development to be set back at least 10 metres from the highway, to ensure good landscaping provision and to secure an acceptable living environment for future occupiers.
- 5.6.13 It would also normally be the case for a development of this size and dwelling mix to incorporate an area set aside for on site play provision. No such provision is being made. However subject to the applicants entering into a legal agreement to secure financial contributions to carry out improvements to nearby play areas likely to be used by children from the development, it considered that matter of play provision can be addressed.
- 5.6.14 Finally it is considered that though the illustrative proposal is generally unacceptable in design terms, the indicative layout provides a largely acceptable

APPENDIX

solution to unlocking the development potential of the site for the proposed number of units – the purpose of this outline submission. In addition, to ensure that any development remains in scale and character with the area the height of the development should be restricted to that shown.

5.7 Impact on development overlooking and abutting the site

- 5.7.1 The negative impact of the development on the Hermitage Lane street scene has already been addressed above. With regards to any material impact on residential amenity of houses abutting and overlooking the site in Oakapple Lane and Springwood Road, the indicative layout shows that existing flank to flank siting arrangements and separation distances are capable of being maintained. As such it is considered that the indicative details demonstrate that the site can be developed at the scale proposed without materially harming the amenity of houses abutting and overlooking the site in Oakapple Lane and Springwood Road.

5.8 Highway and parking considerations

- 5.8.1 Concern has been raised regards the impact upon the existing road network should planning permission be granted on this site. As Members are aware, significant work has been undertaken with regards to the potential strategic sites within the locality. Given the potential existing use of the site, and given that the application does not provide details of numbers of units at present, I consider it appropriate, should permission be granted to request the submission of a full Transport Assessment as part of any reserved matters application. This would identify the level of harm to the nearby highway, together with the mitigation that would be required to address this harm.
- 5.8.2 I am mindful of the potential existing use of the site, as well as the potential use for offices which has previously been approved. This previous permission included the provision of an additional 61 parking spaces. This site lies on a busy road, but it is not considered that the additional movements are likely to be unacceptable, subject to mitigation being provided, once the number of units proposed is known.
- 5.8.3 The draft Integrated Transport Strategy has identified a number of particular projects that would require funding should housing proposals come forward within the North West of Maidstone. However, these have not yet been through full consultation, and the strategy has not yet been adopted. As such, it would be inappropriate to seek specific contributions to any enhancements at this stage. Nonetheless, any contribution for mitigation could be sought at a later stage should it prove necessary – and this would be known once the certainty of housing numbers was provided at reserved matters stage.

APPENDIX

- 5.8.4 In terms of parking provision, from the plans submitted to date, I am of the view that there would be suitable land within the site to be able to provide the necessary parking spaces within the development. This would ensure that there would not be overspill on to the neighbouring highways to the detriment of highway safety. As such, no objection is raised on this basis.

5.9 Sustainability Considerations:

- 5.9.1 The application has not been accompanied by a detailed sustainability appraisal. However given that this is an outline application, it is not considered that this represents a fundamental omission and is a matter that can be left to be addressed by condition.
- 5.9.2 Nevertheless, given the brownfield nature of the site, and the fact that the proposal is well served by local facilities, I do consider this a relatively sustainable location. I would seek to further enhance this by requesting that the development be constructed to a minimum of level 4 of the code for sustainable homes. This would be controlled by condition.

5.10 Section 106 Requirements

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

It is:

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

- 5.10.2 The applicants have submitted a draft Section 106 agreement that sets out that a minimum of 40% affordable housing would be provided within the development. This is in accordance with the Council's adopted Development Plan Document (DPD) and accords with the requirement through the National Planning Policy Framework for authorities to provide affordable housing. I consider that the provision of affordable housing is necessary to make the development acceptable, and is related and reasonable in scale. I therefore consider that this element of the proposal is acceptable in accordance with the regulations.

APPENDIX

5.10.3 The County have requested that £2,701.63 per dwelling be provided towards primary school education (or £675.41 per flat). This would contribute to a new two form entry primary school within the locality that would be required due to the additional strain placed upon the existing school network by virtue of this development. There is an identified need for primary school provision within the locality, and there is a realistic opportunity for a new school to be provided through the site allocation process of the emerging Local Plan. This contribution would go towards meeting the additional strain placed upon the school facilities within the locality, and is considered to be a reasonable sum, related to the scale of the development. I am therefore satisfied that this contribution meets the tests as set out above.

5.10.4 A financial contribution of £144.67 per residential unit towards the provision of new bookstock within the existing library in Maidstone has also been requested. Again, a significant level of justification has been submitted by the County for this provision, which would be brought about by the additional demand placed upon the facilities by the new development. I consider that the contribution would be necessary to make the development acceptable, and that it would be of a scale related to the development. I therefore consider that this would be in accordance with the regulations.

5.10.5 A financial contribution of £28.71 per dwelling towards community learning within the locality of the application site. Suitable justification has been submitted with regards to the proposal, and is considered to meet the test as set out above.

5.10.6 Maidstone Borough Council Parks and Open Space were consulted and requested that a contribution of £15.75 per dwelling be provided to enhance the existing facilities within the area, to address the additional strain placed upon them by this development. There is an existing playing field and children play area to the south of the site that would benefit from the contributions, as it is most likely that residents of this development would use that facility. The contributions sought are in accordance with the Council's Open Space DPD. I consider that this request is reasonable, and is directly related to the development. I also consider it to be necessary to make the development acceptable.

5.10.7 The National Health Service have not requested that any contributions be made as they are selling the site, and will therefore receive the capital receipts from the sale.

5.10.8 The applicant has agreed to make all of the contributions set out above.

APPENDIX

6. **CONCLUSIONS**

6.1 These are considered to be as follows:

- Given that the site lies within the built up area, is already surrounded by residential development and proposes redevelopment of brownfield land, there is no objection to the principle residential redevelopment of the site which is located within a sustainable location, close to local services and amenities.
- Given the lack of a 5 year land supply for housing, the need to provide for housing to address this shortfall, I consider that this proposal would go some way to reducing the reliance upon greenfield development.
- Having regard to existing built mass on the site, nature of the surrounding area and requirement to maximise the development potential of sites where appropriate, no objection is identified on density grounds.
- Notwithstanding the undoubted contribution that the nurse's home makes to the character of the area and despite that it comprises a non-designated heritage asset as defined within the NPPF, it is acknowledged that its condition is such that it is not capable of being viably renovated or integrated into the development proposals for this site.
- The indicative design of the building to replace the nurses home is wholly unacceptable.
- The principle of a three storey block sited to the north of and set well back from Hermitage Lane is considered acceptable while the illustrative details showing the siting and size of the remainder of the development, parking provision and landscaping all demonstrate that the site is capable of accommodating the scale of the development proposed while meeting the Councils normal standards and maintaining the outlook and amenity of development overlooking and abutting the site.

6.2 In the circumstances, despite the regrettable loss of the nurses home and subject to its replacement with a building of high design quality to compensate for its loss, it is considered, that, on balance, the proposal is acceptable and the grant of outline planning permission is justified accordingly.

7. **RECOMMENDATION**

The Head of Planning and Development be given DELEGATED POWERS to APPROVE subject to:

The completion of a legal agreement providing the following:

- (1) A minimum of 40% affordable housing;

APPENDIX

- (2) Contributions to KCC for primary school provision (£2,701.63 per dwelling and £675.41 per applicable flat);
- (3) Contributions to KCC for library book stock – to be spent within Maidstone (£144.64 per dwelling or flat);
- (4) Contributions to KCC for community learning and skills – to be spent within Maidstone (£28.71 per dwelling or flat)
- (5) Contributions of £1,575 per residential unit for the enhancement of open space within a 1 mile radius of the application site.

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

Reason: To ensure a satisfactory appearance to the development.

2. Details submitted pursuant to condition 1 (reserved matters submission relating to landscaping) shall include details of tree planting at regular intervals along the site frontage onto Hermitage Lane.

Reason: In the interests of visual amenity.

3. The dwellings shall achieve at least Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.

Reason: To ensure a sustainable and energy efficient form of development in accordance with the NPPF 2012.

4. The height of the development shall be restricted to that shown on drawing no: /A/112.

Reason: To ensure that any development remains in scale and character with the area.

5. No part of the development hereby approved shall come closer than 10 metres to the back edge of the public highway fronting the site.

Reason: To ensure good landscaping provision and to secure an acceptable living environment for future occupiers in the interests of amenity.

APPENDIX

6. The approved details of the accesses submitted pursuant to condition 1 shall be completed before the commencement of the use of the land or buildings hereby permitted and the sight lines maintained free of all obstruction to visibility above 1.0 metres thereafter;

Reason: In the interests of road safety.

7. The approved details of the parking/turning areas submitted pursuant to condition 1 shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

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

8. As part of the reserved matters submitted pursuant to condition 1, details shall be provided of the siting of a ragstone wall no less than 900mm high running along the whole site frontage. The approved wall shall in place before first occupation of the development hereby permitted and retained as such at all times thereafter.

Reason: In the interests of amenity.

9. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

a. Layout b. Scale c. Appearance d. Access e. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

APPENDIX

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

10. The development shall not commence until; details of all fencing, walling (which shall include ragstone walling at the point of access, and railings) and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

11. The development shall not commence until, details of satisfactory facilities for the storage of refuse on the site have been submitted to and approved in writing by the Local Planning Authority and the approved facilities shall be provided before the first occupation of the buildings or land and maintained thereafter;

Reason: No such details have been submitted and in the interest of amenity.

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

Reason: To ensure a satisfactory setting and external appearance to the development.

13. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local

APPENDIX

Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

14. The development shall not commence until details of the proposed materials to be used in the surfacing of all access roads, parking and turning areas and pathways within the site, and the design of kerb-stones/crossing points which shall be of a wildlife friendly design, have been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To ensure a high quality external appearance to the development.

15. The development shall not commence until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area in general.

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

Reason: In the interest of pollution and flood prevention.

17. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reasons: To protect vulnerable groundwater resources.

18. No development shall take place until a sample panel of the ragstone wall, and brickwork has been constructed on site, and agreed in writing by the Local Planning Authority. Such details as are approved shall be fully implemented on

APPENDIX

site.

Reason: To ensure a high quality design.

19. No development shall take place until the applicants or their successors in title have submitted a full Transport Assessment which shall include the full mitigation required to address the harm of the proposal upon the highway network. Any mitigation that is required shall be provided prior to the first occupation of the dwellings hereby permitted, unless otherwise agreed in writing.

Reason: In the interests of highway safety.

Informatives set out below

You are advised that Southern Water seeks to emphasise the development must be served by adequate infrastructure.

Given that the nurse's home is an imposing and prominent building only a building of exceptional design quality and detailing will be considered acceptable as a replacement. You are therefore advised that the proposed indicative design for the building to replace the nurse's home is wholly unacceptable on design grounds, and that any proposal that comes forward on this site would need to be of a high standard of design to reflect its historic setting. Should a contemporary approach be taken, the development would be required to have a high level of articulation, and high quality detailing, responding positively to the character and appearance of the locality, and to mitigate the loss of the existing building.

It is considered that the indicative layout concept generally represents an appropriate response in unlocking the development potential of this site in an acceptable manner. Nevertheless, and reserved matters application should incorporate a significant increase in soft landscaping to the front of the site (fronting Hermitage Lane), with the proposed car parking at a reduced level and well screened from the public vantage point.

You are advised that the indicative layout shows potential privacy conflicts between 1st/2nd floor windows in the flats looking down into the rear garden of the houses attached to the flats. This will need to be addressed at the reserved matters stage

Any reserved matters application should incorporate features to enhance biodiversity within the application site. The use of bat boxes, swift bricks, log piles (where appropriate) and a suitable landscaping scheme is requested to form part of any future submission.

APPENDIX

Any layout as submitted at reserved matters stage should respond positively to the siting and form of existing trees within the application site. Where possible, trees of value should be retained and utilised as positive features of any development.

P.R.	Correspondence?	
REF:		
	04 MAR 2013	Init'l
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DRAWER		

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APPENDIX

Director of Planning and Development
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FAO: Chris Hawkins

Your
Ref: MA/12/2255

1st March 2013

Our Ref K/E/MA/12/2255/JSC

Dear Sir,

Provision and Delivery of County Council Community Services

I refer to the above planning application which concerns proposed residential development at **Nurses Home, Hermitage Lane, Maidstone** and comprising: **53 households**.

The County Council has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution.

The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (reg 122) require that requests for development contributions of various kinds must comply with three specific legal tests:

- 1) Necessary,
- 2) Related to the development, and
- 3) Reasonably related in scale and kind

These tests have been duly applied in the context of this planning application and give rise to the following specific requirements: (the evidence supporting these requirements is set out in the attached Appendices)

APPENDIX

- **Primary & Secondary Education Provision**

- **Primary school**

The identification and acquisition of a site for a new Primary school local to this proposed development. The Borough Strategic Site Allocations DPD refers.

A **Primary School** contribution of **£1389.99 per 'applicable'** (excluding 1 bed units of less than 56m2 GIA) **flat** and **£5559.96 per applicable house** towards the **new build cost** and a contribution of **£675.41 per 'applicable' flat** and **£2701.63 per applicable house** towards **land acquisition cost** for a new Primary school local to this proposed development.

Please note that site acquisition cost is based upon current local land prices and any section 106 agreement would include a refund clause should all or any of the contribution not be used. The school site contribution will need to be reassessed immediately prior to KCC taking the freehold transfer of the site to reflect the price actually paid for the land.

- **Secondary school**

A **Secondary School** contribution of **£589.95 per applicable flat** & **£2359.80 per applicable house** towards the extension of a Secondary school building local to this proposed development.

- **Libraries, Youth and Community Learning**

A financial contribution towards the provision of the following:

- | | |
|----------------------|--------------------------|
| • Local Libraries | £7667.64 |
| • Youth facilities | currently no requirement |
| • Community Learning | £1521.57 |

- **Adult Social Services** **£2454.68**

Please note that these figures are valid for 3 months from the date of this letter after which they may need to be recalculated due to changes in district council housing trajectories, ongoing planning applications, changes in capacities and forecast rolls, and build costs.

H:\Commissions\Estates\DEVCONT\Planning Applications\Maidstone\2012 Planning Applications\MA-12-2255 Nurses Home, Hermitage Lane, Maidstone\MA-12-2255 - REQUEST LETTER.doc

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Justification for infrastructure provision/development contributions requested

The County Council has modelled the impact of this proposal on the provision of its existing services and the outcomes of this process are set out in Appendices 1 to 3 below. Please see Appendix 4 for further details concerning the KCC Integrated Infrastructure Finance Model.

Primary School Provision

The impact of this proposal on the delivery of the County Council's Education service is assessed in Appendix 1.

A contribution is sought based upon the additional need required, where the forecast primary pupil product from new developments in the locality results in the maximum capacity of local primary schools being exceeded.

This proposal will give rise to additional primary school pupils from the date of full occupation of this development. This need can only be met through the provision of new accommodation within the locality.

Please note where a contributing development is to be completed in phases, payment may be triggered through occupation of various stages of the development comprising an initial payment and subsequent payments through to completion of the scheme.

The new primary school accommodation is intended to be provided by the building of new two form entry Primary Schools in south & west Maidstone and delivered in accordance with the Local Planning Authority's Infrastructure Delivery Plan (where available), timetable and phasing.

Please note this process will be kept under review and may be subject to change (including possible locational change) as the Local Education Authority will need to ensure provision of the additional pupil spaces within the appropriate time and at an appropriate location.

It is usual practice for the County Council to seek a site capable of accommodating a 2FE primary school (2.05ha) to allow for future expansion but the contribution sought from any particular developer is proportionate to the impact of their particular scheme including land cost.

Secondary School Provision

The impact of this proposal on the delivery of the County Council's services is assessed in Appendix 1

A contribution is sought based upon the additional need required, where the forecast secondary pupil product from new developments in the locality results in the maximum capacity of local secondary schools being exceeded.

The proposal is projected to give rise to additional secondary school pupils from the date of occupation of this development. This need can only be met through the provision of new accommodation within the locality.

Please note where a contributing development is to be completed in phases, payment may be triggered through occupation of various stages of the development comprising an initial payment and subsequent payments through to completion of the scheme.

The new secondary school accommodation will be provided in Maidstone and delivered in accordance with the Local Planning Authority's Infrastructure Delivery Plan (where available); timetable and phasing.

Please note this process will be kept under review and may be subject to change (including possible locational change) as the Local Education Authority will need to ensure provision of the additional pupil spaces within the appropriate time and at an appropriate location.

Libraries and Archives

The impact of this proposal on the delivery of the County Council's services is assessed in Appendix 2. There is an assessed shortfall in provision for this service of 879 bookstock per 1000 population in Maidstone which is below the County average of 1349 and both the England and total UK figures of 1510 and 1605 respectively.

The County Council will mitigate this impact through the provision of additional bookstock and services at Maidstone Libraries local to the development and will be delivered as and when the monies are received and will accord with the LPA's Infrastructure Delivery Plan (where applicable).

.....

Community Learning

The impact of this proposal on the delivery of the County Council's services is assessed in Appendix 2. There is a shortfall in provision for this service.

The County Council will mitigate this impact through the provision of new/expanded facilities and services both at Maidstone Adult Education centre and through outreach Community learning facilities in Maidstone local to the development.

The projects will be delivered as the monies are received and to accord with the LPA's Infrastructure Delivery Plan (where applicable).

.....

Adult Social Services

The impact of this proposal on the delivery of the County Council's services is assessed in Appendix 3. Facilities for Kent Adult Social Services (older people, and adults with Learning or Physical Disabilities) are already fully allocated. Therefore the proposed development will result in a demand upon social services which KASS are under a statutory obligation to meet but will have no additional funding to do so.

The County Council will mitigate this impact through the provision of new/expanded facilities and services in Maidstone which are local to the development.

The mitigation will comprise the following projects:

Project 1: Integrated Dementia Care – a centre for the frail and at risk to assist people to remain in their own homes, contributing to rehabilitation, promoting daily living skills, resources for social care and health, specialist dementia care, support & information for carers, and daytime activities to maintain client skills and well being.

Project 2: Co-location with Health in Maidstone providing health linked care needs and assessment suite

Project 3: Changing Place facility: A specialist changing place toilet facility for people with profound and multiple needs enabling them to integrate within the local community using everyday facilities without having the restriction of having to return home for personal care.

Project 4: Assistive Technology (also referred to as Telecare): enabling clients to live as independently and secure as possible in their own homes on this development through the use of technology items, including: pendants, fall sensors, alarms, etc.

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23-29 Albion Place, Maidstone, Kent, ME14 5TS

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The contribution from this site (£2454.68) represents 1.01% of the total allocation (£243,111) for the Maidstone Urban Area. These projects will be delivered once all the moneys are collected to accord with the LPA's Infrastructure Delivery Plan (where applicable). Where the implementation of the proposed project(s) relies upon pooled funds, the project will commence as soon as practicable after the funding target has been reached. District IDPs will give a broad indication of the particular phase within the plan period when this will likely occur but this may be subject to amendment depending upon the completion rates of new housing in the area concerned.

.....

Superfast Fibre Optic Broadband

To provide Superfast fibre optic broadband with connections to all buildings that is of adequate capacity for the current and future use of the buildings.

Implementation

The County Council is of the view that the above contributions comply with the provisions of paragraph 122 of the Community Infrastructure Levy Regulations 2010 and are necessary to mitigate the impacts of the proposal on the provision of those services for which the County Council has a statutory obligation. Accordingly, it is requested that the Local Planning Authority seek a section 106 obligation with the developer/interested parties prior to the grant of planning permission. The obligation should also include provision for the reimbursement of the County Council's legal costs, surveyors' fees and expenses incurred in completing the Agreement.

Would you please confirm when this application will be considered and provide us with a draft copy of the Committee report prior to it being made publicly available. If you do not consider the contributions requested to be fair, reasonable and compliant with CIL Regulations 2010, paragraph 122, it is requested that you notify us immediately and allow us at least 10 working days to provide such additional supplementary information as may be necessary to assist your decision making process in advance of the Committee report being prepared and the application being determined.

I look forward to hearing from you with details of progress on this matter.

Yours faithfully,



Jackie Collins
Development Contributions Team
For and on behalf of Mouchel

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APPENDIX

-7-

cc Maidstone & Tunbridge Wells Hospital Trust, c/o Frankham Consultancy Group
Ltd, Frankham House, Wootton Business Park, Besselsleigh Rd, Wootton,
Abingdon, Oxon OX13 6FD FAO Michael Simpson
KCC, Education, Provision Planning, Sessions House– Bryan Fitzgerald
KCC, Communities, Invicta House –
KCC, Kent Adult Social Services – Charlotte Sims/ Nicola McLeish
Kent Highways Services, Development Control Manager –
KCC, Regeneration & Economy Division Chief Executive's Department - Janet Gale
File

Appendices:

The following Appendices contain the technical details of the County Council's assessment process.

1. Education assessment
2. Communities Assessment
3. Family and Social Care Assessment
4. KCC Integrated infrastructure and Finance Model

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Lane, Maidstone\MA-12-2255 - REQUEST LETTER.doc

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APPENDIX

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APPENDIX

New Schools - Land Cost Calculation									
Site Address:		Nurses Home, Hermitage Lane, Maidstone							
Planning Ref:		MA/12/02255							
Unit Numbers:									
	Houses:	29							
	Flats:	6	applicable' (18 x 1 bed are assumed less than 56m2 and not applicable)						
	Total:	35							
Pupils generated:									
	Primary								
	Per house	0.28	8.12						
	Per flat	0.07	0.42						
	Total New Prim Pupils generated			8.54					
	Secondary								
	Per House	0.20	5.80						
	Per Flat	0.05	0.30						
	Total New Sec Pupils generated			6.10					
Calculations:									
	Residential Land prices	Maidstone	£800,000	per acre					
Primary:	2FE School	420	pupils	2.05	ha	5.065555	acres		
Equation:									
(Prim School Site area x Residential Land Value) x Number of pupils generated by the proposed development/Number of pupils in New Prim School									
(5.065555 x		£800,000)	x	8.54/	420 =	*Total:		£82,399.69	
*Total above will vary if development mix changes									
	**Cost	per pupil	£9,648.68						
	**Cost	per house	£2,701.63						
	**Cost	per flat	£675.41						
Notes:									
*Totals above will vary if development mix changes and land prices change									
**Costs above will vary dependant upon Land Price at the date of Transfer of the School site to KCC									

KCC Customer and Communities

Development Contributions Assessment over the period 1/1/2012 to 31/12/2031

Planning periods are 5 year blocks: 2012-16, 2017-21, 2022-26 and 2027-31

APPENDIX

Site Name	Nurses Home Hermitage Lane Maidstone
Reference No.	MA/12/02255
District	Maidstone
Location (Ward)	Heath (Maidstone)
Assessment Date	26/02/2013
Development Size	53

COMMUNITY LEARNING & SKILLS		
	Centres	Outreach
Current adult participation in Maidstone district	3,310	1,439
LESS Current Service Capacity	2,400	1,068
Initial capacity shortfall/surplus (Year ending 2011)	Shortfall	Shortfall
New adult participation from this development	2.39 clients	1.29 clients
New adult participation from proposed developments up to 2031	140.12 clients	75.45 clients
Will service capacity be exceeded in the next two planning periods?	YES*	YES*
* In the event that capacity is not exceeded until the third (or subsequent) planning period, consequential charges will not be passed to this development		
Additional capacity required for proposed developments to 2031	84.4 clients	45.45 clients
Overall Cost of increasing capacity for 129.85 clients by 2031		£93,016.46
Contributions required for this development		£1,521.57
(£93016.46 x 53 dwellings from this proposal/total dwellings to 2031)		£28.71 per dwelling
Contributions requested to provide financial support to ensure the viability of new small adult learning classes in the local area over an initial 5 year period		

YOUTH SERVICE		
	Centres	Outreach
Current youth participation in Maidstone district	2,610	148
LESS Current Service Capacity	1,599	401
Initial capacity shortfall/surplus (Year ending 2011)	Shortfall	Surplus
New youth participation from this development	1.98 clients	0.99 clients
New youth participation from proposed developments up to 2031	98.67 clients	49.26 clients
Will service capacity be exceeded in the next two planning periods?	NO*	NO*
* In the event that capacity is not exceeded until the third (or subsequent) planning period, consequential charges will not be passed to this development		
Additional capacity required for proposed developments to 2031	104.94 clients	0 clients
Overall Cost of increasing capacity for 104.94 clients by 2031		£0.00
Contributions required for this development		£0.00
(£0 x 53 dwellings from this proposal/total dwellings to 2031)		£0 per dwelling
No contributions requested for youth services in Maidstone at this time		

LIBRARIES		
	KHLC Library	Allington Library
Libraries assessed for this development		
Current overall library borrower numbers in assessed area	12,002	3,123
LESS Area Service Capacity	9,423	1,847
Initial capacity shortfall/surplus (Year ending 2011)	Shortfall	Shortfall
New borrowers from this development	2.68 borrowers	24.12 borrowers
New borrowers from proposed developments up to 2031	99.37 borrowers	97.56 borrowers
Will service capacity be exceeded in the next two planning periods?	YES*	YES*
* In the event that capacity is not exceeded until the third (or subsequent) planning period, consequential charges will not be passed to this development		
Additional capacity required for proposed developments to 2031	53.29 borrowers	64.9 borrowers
Overall Cost of increasing capacity for 118.19 borrowers by 2031		£52,424.50
Contributions required for this development		£7,667.64
(£52424.5 x 53 dwellings from this proposal/total dwellings to 2031)		£144.67 per dwelling
Contributions requested to expand library service capacity in Allington and KHLC Libraries and to provide additional book stock and equipment		

Net contributions requested for Customer and Communities' Services £9,189.21

APPENDIX

	IIFM	FSC			
	Nurses Home hermitage Lane Maldstone ME16 9NP				
	MA/12/2255				
	53 Households				
Maldstone Final Housing Trajectory					
Area	Project	Site name	Net Project Cost	Cost per House	Cost for this site
Urban	2 Changing facilities within Maldstone Town - 1 already delivered	Heath (Maldstone) Ward	£7,604.00	£1.36	£29.84
Urban	Assistive Technology (Telecare)	Heath (Maldstone) Ward	£85.29	£2.97	£85.29
Urban	Co-location with health	Heath (Maldstone) Ward	£58,763.00	£10.48	£230.57
Urban	Integrated Dementia Care	Heath (Maldstone) Ward	£176,879.08	£31.51	£693.23
			£243,111.37	£46.31	£2,454.68

APPENDIX

Appendix 4

KCC Integrated Infrastructure and Finance Model: explanatory note

Following the introduction of the Community Infrastructure Regulations 2010 and specifically Regulation 122 which sets out the legal tests to which any request for development contributions must comply, the County Council has adopted a new mechanism for assessing the additional impacts of new development on the provision of its services.

The model is based on district council housing trajectories which are used to forecast likely demands for the County Council's community services across the period of an extant Local Plan (core strategy and infrastructure delivery plan). The model comprises a three stage process:

The model looks to project the likely number of new households to be formed across the local plan period and seeks to identify the number of net new additional clients for a County Council service, having first deducted and subsequently isolated the projected growth of the indigenous population, allowing for demographic changes and changes to occupancy profiles. The result is a smoothed (corrected) projection of additional new households likely to arise in any one administrative district of the County.

An assessment is made of current service provision to establish whether the service is operating at full capacity. If an existing surplus is identified this is allocated to extant planning permissions in the locality.

Where a shortfall in provision is identified specific projects are produced which relate to the development, are reasonable in scale and kind and which will most effectively meet the additional need resulting from the development in question and mitigate its impacts. This mitigation may include both capital and revenue based projects.

The projects are individually costed, with the costs allocated locally to development sites contained within the specific District Housing information Assessments. It should be noted therefore that as need for and capacity within existing infrastructure will vary between districts, so will the overall project requirements and their associated costs.

Aside from assisting in the identification and costing of contributions (excluding any associated land acquisition costs) towards particular development proposals this information is also being used to inform the preparation of Community Infrastructure Charging schedules.

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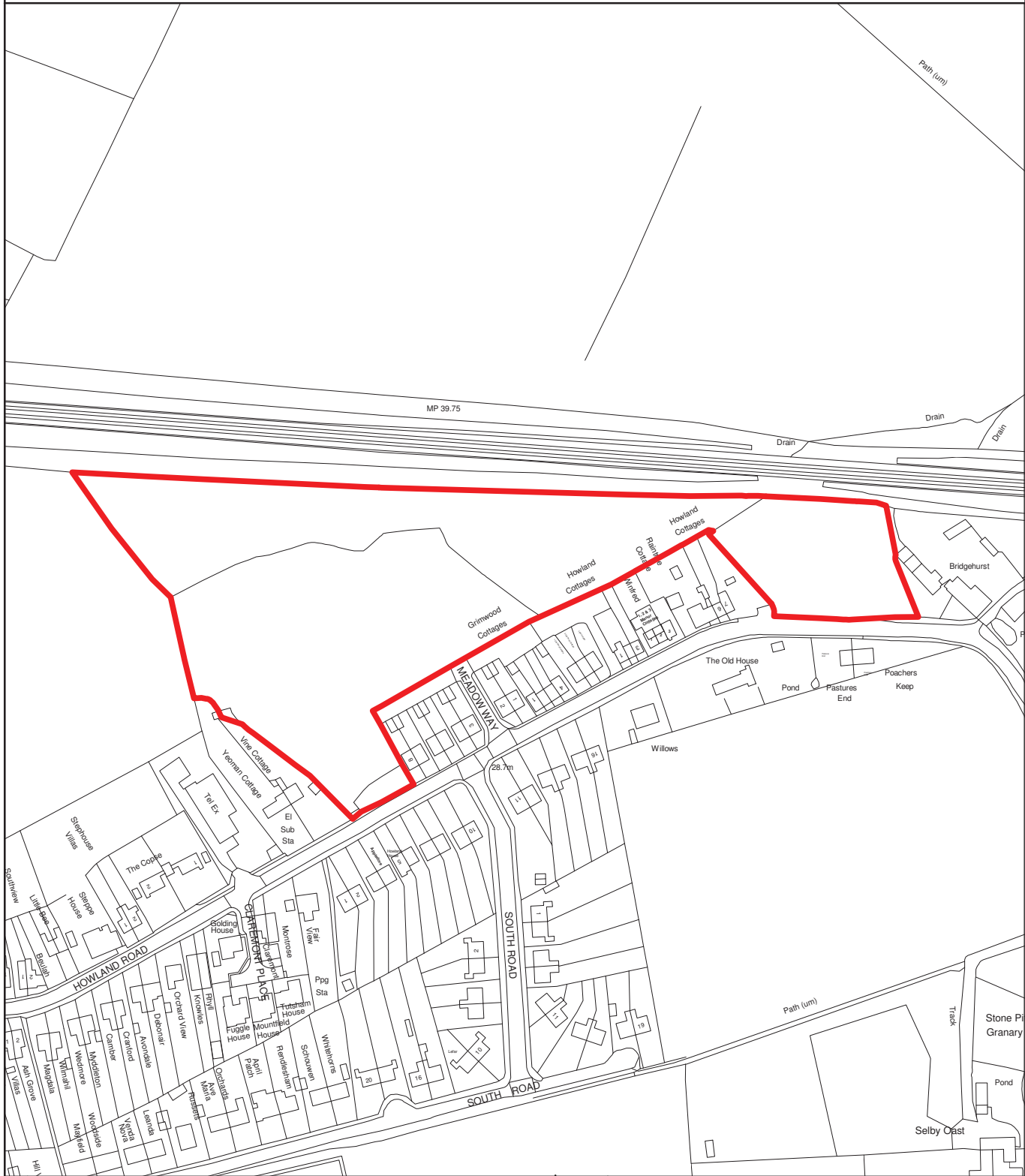
14. 11. 2013

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/1291

GRID REF: TQ7544

LAND TO THE NORTH OF HOWLAND ROAD,
MARDEN.



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Rob Jarman
Head of Planning and Development

APPLICATION: MA/13/1291 Date: 18 July 2013 Received: 19 July 2013

APPLICANT: Rydon Homes Ltd.

LOCATION: LAND TO THE NORTH OF, HOWLAND ROAD, MARDEN, KENT

PARISH: Marden

PROPOSAL: Outline application for 44 dwellings comprising 5no. 1 bedroom, 9no. 2 bedroom, 17no. 3 bedroom, and 13no. 4 bedroom houses together with new access, associated parking, wildlife enhancement area, and attenuation pond with access considered at this stage and all other matters reserved for future consideration as shown on drawing nos. 10030-OA-01 received on 19th July 2013 and 10030-OA-03 received on 3rd February 2014.

AGENDA DATE: 20th March 2014

CASE OFFICER: Richard Timms

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

- It is a departure from the Development Plan

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, T13, T21, T23, CF1
- MBC Affordable Housing DPD (2006)
- MBC Open Space DPD (2006)
- National Planning Policy Framework 2012 (NPPF)
- National Planning Practice Guidance 2014 (NPPG)

2. HISTORY

MA/13/0644 Request for a screening opinion as to whether the proposed development being a residential development of 60 dwellings is development requiring an Environmental Impact Assessment - ENVIRONMENTAL STATEMENT IS NOT REQUIRED

MA/87/1296 Outline application for detached house – REFUSED

71/0441/MK3 The erection of dwellings – REFUSED

64/0461/MK3 Outline application for dwelling in lieu of demolished cottage –
APPROVED WITH CONDITIONS

61/0224/MK3 Residential development, approx. 8 or 10 houses per acre –
REFUSED

3. INTERNAL CONSULTATIONS

- 3.1 **MBC Landscape Officer:** No objections.
- 3.2 **MBC Housing:** No objections to the affordable housing tenure mix or house sizes. The affordable properties should be built to a 'Lifetime Homes' standard.
- 3.3 **MBC Environmental Health:** No objections subject to conditions securing compliance with the noise and vibration assessment and securing the proposed low emissions strategy (being a residential travel pack to promote sustainable travel).
- 3.4 **MBC Parks & Leisure:** Off site contribution is sought towards the repair, maintenance, improvements and provision of outdoor sports facilities, allotments and gardens, and provision for children (equipped play) within the parish of Marden.
- 3.5 **MBC Conservation Officer:** No objections in terms of the setting of the Marden Conservation Area. Provided there is no development on the eastern part of the site, no objections in terms of the setting of nearby listed buildings.

4. EXTERNAL CONSULTATIONS

- 4.1 **KCC Highways:** No objections subject to conditions.
- 4.1.1 KCC Highways have assessed the transport assessment, traffic survey, likely traffic that would be generated by the development, and the safety audit. It is advised that the access is acceptable and that the, *"level of generated traffic is not sufficient to have any significant impact on highway capacity once it is distributed onto the network."* They have also reviewed the expected traffic from this development in conjunction with the two recently approved (MAP Depot/The Parsonage) and pending housing sites (Stanley Farm/Hockey & Cricket Ground) in the village and raise no objections.
- 4.1.2 No objections raised subject to increasing the pavement width on Howland Road outside Walnut Tree Cottage with parking restrictions (subject to a Traffic Regulation Order) to allow safe pedestrian access to the village; dropped kerb crossings for pedestrians; enhancements to the existing 30mph speed limit gateway treatment by the provision of red road surfacing, road roundels and

dragons teeth road markings at the east entrance to the village to reduce speeds in the interests of safety; a contribution of £20,000 towards footbridge improvements at Marden railway station; the enhancement to local bus stops; sustainable travel statement; provision and retention of parking; cycle parking; speed restraint measures within the site; visibility splays; completion of footways, verges, street lighting, street furniture etc.

4.2 KCC Ecological Advice Service: No objections subject to conditions.

4.2.1 *"We have reviewed the information which has been submitted by the applicant and we are satisfied that sufficient information has been submitted to determine the planning application."*

4.2.2 Dormice

The survey has detailed that the western hedgerow and the woodland area has potential for dormice however no dormouse surveys have been recommended because they will not be impacted by the proposed development. Based on the information detailed in the indicative plan we are satisfied with this assessment and require no information to be provided at this stage. However if the plans change and the area will be directly impacted by the proposed development there will be a need for additional information to be provided assessing the impact on the potential dormouse habitat and providing recommendations for surveys if required.

4.2.3 Great Crested Newts

We had some concerns that if the GCN population within the site was larger than anticipated the proposed receptor site would not be appropriate. In order to ensure that the receptor site contains sufficient carrying capacity for the proposed GCN translocation the updated GCN mitigation strategy has provided the following two potential mitigation options: Option A: The original receptor site to be used if a low GCN population is identified. Option B: If a larger GCN population is identified the receptor site will be expanded to incorporate the whole area between Howland cottages and Bridgehurst.

4.2.4 *We are satisfied with this proposal and we recommend that as a condition of planning permission, if granted, on completion of the translocation a report is submitted to the LPA confirming the boundary of the GCN receptor site.*

4.2.5 Reptiles

Exceptional population of slow worms and small population of grass snake and lizard have been recorded on site. The submitted reports have detailed that it is proposed to retain the grass snake and lizards on the site and translocate the slow worms to a receptor site. It would be preferable if the receptor site was located within the Marden area and not over 8km away from the proposed

development site. However as a result of reviewing the information provided by the applicant that this site is the most appropriate receptor site and we are satisfied that the receptor site will be managed appropriately. We are satisfied with the information detailed within the mitigation strategy and we require no additional information to be provided prior to determination.

4.2.6 Breeding Birds

We had some concerns that the site may be used by ground nesting birds. As a result of speaking to the ecologist and the additional information provided by the applicant we are satisfied that due to the high levels of dog walking within the surrounding area there is limited potential for ground nesting birds to be present within the site. Breeding birds may use the scrub and hedgerows present within the site. All breeding birds and their young are legally protected under the Wildlife and Countryside Act 1980 (as amended), as such where these habitats will be lost we advise that they are removed outside of the breeding bird season (March – August inclusive).

4.2.7 Bats

The survey identified that there are mature trees on site which have some potential to be suitable for roosting bats and has recommended that if the trees are to be impacted there is a need for emergence surveys. The ecologist has confirmed that currently there are no proposals to remove any of the trees which have bat roost potential. As such we are satisfied that, at this stage, there is no requirements for a bat emergence survey to be carried out. However if the plans change and the trees (Target note 7,8,9 and 10 – as numbered by the phase 1 survey) are proposed for removal we expect bat emergence surveys and details of any necessary mitigation to be submitted for comment. The submitted reports have highlighted that the site has some potential to be used by foraging and commuting bats especially along the areas of scrub and hedgerows to the site boundaries, woodland area and wooded buffer adjacent to the railway. The phase 1 survey has provided some recommendations to minimise impacts on these areas. These recommendations must be incorporated into the site.

4.2.8 Ecological and Mitigation Areas

The indicative landscape strategy has detailed that there will be an Ecological and Mitigation Area within the site. We would expect a detailed management plan for the Ecological and Mitigation Area to be produced as a condition of planning permission, if granted."

4.3 Natural England: Standing advice should be followed.

4.4 KCC Development Contributions: *"The County Council has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its*

services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution."

- 4.4.1 Primary Education Provision: £2360.96 per 'applicable' house ('applicable' meaning all dwellings, excluding 1 bed units of less than 56sqm GIA, and sheltered accommodation specifically for the elderly) sought towards the build costs of extending Marden Primary School.

"The proposal gives rise to additional primary school pupils during occupation of this development. This need, cumulatively with other new developments in the vicinity, can only be met through the extension of existing Primary School accommodation at Marden."

- 4.4.2 Secondary Education Provision: £2359.80 per 'applicable' house sought towards the extension of a secondary school buildings (which based on current trends) are currently used by residents of Marden.

"The proposal gives rise to additional secondary school pupils during occupation of this development. This need, cumulatively with other new developments in the vicinity, can only be met through the extension of existing Secondary School accommodation within the locality."

- 4.4.3 Libraries Contribution: £118.73 per dwelling (x44) sought to be used to address the demand from the development towards additional bookstock and services at local libraries serving the development.

"There is an assessed shortfall in provision for this service in Maidstone Borough which is below the County, England and UK figures."

- 4.4.4 Community Learning: £30.70 per dwelling (x44) sought to be used to address the demand from the development towards the provision of new/expanded facilities and services both through detailed adult education centres and through outreach community learning facilities local to the development.

"The current adult participation in the District in both Centres and Outreach facilities is in excess of current service capacity."

- 4.4.5 Youth Facilities: £8.44 per dwelling (x44) sought to be used to address the demand from the development towards youth services locally.

"The current youth participation is in excess of current service capacity."

- 4.4.6 Social Services: £18.05 per dwelling (x44) sought to be used to address the demand from the development towards the provision of new/expanded facilities

and services both on site and local to the development including assistive technology, and enhancement of local community facilities to ensure full DDA access.

"The proposed development will result in a demand upon social services which 'Facilities for Kent Family & Social Care' are under a statutory obligation to meet but will have no additional funding to do so."

- 4.5 **NHS Property Services:** Financial contribution of £10,928.63 is sought towards (forward funded and completed) extensions and works to the Marden Medical Centre.

4.5.1 *"I confirm the NHS's position in terms of our claim for Section 106 monies:*

- *The PCT forward funded works to Marden Medical Practice to enable them to accommodate the 500 new dwellings anticipated over the coming plan period.*
- *The cost of the works was £204,189.00.*
- *The works eligible for PCT funding amounted to £144,189.00.*
- *There was just £19990.00 already available in S106 contributions from the Old Market Development which was granted to the practice to offset development costs.*
- *Thus it is expected that the 500 units planned in Marden will have to pay for the residual costs of development at £124,189.00.*

It has been agreed with the Council that assuming a proportionate sum per new dwelling, the PCT contribution should be £124,189 divided by 500 assumed new units multiplied by the number of units proposed on each site. Thus for this particular development at the Land North of Howland Lane, the sum of the remaining surgery development costs (£124,189) divided by 500 units, (£248.378/unit) multiplied by the number of units proposed at this site (44) provides the level of contributions sought at £10,928.63."

- 4.6 **KCC Heritage:** No objections subject to a condition relating to archaeology.

- 4.7 **Environment Agency:** No objections to surface water drainage proposals subject to the finalisation of specific details by way of condition.

"I can confirm that after reviewing the additional information submitted by Rydon re the CCTV survey and micro-drainage to both the LPA and us, we think that development can proceed safely without increasing flood risk elsewhere subject to the design of a detailed drainage scheme. As a result we were able to remove our objection as we think that our concerns could be dealt with by planning condition."

- 4.8 **Southern Water:** No objections raised in terms of foul water drainage to the public sewer.
- 4.9 **Network Rail:** No objections.
- 4.10 **English Heritage:** No objections.
- 4.11 **Upper Medway Internal Drainage Board:** No objections
- 4.12 **Kent Police:** No objections subject to a condition requiring crime reduction measures.
- 4.13 **UK Power Networks:** No objections
- 4.14 **Marden Parish Council:** All Parish Councillors abstained from voting.

"Marden Parish Council deplores and regrets that MBC have left itself, the Parish Council and the residents of the parish in the position where there is no local planning policy in place under which the sustainability of this site compared to any other site in and around the village can be assessed on a consistent and fair basis.

Because of the significance of the application Cllrs feel that this should be decided at MBC Planning Committee.

Concerns raised by Cllrs included: localised surface flooding; highways issues already in existence along Howland Road; dispute accuracy of the drainage study following public evidence that there is a network of drainage on the land in question which redirects a stream to the railway embankment; dispute accuracy of the traffic survey as understand that this was undertaken during February school half term therefore the volume of traffic was much lower and that it be noted that a large part of Howland Road is single lane due to properties having no off road parking; Feel that the report on the habitat is very light considering that there is public evidence of bats and owls in the woodland area adjacent to the railway embankment."

If MBC are minded to approve this application Cllrs wish conditions to be applied relating to: Financial contribution for foul water sewer improvements; highway improvements; education; and towards the medical centre; SUDs system. In addition, a management company be set up and a long term management plan be put in place to appropriately manage the drainage system, open space and play area. The robustness of the drainage report was questioned. MPC would want involvement in the affordable housing scheme and to incorporate housing to be kept in perpetuity for local needs. MPC would prefer to see the play area

moved to the centre of the development and would not wish to see 3-storey dwellings on the development.

5. REPRESENTATIONS

5.1 48 representations have been received raising the following summarised points:

- Traffic, parking and highway safety issues.
- Harm to ecology.
- Harm to the landscape.
- Out of character.
- Harm to listed buildings.
- Harm to residential amenity.
- Loss of privacy and light.
- Poor integration.
- There is a natural pond on site.
- Surface water drainage.
- Site provides natural drainage and flooding will occur.
- Flooding has occurred at the site and in neighbouring gardens, including foul water.
- Pond is proposed on existing soakaway pipes.
- Culvert pipe is in poor condition.
- Strain on infrastructure.
- Cramped development and inappropriate density.
- Increased pollution and noise.
- Contrary to policy.
- Policy vacuum.
- Premature development.
- Brownfield land should be used first.
- Loss of land for walking and exercise.
- Who will maintain open spaces, ponds and pumping station?
- How will developments in the village be managed.
- Noise and disruption during construction.

- Loss of property value.

5.2 A petition with 100 signatures objecting to the application has been received.

6. CONSIDERATIONS

6.1 Introduction

6.1.1 This is an outline application for 44 dwellings comprising five 1 bedroom, nine 2 bedroom, seventeen 3 bedroom, and thirteen 4 bedroom houses together with new access, associated parking, wildlife enhancement area, and attenuation pond, with access considered at this stage and all other matters reserved for future consideration at land to the north of Howland Road, Marden.

6.2 Site Description

6.2.1 The application site is an irregular shaped parcel of land of some 2.4ha on the north side of Howland Road and at the east end of Marden village. It adjoins Howland Road at two points at the west and east ends of the site and is otherwise set behind a row of houses which front the road. At the west end there is a 30m section between the houses 'Vine Cottage' (Grade II listed) and '8 Meadow Way' and at the east end a 65m section between '7 Howland Cottages' and 'Bridgehurst' (Grade II listed). As such, the site is bounded by housing to the south and east. Immediately north is the Ashford to London railway line which is set down in a cutting for this section, and beyond are orchards where there is an extant outline planning permission for a sports ground including cricket and hockey pitches, tennis courts, clubhouse and floodlights. To the west is a recreation field and further housing beyond in the village.

6.2.2 The site is in the main unmanaged grassland but with an area of dense trees in the northwest corner. Otherwise there are scattered mature trees and scrub. Boundaries are a mixture of fencing, cypress hedging and some unmanaged hawthorn-dominated hedgerows. The northern boundary with the railway line is made up of mature trees, most outside of the site boundary. The site generally slopes very slightly from north to south by between 1-2m, by around 5m from east to west, and there is a more noticeable drop in the far northeast corner.

6.2.3 Apart from a small part of the west section of the site (1400m²) where it adjoins Howland Road, the site is located outside, but adjoining the defined village settlement in the Local Plan. It is therefore mostly in the countryside for Local Plan purposes and is a greenfield site. It also has no special landscape designation in the Local Plan.

6.3 Proposal

- 6.3.1 Outline permission is sought for 44 houses together with a new access. Along with the principle of 44 houses, only the specific details of the access are being considered at this stage with all other matters (layout, appearance, scale, landscaping) reserved for future consideration. However, the applicant has specifically listed the house sizes comprising five 1 bedroom, nine 2 bedroom, seventeen 3 bedroom, and thirteen 4 bedroom houses, and referred to parking, a wildlife enhancement area, and pond.
- 6.3.2 A new single point of access is proposed in the southwest corner of the site between 'Vine Cottage' and '8 Meadow Way'. This is the part of the site within the village boundary. The proposed access road would be 4.8m wide with 1.8m wide pavements either side linking to the existing pavements on Howland Road here. The access would be built out slightly into the road by approximately 0.5m to achieve visibility. This would reduce the carriageway width from approximately 6m to 5.5m. Visibility of over 50m in each direction would be provided at the access.
- 6.3.3 Apart from specific details of the access, which have been provided, the applicant is not required to provide any detailed plans of the development with such an outline application but has chosen to provide an 'illustrative' layout plan in an attempt to demonstrate that 44 houses can be accommodated at the site. This shows housing concentrated on the main central and western part of the site, with no development on the small eastern section which adjoins the road between '7 Howland Cottages' and 'Bridgehurst'. This eastern section (0.37ha) would have an attenuation pond as part of a sustainable drainage systems scheme (SUDs) and be used as a mitigation/wildlife enhancement area for GCN and reptiles. A children's play area is shown near the centre but it was agreed to remove this from the description as the finer detail of open space would be left to the reserved matters stage. There is also no development proposed in the wooded area in the northwest corner. I must, however, reiterate that this is an 'illustrative' plan and the Council is not making a decision on this precise layout of development.
- 6.3.4 The overall net density based on the illustrative plan (proposed developable area) would be around 28 dwellings per hectare. Affordable housing is proposed at 40% with 61% affordable rent and 39% shared equity.
- 6.3.5 So in summary, the Council is being asked to consider the principle of a residential development of 44 houses (and their specific no. of bedrooms) with access, and including parking, a wildlife mitigation/enhancement area with an attenuation pond.

6.3.6 Supporting documents also provided with the application include a design and access statement, landscape and visual report, ecology survey & protected species surveys/mitigation strategies, affordable housing statement, noise and vibration assessment, heritage statement, archaeological assessment, flood risk assessment, drainage and utilities statement, tree report, transport assessment, and statement of community involvement.

6.4 Principle of Development

6.4.1 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.

6.4.2 The application site is mainly located in the countryside outside the defined settlement boundary of Marden. As stated earlier, the site does however adjoin the boundary, and the access is within the boundary.

6.4.3 The starting point for consideration is saved policy ENV28 of the Maidstone Borough-wide Local Plan 2000 which states as follows:-

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

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

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

6.4.4 The proposed development does not fit into any of the exceptions set out in policy ENV28, which is why it has been advertised as a departure from the Development Plan.

6.4.5 It is necessary therefore to consider two main issues in relation to the proposals. Firstly, whether there are any material considerations that would indicate that a decision not in accordance with the Development Plan is justified, and secondly whether the development would cause unacceptable harm. (Detailed issues of harm will be discussed later in the report).

6.4.6 In terms of other material considerations, the National Planning Policy Framework (NPPF) is a key consideration, particularly with regard to housing land supply. Paragraph 47 of the NPPF states that Councils should;

'identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;'

6.4.7 Relevant to this, the NPPF requires that local authorities have a clear understanding of housing needs in their area, and as such they should prepare a Strategic Housing Market Assessment (SHMA) to assess their full needs; working with neighbouring authorities where housing market areas cross administrative boundaries. Maidstone has carried this out with Ashford Borough Council and Tonbridge and Malling Borough Council. The SHMA (2014) confirms the objectively assessed housing need for the borough over the plan period 2011 to 2031 as 19,600 dwellings (980 dwellings per annum). This was agreed by Cabinet on 27th January 2014 and on 24th February 2014 to be included within the draft Local Plan (to be sent out for public consultation).

6.4.8 In April 2013 when most recently calculated, the Council had a 2.0 year supply of housing assessed against the objectively assessed housing need of 19,600 dwellings, which is the figure against which the supply must be assessed. Taking into account housing permissions granted since that date, this position will not have changed significantly and would still remain below the 5 year target.

6.4.9 This lack of a five year supply is a significant factor and at paragraph 49 of the NPPF it is states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing (such as ENV28 which seeks to restrict housing outside of settlements) should not be considered up-to-date if a five year supply cannot be demonstrated. The presumption in favour of sustainable development in this situation means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole.

6.4.10 In terms of the location of the site, The NPPF advised that when planning for development i.e. through the Local Plan process, the focus should be on

existing service centres and on land within or adjoining existing settlements. Marden is a defined rural service centre (RSC), which outside of the town centre and urban area, are considered the most sustainable settlements in Maidstone's settlement hierarchy, under the draft Local Plan. The draft Local Plan outlines that, *"Rural service centres play a key part in the economic and social fabric of the borough and contribute towards its character and built form. They act as a focal point for trade and services by providing a concentration of public transport networks, employment opportunities and community facilities that minimise car journeys."* The settlement offers a good range of facilities and services including shops, pubs, a primary, school, library, medical centre surgery and railway station and a sizeable designated employment area on Pattenden Lane. As such, the site is at a sustainable location and immediately adjoins the existing settlement. The draft Local Plan, agreed by Cabinet, is proposing 550 dwellings at Marden and the application site is allocated for housing development of up to 55 dwellings.

- 6.4.11 The Local Plan is at draft stage and is yet to go out to public consultation and so can only be given limited weight. However, the site adjoins a sustainable settlement, and in Local Plan process terms under the NPPF, is a suitable location for potential housing development.
- 6.4.12 In the light of the above five year supply position, bringing forward development on this sustainably located site immediately adjacent to a rural service centre would assist in helping to meet the shortfall in housing supply and I consider this to be a strong material consideration in favour of the development.
- 6.4.13 As was the case for the recently approved residential development at the 'MAP depot' and 'Parsonage' in the village, reference has been made to the on-going Local Plan and Neighbourhood Plan and the fact that this application should not be permitted in advance of the completion of that work. Whilst the draft Local Plan has been agreed by Cabinet and will shortly be out for public consultation, and work on the Neighbourhood Plan is progressing, both plans would need to be the subject of an examination. Given the stage of the plans and likely timescales for this process, and the current housing supply issue set out above, it is not considered appropriate or reasonable to delay consideration of this application on that basis.
- 6.4.14 For the above reasons, I consider the policy principle of residential development at the site is acceptable. The key issue is whether any adverse impacts of the development would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole. I will now go on to consider the key planning issues which are visual impact and whether the site can suitably accommodate 44 houses, residential

amenity, heritage impacts, access/highway safety, ecology, and drainage. The cumulative impact with other developments also needs to be considered.

6.5 Visual Impact & Design

- 6.5.1 In terms of wider landscape impacts, the site has a strong physical boundary of the railway cutting to the north. The cutting is flanked by mature deciduous trees on its south side between the application site and the railway. In addition there is the deciduous woodland area in the northwest corner. Having walked public footpath KM274 on the north side of the railway line, the tree line referred to above serves to greatly screen the site from the north and northeast. In the winter, glimpses of development would be possible from here but I do not consider it would be intrusive as it would be broken by the deciduous tree. Further north, from around 300-400m on Maidstone Road (B2079), there are very limited views to the site and at this distance and with intervening vegetation, any development would not be intrusive. As outlined above, the site is largely set behind a line of two storey houses on Meadow Way to the south, and there are a group of buildings to the east and further west in the heart of the village. This serves to screen any views in these directions. For these reasons any development at the site would not have any discernable medium to long range impacts upon the landscape and the impact would be localised. I therefore consider the wider landscape impact would be low. However, I am mindful that the tree line to the north of the site is outside the applicants control and therefore I consider it necessary to provide new hedge/tree planting along the north boundary within the site to mitigate the impact of development.
- 6.5.2 The main visual impact would be from Howland Road and South Road. The site forms an open backdrop to the existing houses on Howland Road and the wooded area and mature line of trees alongside the railway are visible from Howland Road and contribute to the character of this edge of village location. Clear views of the east part of the site are possible towards the east end of Howland Road when entering and leaving the village. However, it must be noted that development is not proposed in the east section. The central section is also partly visible when entering the village near the dwelling 'Bridgehurst'. Heading further west into the village, the site is largely screened by two storey houses on the north side of the road but there are views between some houses and at two access points from around 40m away. South Road heads south off Howland Road and the rises, and there are some views between houses near its junction with Howland Road between 30-60m away. There are clear views of the west part of the site where the access is proposed as would be expected. To the west the site is largely screened by existing buildings and vegetation at a point approximately in line with the telephone exchange 60m away. This demonstrates that the visual impact is generally localised to a relatively short section of Howland Road, and from all these aspects any development would be seen in the context of

some existing houses. Nonetheless it is acknowledged that the proposals would represent not insignificant backland development here that would erode the openness of the site.

- 6.5.3 In terms of the morphology of the settlement, most development is around the village centre to the south of the railway line and adjoining it in parts. There is also the significant industrial estate on Pattenden Lane to the north of the railway. Fingers of ribbon development are present on Goudhurst Road, Albion Road and Howland Road extending out from the village to the south, southeast and east. The application site would not extend further than existing ribbon development at the east edge of the village, there is development to the south, and the site is contained by the railway line to the north. As such, the proposals would not represent an extension of development away from the main built-up areas of the settlement, or be out on a limb. In consolidating space to the south of the railway, this would also not be out of character with development further west in the village.
- 6.5.4 In balancing all these matters, I consider that based on there being a low wider landscape impact from public vantage points, and that the development would not be out of character with the morphology of the settlement or extend beyond existing built up confines, that the harm to the character and appearance of the area would be low to medium.
- 6.5.5 In terms of the design, whilst this is not being considered at this point, parameters to future development can be set at this stage. However, I do not consider the size of development here is such to require any design codes (to dictate themes or styles). Nor do I consider it necessary to set any parameters in terms of the layout due to the limited size of this development and the irregular shape of the site. My view is that it is appropriate to leave this open to the developer. However, I do consider it is necessary to set parameters in terms of height. Surrounding buildings are two storeys with some having rooms in the roofspace, and a limit to this scale, which can be ensured by condition, would compliment existing development. I consider buildings higher than two storeys would have an intrusive and harmful impact from the surrounding area. I would not seek to set materials types at this stage and consider these can be left open to be considered under reserved matters.

6.6 Density

- 6.6.1 The net density (developable area of the site) which excludes the eastern parcel and the wooded area equates to around 28 dwellings/hectare. This is not dissimilar to surrounding densities which include a similar density on the south side of Howland Road (around 28 dwellings/ha), slightly higher towards the village centre, and a dense linear development of houses on Meadow

Way/Howland Road (around 46 dwellings/ha). As such, in density terms I consider 44 houses would not be out of character with the area. Whilst this is an edge of village location, and so an argument could be made for a slightly lower density than is present further into the village, because the site is so well contained by the railway line and existing houses, I consider this density is acceptable.

- 6.6.2 With such a density and bearing in mind the housing sizes, (5no. 1 bedroom, 9no. 2 bedroom, 17no. 3 bedroom, and 13no. 4 bedroom houses), I consider there is sufficient space to provide a high quality scheme that would allow for the number of houses with sufficient parking space, gardens, open space, and landscaping. Whilst I do not consider the illustrative layout to be acceptable in its current form, it will be possible to provide a high quality scheme with 44 houses in accordance with the NPPF. Clearly, the detailed design, layout, appearance, and landscaping will be dealt with at the reserved matters stage.

6.7 Residential Amenity

- 6.7.1 Issues of overlooking, loss of light, and noise and disturbance have been raised by local residents. The detailed layout and appearance of houses is not being considered at this stage but I consider that the site could be developed without causing any harmful loss of privacy or loss of light to adjoining properties on Howland Road as there is sufficient room to site houses a suitable distance from existing properties. I also consider a layout could be achieved which provides suitable living conditions in terms of outlook and privacy for future residents. Nor do I consider any noise from future occupants using their properties or from vehicles would be such to warrant objection in this residential area. This would be in accordance with policy ENV28 of the Local Plan and the NPPF.
- 6.7.2 Due to the proximity of the railway line, a noise and vibration assessment has been carried out. The report concludes that the majority of the site would not experience noise levels above the desirable upper limit of 55dB for gardens, whilst good internal noise levels can be achieved with closed thermal glazing and that additional ventilation provision may be required to allow appropriate air changes where closed windows are required. The report recommends that an assessment of the internal noise levels, based on the final layout proposal is undertaken, in order that an appropriate mitigation plan for those houses likely to be adversely affected by noise can then be finally decided. The vibration assessment indicates that none of the proposed dwellings were likely to experience significant problems in this respect. The Environmental Health Manager has reviewed the report and raises no objections, and on this basis, I consider future residents would have acceptable amenity standards subject to mitigation at the detailed design stage. This would be in accordance with policy ENV28 of the Local Plan and the NPPF.

6.8 Heritage

- 6.8.1 The site lies some distance to the east of the Marden Conservation Area and it is the Conservation Officer's view that its development would have no impact on the character of the conservation area or its setting.
- 6.8.2 Two Grade II listed buildings, 'Yeoman Cottage' and 'Vine Cottage', which have been subdivided from one original dwelling, lie immediately adjacent to the western end of the site, next to the proposed point of vehicular access to Howland Road. The Grade II listed 'Bridgehurst Farmhouse' lies immediately to the east of the proposed development site together with its associated timber framed barn and a former oast house now converted to a dwelling. Opposite the eastern end of the site lie two more Grade II listed buildings, 'The Old House' and 'Pastures End/Poachers Keep'.
- 6.8.3 The Conservation Officer considers that, *"the original rural setting of 'Yeoman Cottage/Vine Cottage' has been largely eroded by the ribbon of development along Howland Road, and the open land to the rear forming the application site makes only a minor contribution to the setting of these listed buildings... In my view, careful development of the larger, western part of the application site could probably be achieved with only a minor and acceptable impact on the setting of Vine Cottage/Yeoman Cottage"*.
- 6.8.4 He considers that development of the eastern parcel would cause substantial harm to the setting of 'Bridgehurst Farmhouse' and its associated former agricultural buildings. However, development is no longer proposed here partly for this reason and due to ecological requirements/enhancements (that will be discussed below). As such, the Conservation Officer raises no objections to the proposals and there would be a minor impact upon heritage assets. Conditions can ensure that development does not occur on the eastern parcel so the development would be in accordance with the NPPF.
- 6.8.5 KCC Heritage has advised that, *"the site does not contain any designated heritage assets but this is an area of general potential for prehistoric and later activity. The site lies on River Terrace Gravels. These have potential to contain rare and important palaeolithic remains. Some Iron Age activity has been recorded to the south and west and given this area may have formed drier land than the surrounding area, it may have been favoured for prehistoric occupation."* They have reviewed the desk-based Archaeological Assessment and advise that in view of the prehistoric and post medieval potential of the site, a condition to secure the implementation of a programme of archaeological work in accordance with a written specification and timetable is appropriate. I consider this would be in accordance with the NPPF.

6.9 Highways

- 6.9.1 Issues of traffic, parking and highway safety have been raised by a number of local residents and the Parish Council. The applicant has submitted a detailed transport assessment, which KCC Highways have reviewed and have not questioned its rationale or its findings.
- 6.9.2 As outlined above, the site is at a sustainable location with access to a good range of facilities and services and a choice of transport including bus and train services. I therefore consider it is an appropriate location for housing development in terms of transport options in line with the NPPF.
- 6.9.3 The site access would be built out into Howland Road (30mph road) by approximately 0.5m in order that satisfactory visibility splays of over 50m can be provided. This will reduce the carriageway width in Howland Road to 5.5m sufficient for 2 HGV's to pass. A safety audit has been completed on the proposed access and tracking diagrams have been provided which indicate that a large refuse vehicle is able to turn into and out of the site access. The capacity of the junction of the site access and Howland Road has been assessed using 'PICADY', (the accepted method to predict capacities, queues, delays and accidents at junctions), and the results indicate that this would operate without delays or queuing in 2018 with the site traffic included. KCC Highways have raised no objections to the proposed access.
- 6.9.4 In terms of the impact upon the local highway network, traffic counts have been completed on Howland Road in the vicinity of the site to establish baseline traffic flows and the existing traffic speed. Whilst some concern has been raised about the survey being partly carried out on a bank holiday (between the 2nd and 8th May 2013 during school term time, but include the bank holiday Monday), KCC Highways are satisfied with the surveys. As standard, growth factors have been applied to the survey flows to provide baseline 2018 flows.
- 6.9.5 The traffic generated by the development has been estimated using the 'TRICs' database, (the national standard for trip generation analysis). This indicates that 24 x 2 way trips would be likely in the AM peak hour and 29 in the PM peak hour. These trips have been distributed on the existing highway using the same proportions as observed during the traffic survey (63% of traffic to/from the west during the AM peak and 60% to/from the east during the PM peak).
- 6.9.6 KCC Highways states that, *"this level of generated traffic is not sufficient to have any significant impact on highway capacity once it is distributed onto the network....the development proposal would not lead to any detrimental impact on capacity."* They have also reviewed the expected traffic from this

development in conjunction with the two recently approved (MAP Depot/The Parsonage) and pending housing sites (Stanley Farm/Hockey & Cricket Ground) in the village and raise no objections.

6.9.7 KCC Highways and MBC have however requested that some mitigation and improvements are required in connection with the development.

6.9.8 Firstly, in terms of pedestrian access to the village, the pavement along the north side of Howland Road narrows to a width of around 70cm outside 'Walnut Tree Cottage' and as such it is difficult for a single pedestrian to get past, let alone pushchairs and wheelchairs, and in addition cars park on this corner against the pavement. It is considered that this link to the village is important in terms of sustainability and safety, and the increase in pedestrians from the development requires that improvements are made. The applicant's transport consultants have investigated this and have proposed to build the kerb out to a width of 1.2m which would allow two pedestrians to pass and access for a mobility scooter, whilst still providing a sufficient road width for vehicles to pass. It is also recommended that double yellow lines are provided on a section of the road here as the reduction in road width would make it too narrow to have on-street parking at this point. Whilst this would displace some parking for local residents here, I do not consider the requirement to park further from one's house on one's grounds to object as it is not a highway safety issue. I consider the benefits from widening the path outweigh the loss of on-street parking. Notwithstanding this, the provision of double yellow lines will be the subject of a traffic regulation order (outside the planning application), where local residents are consulted. I consider that these measures are necessary for a sustainable development and directly related and reasonable, and can be provided under a Section 278 Highways Agreement through Grampian planning conditions.

6.9.9 Secondly, because average road traffic speeds in the vicinity of the site are above the speed limit at 32-34mph, KCC Highways consider it is reasonable and necessary to provide measures to help reduce speeds to enhance road safety for future residents of the development as there would be increased vehicular and pedestrian use on this part of Howland Road. The provision of the red road surfacing including road roundels and dragons teeth on the road towards the east end of the village by the 30mph signs is requested. I consider these measures are necessary, directly related to the development, and reasonable and can be provided under a Section 278 Agreement via a condition.

6.9.10 Thirdly, dropped kerb crossings are considered to be required at each side of the new access close to its junction with Howland Road and also across Howland Road to enable the mobility impaired within the new development to access the wider footway on the south side of Howland Road. These crossings are also required on the access to the Southern Water Plant and Howland Road

near to 'Walnut Tree Cottage', to allow crossing to the proposed footway widening. I consider these measures are necessary for a sustainable development and directly related and reasonable, and can be provided under a Section 278 Agreement via condition.

- 6.9.11 A request for £20,000 towards improvement to the footbridge at Marden rail station has also been received very late on in the consideration of this application. These works, to enhance safety and security for passengers, would improve facilities at the train station making the station more attractive to users and thus promote the use of sustainable transport as advocated by the NPPF. Improvements to the train station are also being sought under the draft Infrastructure Delivery Plan agreed by Cabinet on 24th February 2014. However, there is a lack of detail on the works and how £20,000 has been attributed to this development, at this stage (due to the late request). I am confident that the request could be sufficiently justified and recommend that it is included within any Heads of Terms and Members give delegated powers to the Head of Planning and Development to investigate further and make a decision as to whether the contribution (to a maximum of £20,000) complies with the CIL Regulations (necessary, directly related/reasonable).
- 6.9.12 Bus stop enhancements comprising of raised kerbing at the existing bus stop on the High Street almost opposite the junction with Haffenden Close have also been sought to allow easier access for the mobility impaired. However, I am not convinced that any usage by this scale of development would necessitate these works and therefore that this would be necessary to make the development acceptable. This would not pass the test for conditions.
- 6.9.13 Other recommendations include a sustainable travel statement to provide measures and incentives to encourage trips by alternative means to the private car to include a Residential Travel Information Pack, and cycle parking within the site, which can be secured by condition. Matters relating to construction can be dealt with by informatives.
- 6.9.14 The specific details of parking are not being considered at this stage but it is considered there it will be possible to provide sufficient parking at the site whilst achieving a high quality design.
- 6.9.15 For the above reasons, it is considered that the development would be sustainably located providing a choice of transport modes. The access would be safe and there would be no significant impact upon the local highway network. Measures can be secured to provide appropriate pedestrian connection to the village and its services, and speed reduction. KCC Highways have raised no objections and I therefore consider the proposals accord with policies T21, T22,

and T23 of the Local Plan and the NPPF, and there are no highway grounds to refuse the application.

6.10 Ecology

- 6.10.1 The applicant has carried out a phase 1 habitat survey and protected species scoping survey. These recommended that reptile and great crested newt (GCN) surveys be carried out (which have been), and a badger survey of the woodland area is carried out prior to the start of works.

Reptiles

- 6.10.2 Surveys were carried out in spring/summer 2013 and revealed a low population of common lizards and grass snakes, and an exceptional population of slow worms using the site. Given the low population of common lizards and grass snakes it is advised that these could be retained on site with the area of grassland to the east of the site enhanced to provide appropriate habitat. KCC Ecology is satisfied with this approach but seek a detailed management plan via condition.
- 6.10.3 However, with an exceptional population of slow worms and a reduction in suitable habitat it is advised that they should be translocated to a suitable receptor site. The receptor site identified by the applicant is land at 'Foal Hurst Wood' a statutorily designated local nature reserve which is managed by Paddock Wood Town Council, designated in 1999. It is just to the southwest of Paddock Wood, within Tunbridge Wells Borough, and 5.5 miles west of Marden. 'Foal Hurst Wood' is a small area of ancient woodland and meadow with the site for the reptiles being a managed, semi-improved grassland field with surrounding hedgerows and trees and a newly planted orchard. A management regime to enhance the site as suitable habitat for reptiles and amphibians commenced in March 2013 and new ponds and hibernacula will be created at the site prior to the start of translocation. Reptile surveys undertaken at the site indicate that only a low population of common lizards is present and that the site is suitable to accommodate the slow worms. The applicant has agreed with Paddock Wood Town Council (who owns the freehold to the land) that the site will be managed appropriately for the slow worms.
- 6.10.4 KCC Ecology have considered these proposals and outline that it would be preferable if the receptor site was in Marden as outlined in Natural England Standing Advice. This issue was put to the applicant who has advised that they do not own land near to the site so they contacted numerous organisations and local ecological consultancies to search for potential receptor sites near the application site. A small number of potential sites were suggested but none were particularly close to the development site. These included sites in West

Malling and Sevenoaks which were deemed to be too far away. The only site offered which was considered to be suitable was 'Foal Hurst Wood' which was of a suitable size, was considered to have excellent habitat, and was to be managed in a way that would ensure its suitability for reptiles in future. KCC Ecology has reviewed this information and agrees that 'Foal Hurst Wood' is the most appropriate receptor site and that it will be managed appropriately. They are satisfied with the information detailed within the mitigation strategy subject to a management plan for the receptor site and require no additional information to be provided prior to determination.

Great Crested Newts/Amphibians

- 6.10.5 Surveys were carried out at eight of fourteen ponds within 500m of the site as these were considered suitable for GCN. The surveys recorded an exceptional population of GCN within the ponds surveyed, the majority of which are in two ponds to the south of the site. These ponds are surrounded by good terrestrial habitat and separated from the site by Howland Road. It is advised that it is unlikely that the majority of these newts would commute to the terrestrial habitat within the site. However, the application site has suitable habitat for amphibians during their terrestrial phase and the woodland, hedgerows and scrub provides potential hibernation opportunities. Therefore the proposed development would result in the loss of habitats which have the potential to be used by GCN and amphibians during their terrestrial phase.
- 6.10.6 Bearing in mind that it is considered unlikely that the majority of the newts to the south would commute to the terrestrial habitat within the site, and therefore some uncertainty over the size of the GCN population likely to be found on site, two mitigation options have been suggested. Under both options the eastern parcel of land would be improved and used as mitigation. A smaller receptor area (Option A) would be used if a low population of GCN is found and a larger area (Option B) would be used if a medium to high population is found. KCC are satisfied with this proposal and require a condition on completion of the translocation a report is submitted confirming the boundary of the GCN receptor site and a detailed management plan. Notwithstanding the specific area required for GCN, the eastern field would be used entirely as an ecological enhancement area. A suitable condition can ensure this area is retained as such with an appropriate management plan.
- 6.10.7 No significant issues have been raised by the applicant's ecologist or KCC Ecology regarding other protected species including dormice, bats, breeding birds, and badgers. The woodland area in the northwest corner will be retained and other enhancements at the site in the eastern field for amphibians and reptiles will include creation of a new pond, creation of wildflower grassland to provide foraging and shelter habitat, hibernacula will be created to provide

over-wintering habitat for both amphibians and reptiles, and connections to the wider countryside will be enhanced through planting of native or wildlife attracting trees and shrubs.

- 6.10.8 Relevant to this application, the NPPF (paragraph 118) states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principle:

"If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused."

- 6.10.9 In this case, the harm to ecology can be mitigated through on-site and off-site receptors, which is in accordance with NPPF. KCC ecology has confirmed that this approach is acceptable and subject to securing the translocation and conditions re. a detailed management plan of the eastern field site for mitigation and enhancement, and recommendations to minimise impacts on wildlife, they raise no objections. On this basis, I consider the proposed ecological mitigation accords with the NPPF. It is considered that the translocation to 'Foal Hurst Wood' and management plan would need to be secured via a s106 legal agreement as conditions can't be imposed in relation to land outside the Borough. It will also be necessary to use a condition to ensure that development does not occur in the woodland area in the interests of biodiversity.

6.11 Flood Risk & Drainage

- 6.11.1 The issue of existing localised flooding within the site, within adjoining houses, and on Howland Road has been raised by a number of local residents and the Parish Council. Concerns that the development would exacerbate flooding, that there is not adequate drainage, and that there are existing surface water drains underneath the site which serve houses, have also been raised.
- 6.11.2 The NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increase elsewhere and the technical guide outlines that opportunities to reduce the overall level of flood risk in the area should be sought through the layout and form of the development and appropriate use of SUDs.
- 6.11.3 The site is not within a high risk flood area as identified by the Environment Agency but the applicant has submitted a flood risk assessment (FRA) as is required for major housing applications. Being in a low risk area, the management of surface water run off is the main issue.

- 6.11.4 The FRA has explored the use of soakaways but the underlying weald clay is not suited to this. There are no public surface water sewers in the vicinity of the site and so it is proposed to discharge to an existing culvert underneath the railway line to the existing drainage ditch network on the north side of the railway, which occurs at present. There is a right upon the land to discharge surface water through this culvert. A gravity drainage system (balancing pond) is proposed towards the north east corner of the site with control devices to limit flow to match the existing greenfield run-off rate.
- 6.11.5 This being an outline application, the exact detailed design is not provided at this stage but the preliminary design works undertaken by the applicant's consultants indicate that the design of the drainage system is capable of collecting, storing (if necessary) and conveying run off to the point of disposal without flooding the site and without increasing flood risk elsewhere and to contain a 1 in 100 year flood event plus a 30% allowance for climate change.
- 6.11.6 The Environment Agency originally requested further information relating to the suitability of the culvert (size and condition), further justification that the pond size is adequate, the lack of source control on the SUDs system or pollution control, and the presence of an existing drainage system underneath the site (a point raised by local residents).
- 6.11.7 Further details were provided, including a CCTV survey of the culvert beneath the railway and confirmation that the existing surface water drains under the site will not be affected. The Environment Agency has raised no objections to the proposals although then proceeded to still raise some questions regarding future maintenance of the culvert and existing drains. I have queried this with the Environment Agency and they have confirmed in writing that, *"after reviewing the additional information submitted by Rydon re the CCTV survey and micro-drainage to both the LPA and us, we think that development can proceed safely without increasing flood risk elsewhere subject to the design of a detailed drainage scheme. As a result we were able to remove our objection as we think that our concerns could be dealt with by planning condition."*
- 6.11.8 Overall, the Environment Agency are not objecting to the proposals which, subject to detailed design, will ensure that surface water will be managed within the development to ensure flooding does not occur and will ensure flood risk will not be increased off site.
- 6.11.9 Foul water is proposed to go to the existing public sewer and whilst residents have raised concerns over its capacity, Southern Water have assessed the development, along with other approved and proposed housing developments in the village, and have not raised any objections to this.

6.12 Affordable Housing

- 6.12.1 Affordable housing is proposed at 40% (18 houses) in line with the 2006 DPD and emerging policy with a split of 61% affordable rent and 39% shared equity. The houses sizes per tenure are proposed as follows:

<i>Affordable Rented (11 units)</i>	<i>Shared Equity (7 units)</i>
-------------------------------------	--------------------------------

5 x 1 Bed Flats	4 x 2 Bed House
3 x 2 Bed House	3 x 3 Bed House
3 x 3 Bed House	

- 6.12.2 MBC Housing has confirmed that this mix is close to what they would be seeking based on housing need and raise no objections. There are also satisfied the houses would be built to 'Lifetime Homes' standards. This is in accordance with the DPD and the affordable housing can be secured through a s106 legal agreement. The Parish Council have suggested that there should be some housing to be kept in perpetuity for local needs, to which the applicant is not objectionable. This is not essential in terms of policy compliance so I would not seek this under the legal agreement but leave it to the applicant to decide.

6.13 Planning Obligations

- 6.13.1 A development of this scale is clearly likely to place extra demands on local services and facilities and it is important to ensure that the development can be assimilated within the local community. As such suitable contributions to make the development acceptable in planning terms can be sought in line with policy CF1 of the Local Plan and the Council's Open Space DPD.

- 6.13.2 However, any request for contributions needs to be scrutinised, in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. This has strict criterion that sets out that any obligation must meet the following requirements: -

It is:

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

- 6.13.3 The following contributions have been sought:

- An off site contribution is sought towards the repair, maintenance, improvements and provision of outdoor sports facilities, allotments and gardens, and provision for children (equipped play) within the parish of Marden.
- Contribution of £2360.96 per 'applicable' house is sought towards the build costs of extending Marden Primary School.
- Contribution of £2359.80 per 'applicable' house is sought towards the extension of a secondary school buildings (which based on current trends) are currently used by residents of Marden.
- Contribution of £118.73 per dwelling is sought to be used to address the demand from the development towards additional bookstock and services at local libraries serving the development.
- Contribution of £30.70 per dwelling is sought to be used to address the demand from the development towards the provision of new/expanded facilities and services both through detailed adult education centres and through outreach community learning facilities local to the development.
- Contribution of £8.44 per dwelling is sought to be used to address the demand from the development towards youth services locally.
- Contribution of £8.44 per dwelling is sought used to address the demand from the development towards the provision of new/expanded facilities and services both on site and local to the development including assistive technology, and enhancement of local community facilities to ensure full DDA access.
- Contribution of £10,928.63 is sought towards (forward funded and completed) extensions and works to the Marden Medical Centre.

6.13.4 An off-site open space financial contribution has been requested by the Council's Parks & Leisure Section as it has been advised that Marden is currently underprovided in terms of outdoor sports facilities and allotments and gardens. The nearest play area is at Marden Playing Fields which is Parish owned and approximately 500m away from the development. Because this is an outline application where layout is not being considered, it is appropriate to agree the exact open space provisions at the reserved matters stage once the detailed design is known. At this stage on-site and/or off-site open space provision can be secured. As such, I do not consider it necessary to secure any provision at this stage.

6.13.5 KCC has requested a contribution towards extension of Marden Primary school. Evidence has been submitted that the schools in the vicinity (Marden and Collier Street) are nearing capacity and that the projections over the next few years, taking into account this development and those permitted, show that capacity would be exceeded. I therefore consider that the requested

contribution for school expansion complies with policy CF1 of the Maidstone Borough-Wide Local Plan (2000) and the three tests above.

- 6.13.6 There is also a request for a contribution towards the extension of applicable local secondary schools. Evidence has been submitted that the secondary schools in the local area are nearing capacity and projections over the next few years, taking into account this development and those permitted show that capacity would be exceeded. Therefore contributions are sought from new developments on the basis that the demand for places arising from these developments cannot be accommodated within existing secondary schools. Therefore the extension to the school would be meeting the need arising from this development. I therefore consider that the requested contribution complies with policy CF1 of the Maidstone Borough-Wide Local Plan (2000) and the three tests above.
- 6.13.7 KCC have identified that there would be an additional requirement for bookstock at the local library on the basis that the development would result in additional active borrowers and therefore seek a contribution. I consider this request to be compliant with policy CF1 and to meet the tests set out above.
- 6.13.8 A community learning contribution is sought towards new/expanded facilities and services for adult education centres and outreach community learning facilities. I consider that this request is justified, compliant with policy CF1 and the three tests as set out above.
- 6.13.9 A contribution towards local youth services is sought as the current youth participation is in excess of current service capacity. I consider that this request is justified, compliant with policy CF1 and the three tests as set out above.
- 6.13.10 A contribution towards adult social services to be used towards provision of 'Telecare' and enhancement of local community facilities to ensure full DDA compliant access to clients. 'Telecare' provides electronic and other resources to aid independence including falls, flooding or wandering alarms, secure key boxes and lifeline. I consider that this request is justified, compliant with policy CF1 and meets the three tests as set out above.
- 6.13.11 In terms of healthcare, the Primary Care Trust (PCT) forward funded works to the Marden Medical Practice to enable them to accommodate the 500 new dwellings anticipated over the coming plan period. The cost of the works was £204,189 and the works eligible for PCT funding amounted to £144,189. There were some monies available in S106 contributions from the 'Old Market Development' which was granted to the practice to offset development costs but this still left a surplus. As such, the residual costs of development at £124,189 are being sought and the amount for this development has been

worked out as a proportion (£124,189 divided by 500 assumed new units multiplied by the number of units proposed on each site). This is particular to the situation in Marden given the fact works were forward funded by the NHS. It is considered that this is directly related to the proposed new housing, necessary and reasonable and therefore accords with policy CF1 and passes the CIL tests.

- 6.13.12 The Parish Council have suggested financial contributions towards foul water sewer improvements, however, Southern Water are raising no objections to this application so this is not necessary.

6.14 Other Matters

- 6.14.1 The application is at outline stage and so the applicant has not carried out detailed investigations as to the level that will be achievable on the code for sustainable homes. In order to achieve a sustainable development as advocated under the NPPF and to a lesser degree, in line with emerging policy, I consider it is reasonable and appropriate to apply a condition for Level 4.
- 6.14.2 Other matters raised and not considered above include, loss of land for walking and exercise; who will maintain open spaces, ponds and pumping station; how will developments in the village be managed; noise and disruption during construction; and loss of property value. Whilst people may use the site for exercise it is private land and they have no permanent rights to do so. Any open space, ponds or pumping stations would be the responsibility of the applicant. Management of development in the village and noise and disruption during construction is not a material consideration under this specific application and there are other controls in place such as the highway restrictions, environmental health legislation to manage this. Loss of property value is not a material planning consideration.

6. CONCLUSION

- 6.1 The proposed development is contrary to policy ENV28 in that it represents housing development outside a settlement boundary in the Local Plan. However, in the absence of a five year supply of housing the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development, and policies such as ENV28 cannot form grounds to object in principle.
- 6.2 The NPPF advises that when planning for development i.e. through the Local Plan process, the focus should be on existing service centres and on land within or adjoining existing settlements. Marden is a defined rural service centre and the application site lies immediately adjacent to its boundary. The village offers a

good range of facilities and services including shops, pubs, a primary, school, library, medical centre surgery and railway station and a sizeable designated employment area on Pattenden Lane. As such, the application site is at a sustainable location, immediately adjoins the existing settlement, and is considered an appropriate location in principle for additional housing.

- 6.3 The visual impact of development at the site would be localised with the main views being restricted to a short section of Howland Road. The development would not extend further than existing ribbon development at the east edge of the village, there is development to the south, and the site is contained by the railway line to the north. The development would not be out of character with the morphology of the settlement and the harm to the character and appearance of the area is considered to be low to medium. The eastern field would also be precluded from development, the wooded area in the northwest corner would be retained, and a landscape strip would be provided along the north boundary all through conditions.
- 6.4 There are no highway objections subject to conditions securing necessary works, no objections from the Environment Agency subject to conditions, and there would be no significant to heritage assets. The development could be designed to ensure no harmful impact upon existing amenity and future occupants would have sufficient amenity.
- 6.5 The ecological impacts of the development can be suitably mitigated in line with the NPPF and some mitigation/enhancement would be provided on-site. KCC Ecology is raising no objections.
- 6.6 Appropriate and sufficient community contributions can be secured by a Section 106 agreement to ensure the extra demands upon local services and facilities are borne by the development, and the proposal would provide an appropriate level of affordable housing.
- 6.7 I have taken into account all representations received on the application and considering the low level of harm caused by the development, in the context of an objectively assessed need of 19,600 houses, and against a current housing supply of 2.0 years, I consider that the low adverse impacts would not significantly and demonstrably outweigh the benefits of providing much needed housing, including affordable housing, at a sustainable location. This is the balancing test required under the NPPF. As such, I consider that compliance with policy within the NPPF is sufficient grounds to depart from the Local Plan. Therefore I recommend permission is approved and that Members give delegated powers to the Head of Planning to approve the application, subject to the receipt of an appropriate S106 legal agreement and the following conditions.

7. RECOMMENDATION

Subject to the prior completion of a legal agreement, in such terms as the Head of Legal Services may advise, to provide the following;

- The provision of 40% affordable residential units within the application site.
- Contribution of £2360.96 per 'applicable' house ('applicable' meaning all dwellings, excluding 1 bed units of less than 56sqm GIA, and sheltered accommodation specifically for the elderly) towards the build costs of extending Marden Primary School.
- Contribution of £2359.80 per 'applicable' house towards the extension of a secondary school buildings (which based on current trends) are currently used by residents of Marden.
- Contribution of £118.73 per dwelling to address the demand from the development towards additional bookstock and services at local libraries serving the development.
- Contribution of £30.70 per dwelling to address the demand from the development towards the provision of new/expanded facilities and services both through detailed adult education centres and through outreach community learning facilities local to the development.
- Contribution of £8.44 per dwelling to address the demand from the development towards youth services locally.
- Contribution of £18.05 per dwelling to address the demand from the development towards the provision of new/expanded facilities and services both on site and local to the development including assistive technology, and enhancement of local community facilities to ensure full DDA access.
- Contribution of £10,928.63 towards (forward funded and completed) extensions and works to the Marden Medical Centre.
- Contribution of up to £20,000 towards footbridge improvements at Marden railway station (subject to further investigation demonstrating that the request is CIL compliant)
- Securing the translocation of slow worms to the receptor site and a management plan.

The Head of Planning and Development BE DELEGATED POWERS TO GRANT planning permission subject to the imposition of the conditions set out below:

1. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

a. Layout b. Scale c. Appearance d. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. The details of landscaping submitted pursuant to condition 1 above shall provide for the following:

(i) Retention of the woodland area within the northwest corner of the site as shown hatched on drawing no. J46.77/02 (sheet 1 of 2) within the arboricultural implications assessment.

(ii) Provision of a 3m wide native hedge and tree line along the north boundary of the site beginning at the east edge of the retained woodland in the northwest corner of the site and extending to the east end of the application site.

(iii) A physical barrier between the residential areas and the retained woodland area in the northwest corner of the site.

(iv) Measures to prevent parking on any landscaped verges along the site access roads.

(v) An updated arboricultural implications assessment and tree protection plan to reflect the proposed details of layout.

(vi) A detailed arboricultural method statement.

Reason: To ensure a satisfactory appearance and setting to the development.

3. The details of layout as required under condition 1 shall not show any housing development within the eastern part of the site as outlined in red on the attached plan.

Reason: In order to protect the setting of the Grade II listed building 'Bridgehurst Farmhouse' and in the interests of ecology mitigation and enhancement.

4. The details of layout, scale and appearance submitted pursuant to condition 1 above shall show, inter-alia,

i) The maximum scale of any building being no greater than two storeys with rooms in the roofspace.

Reason: To ensure an appropriate scale for the development.

5. The development shall not commence until a landscape and ecological management plan (LEMP) for the site, and for the retained woodland area in the northwest corner and the Great Crested Newt Mitigation/wildlife enhancement area on the east part of the site, has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on the site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure a satisfactory appearance and setting to the development and in the interests of biodiversity protection and enhancement.

6. The mitigation methods as outlined in the Reptile and Great Crested Newt Mitigation Strategy (Revision D January 2014) shall be strictly adhered to unless otherwise agreed in writing with the Local Planning Authority;

Reason: To ensure that suitable mitigation is provided for ecology within the application site.

7. The recommendations and precautionary methods as outlined in the Phase 1 Habitat Survey (Revision B November 2013) shall be strictly adhered to unless otherwise agreed in writing with the Local Planning Authority;

Reason: To ensure that suitable mitigation is provided for ecology within the application site.

8. If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 2 years from the date of the planning consent, the approved ecological measures secured through Conditions 6 and 7 shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to i) establish if there have been any changes in the presence and/or abundance of GCN and Reptiles and ii) identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason: In the interests of biodiversity protection.

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

Reason: To ensure a satisfactory appearance to the development.

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

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

11. The development shall not commence until a detailed surface water drainage scheme for the site following the principles established in the flood risk assessment and drainage strategy, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding, to improve and protect water quality and to improve habitat and amenity.

12. The development shall not commence until details of foul water drainage have been submitted to and approved by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interest of pollution prevention.

13. The development shall not commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

14. No part of the development shall be occupied until the following works have been constructed and completed:

(i) The extension to the footway on the north side of Howland Road outside 'Walnut Tree Cottage' with parking restrictions, as detailed within the 'Waterman Highways Note' received on 06/11/13 and as shown as 'Option B' on drawing no. 0011.

(ii) Dropped kerb crossings each side of the approved access; dropped kerb crossings each side of Howland Road in the vicinity of the proposed new site access; dropped kerb crossings each side of Howland Road in the vicinity of 'Walnut Tree Cottage'.

(iii) Enhancements to the existing 30mph speed limit gateway treatment on Howland Road at the east end of the site by the provision of red road surfacing, road roundels and dragons teeth road markings.

Reason: In the interests of highway safety, pedestrian safety and sustainability.

15. No part of the development shall be occupied until, a Sustainable Travel Statement providing measures and incentives to encourage trips by alternative means to the private car and to include a 'Residential Travel Information Pack' as outlined in the Transport Assessment, has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be carried out

in full.

Reason: In the interests of sustainable transport use.

16. The approved details of the access as shown within the 'Waterman Transport Assessment' on the drawing at Appendix H received on 19/07/13 shall be completed before the commencement of the use of the land and be maintained thereafter.

Reason: In the interests of road safety.

17. The dwellings shall achieve at least Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.

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

18. The development shall be designed taken into account the Noise & Vibration Assessment carried out by Southdowns Environmental Consultants Ltd, dated April 2013, and shall fulfil the recommendations specified in the report.

Reason: In the interests of residential amenity.

19. The development shall not be occupied until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution and in order to minimise any impact upon ecology. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character, amenity and biodiversity of the area.

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

Drawing nos. 10030-OA-01 received on 19th July 2013 and 10030-OA-03 received on 3rd February 2014.

Reason: In the interests of clarity.

Informatives set out below

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

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

No vehicles may arrive, depart, be loaded or unloaded within the general site, and plant and machinery shall not be operated, that would generate noise beyond the boundary of the site, except between the hours of 0800 hours and 1800 Mondays to Fridays and 0800 and 1300 hours on Saturdays (and at no time on Sundays or Bank or Public Holidays).

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

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

Under the terms of the Flood & Water Management Act 2010, each Lead Local Flood Authority will set up a Sustainable Drainage Advisory Board (SAB). Kent County Council (KCC) has been identified as the lead Flood Local Authority for this area and will be responsible for approval of surface water drainage infrastructure for new development. SAB approval will be required in addition to planning consent. We therefore recommend the applicant makes contact with

the SAB at KCC to discuss details of the proposed surface drainage infrastructure. Enquiries should be made to Kent County Council via email at suds@kent.gov.uk .

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

The Bat Conservation Trust's 'Bats and Lighting in the UK' guidance should be adhered to in the lighting design.

The proposed development does not conform with policy ENV28 of the Maidstone Borough-wide Local plan 2000. However, the development is at a sustainable location, immediately adjoins an existing settlement, and is not considered to result in significant visual harm to the area. Given the current shortfall in the required five-year housing supply, the low adverse impacts of the development are not considered to significantly outweigh its benefits. As such the development is considered to be in compliance with the National Planning Policy Framework and this is sufficient grounds to depart from the Local Plan.

Heads of Terms

Since their request for £20,000 towards footbridge improvements at Marden Railway Station, Kent Highways have confirmed that 'Southeastern' (who lease the station) have now installed a replacement footbridge at the station. As such, they have managed to fund the bridge and there is no requirement for this development to contribute towards it. It is recommended that this Head of Terms is removed.

The draft Infrastructure Delivery Plan (IDP) agreed by Cabinet on 24th February 2014, also seeks 'forecourt improvements' at the station. The need for improvements and the grounds for inclusion within the IDP have been established through discussions between Council officers, Southeastern, Network Rail, and Kent Highways. It would involve improving facilities to make the station more attractive to users and thus promote the use of sustainable transport as advocated by the NPPF. Discussions are still on-going at this stage but measures including improvements to the public announcement system, a customer information screen, improved lighting and CCTV in the car park, and improvements to the ticket office have been identified. Further detail is still required on these works including monetary amounts but discussions are continuing with Southeastern and Network Rail so I am therefore confident that the request could be sufficiently justified in the near future.

I therefore recommend that a contribution towards forecourt improvements is included within the Heads of Terms and Members give delegated powers to the Head of Planning and Development to continue investigations further and make a final decision as to whether a contribution complies with the CIL Regulations (necessary/ directly related/reasonable).

Representations

Marden Parish Council (20/03/14):

"Marden Parish Council again re-iterates its extreme concern regarding yet another housing development in the village and the cumulative pressure which will be occasioned on the sustainability of our community. How many times must we re-iterate this point before a sensible approach is taken by MBC to this and other similar planning applications for housing development in Marden.

Following a meeting in November 2013 with Mr Jarman, his Officers and colleagues in KCC, we were given to understand that our suggestions on phasing and other aspects relating to the cumulative effect of further development could be looked into. We have not heard anything further.

The recent winter storms have shown that the sewage and drainage systems in the village are not robust enough in the current situation, let along with extensive housing development.

We reiterate yet again that a full sustainability appraisal of the likely combined impacts of the permitted and proposed developments should be undertaken

before any further permissions are granted for major housing developments in the village.

However, in respect of proposed developer contributions the Parish Council welcomes specific reference to the extension of Marden Primary School but recommends that this should read:

"extension and/or improvement of existing facilities".

The contribution to Marden Library and Heritage Centre should be only to maintain and enhance the facilities, services and staffing. Youth services should be for those delivered in Marden or directly accessible for Marden residents. Community facilities must be negotiated and agreed with Marden Parish Council. The specific reference to Marden Medical Centre is welcomed; as is the upgrading of accessibility and environmental improvements to Marden Station."

05/03/14:

"Cllrs most strongly recommend that full details of the proposed SUDS and surface water drainage system for the site and off site drainage system, including the culvert to the north east under the railway, are submitted as part of this current application owing to the vulnerability and sensitivity of this site and surrounding properties. Cllrs appreciate this is an outline application but understand that MBC have the power to request these details as part of the application under these exceptional circumstances.

Comments raised at the Parish Council meeting held on 4th March 2014 by Cllrs and Members of the public included:

- New attenuation pond is not shown on the amended plan or in any documentation sent to the Parish Council;*
- Slow worms were being relocated to Paddock Wood although no definite decision had been made regarding the Great Crested Newts;*
- The Play Area had been moved but Cllrs did not feel this was an improvement on positioning*
- Questions were raised over the proposed open space which now seems to be more limited with the reduction of dwelling numbers.*
- Cllrs noted the reduction in the 2-bedroomed dwellings however it would have been preferred that the same number remained."*

Local Resident: Overshadowing/Visual Appearance/Traffic/Noise/Smells/
Disturbance

Officer Comment

Each application must be assessed on its own merits but in terms of infrastructure, Kent Highways, the NHS and KCC Developer Contributions will have also assessed it cumulatively with other approved and pending housing developments.

No objections have been raised by Southern Water in terms of foul water drainage capacity for this application. They were consulted on the two approved housing schemes in Marden (MAP Depot/The Parsonage) and two pending applications at Stanley Farm and Marden Hockey & Cricket Club. Under these applications they have advised that additional off-site sewers or improvements

will be required which would be secured under the Water Industry Act with the developer, as is normal procedure. They acknowledged that there is currently insufficient capacity but this can be resolved and on this basis they have not objected to any of the developments. Kent Highways have raised no objections in terms of impacts upon the local road network and have considered the cumulative impact of the above-mentioned developments. Kent County Council (KCC) and the NHS have considered community contributions taking into account all developments referred to above. Therefore it is considered that this application is acceptable and suitable contributions will be made to infrastructure and community facilities to mitigate the impact of the development.

The requests for community contributions to the primary school, libraries, and youth services are based on the specific requests from KCC and so I do not consider the wording for them should be changed as the Parish Council suggest.

As outlined at chapter 6.11 of the main report, the Environment Agency are not objecting to the proposed surface water drainage and advise that, *"the development can proceed safely without increasing flood risk elsewhere subject to the design of a detailed drainage scheme. As a result we were able to remove our objection as we think that our concerns could be dealt with by planning condition."* This is an outline application and with this advice from a statutory consultee, there is no requirement to provide the precise details of drainage which can be sought via condition.

I can confirm the attenuation pond is shown the latest plans but more importantly it is included within the description of the development.

Great Crested Newts would be kept on site in the eastern field and this is safeguarded by conditions 5 and 6 which secure the submitted mitigation strategy and a future management plan. KCC Ecology is satisfied with this approach.

As outlined at paragraph 6.13.4 of the report, because this is an outline application where layout is not being considered, the exact requirements for play areas/open space would be dealt with at the reserved matters stage once the detailed layout is known. The play area has been shown on the plan for illustrative purposes only.

The Council's housing section has raised no objections in terms of the house sizes proposed.

Issues relating to overshadowing, visual appearance, traffic, noise, smells, and disturbance have been considered within the main report.

Councillor Harwood

The following (summarised) issues have been raised:

- Marden is relatively remote and arguably unsustainable from a traffic, retail and service perspective.
- The site supports significant biodiversity.

- Replacement/receptor semi-natural habitat should be delivered within the Marden area and the wildlife should not be deported. A better approach would be the purchase of a nearby area of agricultural/paddock land that is currently unsuitable for wildlife and change the management/import some cover (timber etc.).
- The receptor site is not suitable and any wildlife moved there has no future.
- The retained area on site as a 'meadow' would provide low benefit.

Officer Comment

As outlined at paragraph 6.4.10 of the main report, the NPPF advises that when planning for development i.e. through the Local Plan process, the focus should be on existing service centres and on land within or adjoining existing settlements. Marden is a defined rural service centre (RSC), which outside of the town centre and urban area, are considered the most sustainable settlements in Maidstone's settlement hierarchy, agreed by Cabinet under the draft Local Plan. The settlement offers a good range of facilities and services including shops, pubs, a primary, school, library, medical centre surgery and railway station and a sizeable designated employment area on Pattenden Lane. As such, the site is considered to be at a sustainable location and immediately adjoins the existing settlement.

As outlined at paragraph 6.10.4 of the main report, it would be preferable if the receptor site was within the Marden area. However, the applicant has advised that they do not own land near to the site so they contacted numerous organisations and local ecological consultancies to search for potential receptor sites near the application site. A small number of potential sites were suggested but none were particularly close to the development site. These included sites in West Malling and Sevenoaks which were deemed to be too far away. The only site offered which was considered to be suitable was 'Foal Hurst Wood'.

In response to Cllr Harwood's comments, KCC Ecology advises that they consider the applicant's ecologist, *"has clearly shown that they did try to identify a receptor site within the Marden area but unfortunately there wasn't a suitable site available - which would be retained in perpetuity. We are aware that the 'Foal Hurst Wood' site is not currently ready for the reptile translocation, however management is currently underway and the ecologist and the reserve manager is confident that the site will be suitable by the time the reptiles are translocated."* They consider it is actually preferable if the receptor site requires management to make it suitable for the reptiles, as it means there is no significant reptile population already present within the site.

This is an outline application and as such the receptor is not required to be ready for translocation now and the mitigation strategy would ensure it would be ready when required. Condition 8 also requires a review of the mitigation measures within 2 years of any outline planning permission to ensure appropriate measures would still be in place.

A detailed management plan for the meadow area has yet to be produced and will be produced under condition 5 of any permission prior to works starting on site. Therefore the management of the area can be designed to ensure it provides maximum benefit for wildlife.

Site Plan on Committee Agenda

The site identification plan on page 65 of the Planning Committee Agenda was originally incorrect. For website purposes this was corrected within 24 hours of the agenda being released, and Planning Committee Members were informed and sent the correct plan.

This is an identification plan for Committee Agenda purposes. The statutorily required 'red outline' site location plan submitted with the application has been available to view since it was registered last year. As such, I do not consider anybody interested in this application has been prejudiced by this error.

RECOMMENDATION

My recommendation is changed as follows:

Subject to the prior completion of a legal agreement, in such terms as the Head of Legal Services may advise, to provide the following;

- ☐ The provision of 40% affordable residential units within the application site.
- ☐ Contribution of £2360.96 per 'applicable' house ('applicable' meaning all dwellings, excluding 1 bed units of less than 56sqm GIA, and sheltered accommodation specifically for the elderly) towards the build costs of extending Marden Primary School.
- ☐ Contribution of £2359.80 per 'applicable' house towards the extension of a secondary school buildings (which based on current trends) are currently used by residents of Marden.
- ☐ Contribution of £118.73 per dwelling to address the demand from the development towards additional bookstock and services at local libraries serving the development.
- ☐ Contribution of £30.70 per dwelling to address the demand from the development towards the provision of new/expanded facilities and services both through detailed adult education centres and through outreach community learning facilities local to the development.
- ☐ Contribution of £8.44 per dwelling to address the demand from the development towards youth services locally.
- ☐ Contribution of £18.05 per dwelling to address the demand from the development towards the provision of new/expanded facilities and services both on site and local to the development including assistive technology, and enhancement of local community facilities to ensure full DDA access.
- ☐ Contribution of £10,928.63 towards (forward funded and completed) extensions and works to the Marden Medical Centre.
- ☐ Contribution towards forecourt improvements at Marden railway station (subject to further investigation demonstrating that the request is CIL compliant)
- ☐ Securing the translocation of slow worms to the receptor site and a management plan.

The Head of Planning and Development BE DELEGATED POWERS TO GRANT

planning permission subject to conditions.

117

28. 8. 2013

118

28. 8. 2013

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28. 8. 2013

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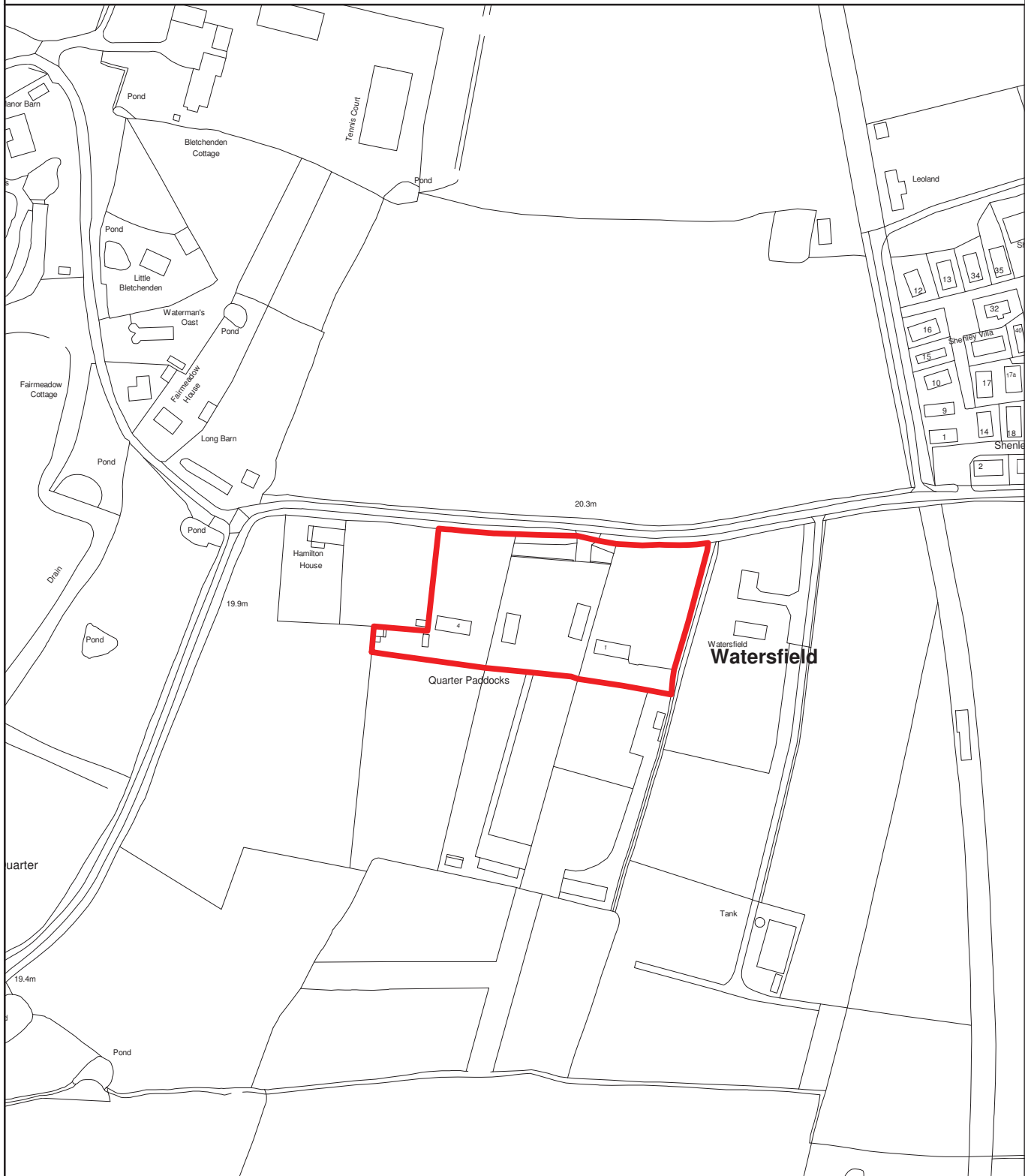
Agenda Item 15

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/1315

GRID REF: TQ8442

QUARTER PADDOCKS, BLETCHENDEN ROAD,
HEADCORN.



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Rob Jarman
Head of Planning and Development

APPLICATION: MA/13/1315 Date: 24 July 2013 Received: 25 July 2013

APPLICANT: Mr J Baker and Others

LOCATION: QUARTER PADDOCKS, BLETCHENDEN ROAD, HEADCORN, KENT, TN27 9JB

PARISH: Headcorn

PROPOSAL: Continued occupation of the site as a gypsy caravan site (planning application refused under ref:MA/03/2366 but allowed on appeal) but with variation of the following conditions to allow:
Condition 2 : To enable unrestricted occupation by any gypsy/traveller family (currently restricted to applicant and dependents);
Condition 3 : To enable permanent occupation by gypsy and traveller family (currently restricted to 4 years expiring on the 31st July 2013) and ;
Condition 4: Increase in number of caravans on site (currently permitted 3 static and 2 tourers) to 4 static and 4 tourers. as shown on drawing received on the 25th July 2013.

AGENDA DATE: 20th March 2014

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
- it is contrary to views expressed by the Environment Agency

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34, T13
- Village Design Statement: N/A
- Government Policy: National Planning Policy Framework (2012), Planning Policy for Traveller Sites (2012)

2. RELEVANT HISTORY

- 2.1 MA/03/2366: Change of use of land to residential incorporating the stationing of three mobile homes and two touring caravans for an extended gypsy family – REFUSED – 16th February 2004.
- 2.2 The appeal against the above refusal was allowed on the 31st July 2009 subject amongst other things to, conditions to secure the following:
- Restriction on occupation of the site to the applicants and family members;
 - Use granted for a limited (4 year) period expiring on the 31st July 2013.
 - No more than 5 caravans to be stationed on the site at any one time (of which no more than 3 shall be static caravans or mobile homes).
 - No commercial activities including storage of materials
 - No floodlighting and only one light per mobile home
 - Details of maintenance of drainage ditches, internal site layout and landscaping. (Appeal decision attached as appendix 1)

3. CONSULTATIONS

3.1 Headcorn Parish Council: Objects on the following grounds:

- Site is not acceptable for the reasons set out in the appeal decision referred to in appendix 1.
- Should further temporary planning permission be granted would be prepared to accept this up until 2015 in line with emerging policies on Gypsy and Traveller accommodation.
- Headcorn Ward has highest concentration of gypsy and travellers sites in Maidstone Councils area and proposal is not conducive to good community relations.

3.2 Environment Agency:

3.2.1 Comments received on application as originally submitted:

- The site falls just within Flood Zone 3a. The development is classed as highly vulnerable and therefore should not be permitted within zone 3a.
- However as the site already exists and in accordance with the sequential tests, a flood risk assessment (FRA) should be submitted to demonstrate that there is safe and dry emergency access to the main road for residents.

3.2.2 Following submission of an FRA the following response was received:

- Maintains objection to vulnerable development in Flood Zone 3a.

- Note that caravans are higher than 1:100 yr flood level however there is a distance of over 100 metres from the caravan site to the access road where the flood depth will be 150mm.
- After about 100 metres the road level rises before dry access is reached heading east on the A274.
- As such comes down to issues of emergency access and escape and the emergency planning officers at the Council/KCC should be consulted.

3.3 **Kent Highway Services:** No objection

4. REPRESENTATIONS

4.1 In addition to the display of a site notice four properties were consulted. One representation was received as follows:

- Site should remain for use by applicant and extended family only- cannot see any justification for widening use further.
- No long term decision on the future of the site should be taken until provision for Gypsy and Traveller accommodation has been finalised.
- Concerned that the current use of the site is already in breach of conditions. If permission for 6 is allowed how will occupancy be monitored and enforced.
- Based on number of rubbish bins at the site consider that this does not correspond to 5 dwellings.
- Sewage entering ditches, this is causing harm to local environment which must be addressed before further planning permission is granted.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site is located around 1.5 km to the south of Headcorn and has a frontage onto the south side of Bletchenden Road of about 100 metres. The site has a central access serving an internal road serving the mobile homes which are laid out on defined plots. The road frontage of the site is landscaped with substantial planting abutting both sides of the access track and for part of the length of the internal service road.

5.1.2 At the rear of the application site is a large paddock area. One additional mobile home is being stationed abutting the application site at its south east corner.

5.2 Proposal

5.2.1 The application seeks to continue using the site for gypsies and travellers without restricting its occupation to the applicants and their family members

only, that permanent permission now be granted and that the number of caravans on site (currently limited to 3 static and two tourers) shall increase to 4 statics and 4 tourers.

5.2.2 The following has been submitted in support of the application:

- The applicants would accept renewal on a further temporary basis with named occupants for 5 caravans in the same manner as agreed at the 2009 appeal.
- If the development is now considered appropriate and acceptable no longer any need to make condition personal.
- Would not object to a personal consent if temporary permission only granted.
- Only family members would occupy site but condition should only apply to the adults.
- George and Priscilla Harber have need for a larger caravan and there is a need for the additional caravan to accommodate new household formation at the site.
- The applicants have strong local connections with the area with some of the residents of the site having ongoing health issues.
- The Council continues to make insufficient provision to meet identified demand for gypsy and traveller accommodation.
- There is now good reason to suspect that a better site will not be found meeting the applicants needs that will be deliverable and close to a settlement.
- That the site, which is now well screened due to substantial landscaping from public vantage points, has been occupied for many years without incident.

5.2.3 Regarding the additional mobile home that is being stationed outside the application site without the benefit of planning permission the following response has been received:

- The additional plot is occupied by Obie Harber Jnr aged about 21 and his wife, who is expecting a baby.
- He is related to other occupants of the site
- He is suffering from severe health issues requiring constant monitoring and it has always been expected he would live with family for support with his illness.

5.4 DISCUSSION:

5.4.1 The key issues in relation to this proposal are considered to be whether there have been any material change in circumstances to now justify granting planning permission for the amendments now sought.

- 5.4.2 The appeal decision attached as appendix 1 is considered to be a key material consideration in assessing the above.

5.5 Principle of Development

- 5.5.1 There are no saved Local Plan Policies that relate directly to this type of development. Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 (MBWLP) relates to development in the countryside stating that:

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

ENV28 then outlines the types of development that can be permitted.

- 5.5.2 A key consideration in assessment of this application is Government guidance contained in 'Planning policy for Traveller Sites' (PPTS) published in March 2012. This places a firm emphasis on the need to provide more gypsy sites, supporting self provision and acknowledging that sites are likely to be found in rural areas.
- 5.5.3 Though work on the emerging local plan is progressing as yet there are no adopted policies responding to the provision of gypsy sites. Local Authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. To this end Maidstone Borough Council, in partnership with Sevenoaks District Council procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). The GTAA concluded the following need for pitches over the remaining Local Plan period:

Oct 2011 – March 2016	105 pitches
April 2016 – March 2012	25 pitches
April 2021 – March 2026	27 pitches
April 2026 – March 2031	30 pitches
Total Oct 2011 – March 2031	187 pitches

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

- 5.5.4 Draft Policy CS12 of the Regulation 18 version of the Local Plan approved by Cabinet on 13th March 2013 that the Borough need for gypsy and traveller pitches will be addressed through the granting of permanent planning permissions and through the allocation of sites.
- 5.5.5 The timetable for the Local Plan's adoption is July 2015.

- 5.5.6 Issues of need are dealt with below but, in terms of general principles Government Guidance clearly allows gypsy sites to be located in the countryside as an exception to the general policy of restraint.

5.6 Gypsy Status

- 5.6.1 Annex 1 of the PPTS defines gypsies and travellers as:-

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

- 5.6.2 The gypsy status of the applicants is not challenged, it being accepted that they comply with the definition of a gypsy as outlined in Government guidance in Planning Policy for traveller sites and this was the view taken at the appeal.

5.7 Need for Gypsy Sites

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

- 5.7.2 As stated above, the projection accommodation requirements is as follows –

Oct 2011 – March 2016	105 pitches
April 2016 – March 2012	25 pitches
April 2021 – March 2026	27 pitches
April 2026 – March 2031	30 pitches
Total Oct 2011 – March 2031	187 pitches

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

48 Permanent non-personal permissions

9 Permanent personal permissions

0 Temporary non-personal permissions

28 Temporary personal permissions

Therefore a net total of 57 permanent pitches have been granted since 1st October 2011. As such a shortfall of 48 pitches remains outstanding.

- 5.7.4 It must be noted that the requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. This explains why the need figure appears so high in the first 5 years.

5.8 Visual Impact

- 5.8.1 The preferred locations for Gypsy and Traveller accommodation is normally outside AONB's, areas having Green Belt status and areas liable to flooding. The application site is located in countryside falling within the Low Weald Special Landscape area (SLA). It is therefore subject to provisions of policies ENV28 and ENV34 of the adopted Local Plan. In broad terms policy ENV28 states that development will not be permitted in the countryside where it would harm the character and appearance of an area or amenities of surrounding occupiers. Policy ENV28 nevertheless makes clear that exceptions will be permitted if justified by other policies contained in the plan. In SLA's subject to policy ENV34 landscape considerations will normally take precedence over other matters.
- 5.8.2 It is generally accepted that mobile homes are visually intrusive development out of character in the countryside. They are therefore unacceptable in their visual impact unless well screened or hidden away in unobtrusive locations. The preference is therefore for them screened by existing permanent features such as existing hedgerows, tree belts, existing buildings or the lie of the land.
- 5.8.3 The Inspector at the appeal concluded that notwithstanding the potential for additional planting, the use of the land harmed the rural character of the area and that of the SLA. As such granting permanent planning permission would be seriously harmful to the character and appearance of the area.
- 5.8.4 However since temporary planning permission was granted on appeal in July 2009, substantial planting that has taken place both on the site frontage and within the site which has now matured. The net result is that apart from views through the access into the site, the site is now so generally well screened that the visual impact of the caravans and associated domestic paraphernalia on the wider area is now very limited.
- 5.8.5 The Inspectors comments on the fundamental visual harm caused by the site and which he considered could not be mitigated by additional landscaping, are noted. However these comments were made in the absence of planting being in place such that there was speculation as to the likely mitigating impact of planting.

5.8.6 It is therefore considered that given the screening effect of the landscaping that has now taken place and, subject to the imposition of a condition requiring hedging to be maintained at a height of no less than 3 metres, this, to some extent mitigates the visual impact of the site on the rural character of the area and that of the SLA such that the Inspectors concerns are considered to be materially addressed.

5.9 Unrestricted occupation:

5.9.1 In making occupation of the site personal the Inspector attached significant weight to the need of the residents of the site to (a) access to good medical care provided by a settled lifestyle (b) access to care provided by an extended family (c) the range and severity of health problems that required a settled lifestyle (d) the education of children would be disrupted if they had to leave the site and (e) the applicants local connections.

5.9.2 In granting temporary planning permission the Inspector concluded that given the personal circumstances of the applicants, summarised above, it was necessary to restrict occupation to the applicants and their family members.

5.9.3 Since planning permission was granted the applicants still continue to have strong local connections to the area along with multiple health issues requiring a settled stable lifestyle with access to care provided by family members and local health services.

5.9.4 It is also understood that the site would continue only to be occupied by the applicants and their extended family. However given the wording of the current condition, each time the family circumstances of the adult members change a fresh planning permission would be required.

5.9.5 While the use of the site remains temporary, any consent would have to reflect the special circumstances of the applicants therefore requiring continuation of the occupancy restriction.

5.9.6 Were granting permanent planning permission considered to be justified it is not felt that restricting occupation to any particular family group would satisfy any planning aim subject to the site remaining for gypsy and traveller use only.

5.10 Permanent permission

5.10.1 The Inspectors concerns regarding harm to the rural character of the area and landscape quality of the SLA, for the reasons already discussed above, have been partially mitigated.

5.10.2 It is considered that there has been a material reduction in the identified visual harm to the area. It should also be noted that there is an ongoing lack of alternative sites for gypsy and traveller accommodation which is still unlikely to be resolved for some time yet. To place this more in perspective, at the time of the appeal decision need was based on the South East plan figures of 32-48 pitches to 2016. The need has now increased to 105 pitches to 2016 with this target and still being some way from being met.

5.10.3 It should also be taken into account that this is a long established site with occupants having close family ties and links with the surrounding area while occupying a sustainable location just 1.5 km to the south of Headcorn with its range of local facilities. It is therefore considered that in the absence of compelling objection on flooding grounds this site is a suitable candidate for permanent consent while also making a material contribution to satisfying the identified need for such sites within the Borough.

5.11 Additional caravans:

5.11.1 Regarding the need for the further units, the additional accommodation is required to serve the existing needs of this extended family unit. The unauthorised siting of the mobile home that has already taken place outside the recognised site area by another family member it is considered, lends weight to the case of need, which is not disputed.

5.11.2 The site is spacious and now well screened apart from the access and it is evident there is more than sufficient capacity to accommodate additional caravans as proposed in an acceptable manner irrespective of whether further temporary or permanent planning is granted.

5.11.3 Where an existing site is identified as one that can accommodate additional units in an acceptable manner without harm to visual amenity and in the absence of any other material constraints, it is considered that the opportunity should be taken to maximise the use of the site as one appropriate for gypsy and traveller accommodation. This will materially assist in meeting the identified need set out above while helping to minimise the pressure for development in more sensitive locations.

5.12 Flooding

5.12.1 The site is located within Flood Zone 3a and the Environment Agency (EA) has raised an objection in principle on flooding grounds.

5.12.2 The EA confirms that the caravans are higher than 1:100 year flood level though there is a distance of over 100 metres from the caravan site to the access road where the flood depth will be 150mm(6ins).

5.12.3 The EA acknowledges that after about 100 metres the road level rises before dry access is reached heading east on the A274. The key outstanding issue is that of emergency access and escape.

5.12.4 The applicants have submitted a detailed FRA but their response to the EA in summary is that while the EA updated its modelling in 2007 which extended the flood zone, when planning permission was granted at appeal in 2009 no flood related issues were raised. Though acknowledging that the site is occupied by vulnerable development and vulnerable residents the site has never flooded.

5.12.5 The applicant has also set out a detailed response to the EA's objection relating to emergency access and escape which are summarised as follows:

- The caravans are clear of the 1:100 year flood level. The caravans and their occupants would be free of flooding in the worst flooding event and could sit out any danger.
- That despite the extreme recent flooding event the site was not flooded neither was the road in front of the site leading to the main road to the east.
- The road is located at the edge of the flood zone such that it would be slow to flood and early drain while any flooding would be of short duration.
- The depth of flooding at 150mm would not present access problems to either vehicles or pedestrians. It is not conceivable that the site would be cut off by this level of flooding while the length of road susceptible to flooding is a short straight stretch.
- The site occupants could sign up to receive EA flood warnings such that any vulnerable persons could make suitable arrangements beforehand.

5.12.6 Notwithstanding the above, public safety is a material planning consideration which must be taken into account in assessing this application. In the absence of any evidence that (a) the site has at any time been flooded and (b) apart from the area around the access road, which would only be subject to limited inundation for a relatively short duration, with adequate preparation the applicants and their families would, it appear not be exposing themselves to an unacceptable level of risk.

5.12.7 The emergency services are under an obligation to provide assistance as necessary. Nevertheless placing them at greater risk than necessary as part of any planning decision should be avoided. No evidence is available from emergency services nor has the Council in its possession evidence which it can apply to this situation. Given maximum projected flood levels around the site

access and in the absence of evidence to the contrary, it is not considered that members of the emergency services would be exposed to unacceptable risk.

5.12.8 Apart from the site access it is acknowledged by all parties that the wider site area has never been flooded. The site provides accommodation for a number of families that are now well established with clear links to the locality. Given that possible flooding is restricted solely to the site access and in the absence of any evidence to the contrary, the risk to emergency services and resident's alike looks to fall within acceptable limits. As such there is considered to be insufficient reasons to raise objection to use of the site, temporary or otherwise, on flooding grounds, despite the objections of the EA on emergency access and escape grounds.

6. Residential Amenity

6.1 There are considered to be no nearby dwellings likely to have their outlook or amenity materially affected by the proposals.

7. Highways Safety

7.1 The site access is existing and the application is not the subject of objection by Kent Highways. In the circumstances there is not considered to be any sustainable objection to what is proposed on highway grounds.

8. Other matters:

8.1 Though there is considered to be no objection to the additional caravans proposed within the recognised site area, the applicants acknowledge the siting of a further caravan outside this area. The occupants of the caravan are part of the wider family unit and given the special health needs of one of the occupants, there is little doubt he benefits from the close care and support afforded by other site members.

8.2 The applicants have advised that they will not be seeking planning permission to retain this caravan as part of the current application. They want this dealt with on its own merits as a separate application.

8.3 Regarding concerns relating to sewage from the site entering local watercourses, the applicants have responded as follows. Each unit has its own cess pit which is emptied on a regular basis, usually about once every 1-2 months.

8.4 In addition the EA is aware of this concern but having inspected the site on 3 to 4 occasions has no evidence to support such an objection. Finally even if it was established that run off into local watercourse was taking place this would be the

subject of action by the EA. It is not a matter that can be taken into account by the Council in determining this planning application.

9. CONCLUSIONS

9.1 These are considered to be as follows:

- Planting of substantial screening belts since temporary planning permission was allowed on appeal means that the site is now well screened such that its visual impact on the rural character of the area and the SLA has been reduced.
- In the absence of significant visual harm, the increased need for gypsy and traveller accommodation since the appeal was allowed, sustainable location of the site, the applicants links to the local area and their ongoing occupation of the site since at least 2003, it is considered, makes this site a suitable candidate for granting permanent consent.
- Granting permanent consent will make a material contribution to satisfying the identified need for such sites while helping to minimise the pressure for similar development in more sensitive locations.
- Family circumstances justify the additional caravans while the size of the site and its well screened location means they can be accommodated without material visual harm to the wider area.
- The site, apart from the access to it does not flood.
- That flooding was not raised as an issue at the appeal despite the flood zone being extended before the appeal took place.
- Given the above there is considered to be no sustainable objection to the proposals on flooding grounds having regard to the precautions that existing and future residents will take and lack of evidence that residents or the emergency services will be exposed to unacceptable risk.
- No objection on highway or parking grounds.

9.2 In the circumstances it is considered appropriate to recommend that permanent planning permission be granted, that the occupancy condition be set aside and that the additional caravans as sought can be stationed on site.

10. 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 screen planting both on the on the site frontage and within the site shall be allowed to grow up to a height of 3 metres and shall be retained no lower than 3 metres in height at all times thereafter. Should any planting die or become dying, diseased or dangerous it shall be replaced with the same species within the first available planting season and maintained at all times thereafter in accordance with the provisions of this condition.

Reason: To screen the development in the interests of visual amenity.

3. No more than four static residential caravans as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 and four touring caravans, which shall not be used for habitation purposes, shall be stationed on the site at any one time. The caravans hereby permitted shall only be sited as shown on the approved drawings.

Reason: To accord with the terms of the application and in the interests of visual amenity.

4. Should any residential caravan that is on the site be removed at any time, it shall be replaced with a mobile home that accords with the definition as contained in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.

Reason: In order to conform with the use of the site as a gypsy and traveller site.

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

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside and nearby properties.

6. No floodlighting or column lighting shall be installed and no more than one external light source shall be affixed to any mobile home.

Reason: To safeguard the night time rural environment in the interests of visual amenity.

7. The site shall only be occupied by gypsies and travellers as defined DCLG guidance 'Planning policy for Traveller Sites' published in March 2012 as set out in Annexe 1.

Reason: To reflect the special circumstances of the application.

Informatives set out below

Planning permission will be required to retain the caravan located outside the application site in its current position.

It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement

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.



The Planning Inspectorate

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Elly Hammond
Maidstone Borough Council
Maidstone House
King Street
Maidstone
KENT
ME15 6JQ

Your Ref: MA/03/2366

Our Ref: APP/U2235/A/08/2071739

Date: 31st July 2009

APPENDIX

P.R. Correspondence?	
REF:	
- 3 AUG 2009	Init'l
CHQ. DET. E	
DRAWER	

Dear Elly Hammond

**TOWN AND COUNTRY PLANNING ACT 1990
APPEAL BY MR JIM BAKER
SITE AT QUARTER PADDOCK, BLETCHENDEN ROAD, HEADCORN, KENT
TN27 9JB
CORRECTION NOTICE**

Following a request from the appellant's representative Alison T Heine, I am enclosing a copy of the corrected appeal decision, in pursuance of Section 56(2) of the Planning and Compulsory Purchase Act 2004 as amended.

This decision corrects that issued on 23 March by substituting the wording;

- 2) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Obie Harber (born 12 January 1974 and his wife Kathleen, George Harber Snr (born 7 October 1947) and his wife Ellen Harber (born 10 January 1948), George Harber Jnr (born 3 August 1968) and his wife Priscilla Harber (born 13 April 1967), Ellen Harber (born 9 July 1966) and James Baker (born 10 October 1969).

for the wording of condition 2 as given in the schedule of conditions on pages 10-11 of the decision issued on 23 March. Please accept my apologies for any confusion that may have resulted from the omission of Mr Baker's details from condition 2 in the decision issued on 23 March.

If you are receiving this revised decision by post, a separate leaflet is enclosed setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court. If you are receiving this communication via email, that leaflet, and a further leaflet about the Inspectorate's complaints procedures, can be obtained via our website at:

www.planninginspectorate.gov.uk/pins/agency_info/complaints/complaints_dealing.htm

Yours sincerely

David Bourton
Quality Assurance Unit



Appeal Decision

Inquiry held on 4 February 2009

Site visit made on 5 February 2009

by **Phillip J G Ware** BSc DipTP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
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Decision date:
31 July 2009

Appeal Ref: APP/U2235/A/08/2071739

Quarter Paddock, Bletchenden Road, Headcorn, Kent TN27 9JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Jim Baker against the decision of Maidstone Borough Council.
- The application Ref MA/03/2366, dated 11 October 2003, was refused by notice dated 16 February 2004.
- The development proposed is the change of use to residential and the stationing of three mobile homes and two touring caravans for an extended gypsy family.
- This decision supersedes that issued on 14 September 2004 (insofar as it related to the section 78 appeal). That decision on the appeal was quashed by order of the High Court.
- This decision also supersedes that issued on 20 September 2006. That decision on the appeal was quashed by order of the High Court.

Procedural matters

1. The description of the development set out above is taken from the original application form, submitted in 2003, and relates to the development refused planning permission in early 2004. The development has occurred and the proposal is thus for the continuation of the change of use.
2. However, with the passage of time the occupation of the site has changed, and the site has been effectively divided into four plots. At the time of my visit, there were five mobile homes (one of which I was told was only being stored at the site) and four touring caravans (two of which appeared to be located outside the appeal site). There were also a range of dayrooms and other incidental structures.
3. It may be that local people are aware of the changes in the occupation of the site, and clearly the Council – at officer level – appreciates the position. That said, local residents have not been consulted about the current occupation, and the Council has not formally considered the changed position. I am concerned that if I were to consider the appeal as relating to anything other than the development which was originally applied for, the position of local residents and/or the Council could be prejudiced. I shall therefore consider the appeal as relating to the development described above.
4. For the avoidance of doubt, that description does not include the large areas of hardstanding on the site which have been constructed between the public road and the mobile homes and other structures.

5. This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 and supersedes that issued on 23 March 2009.

Decision

6. I allow the appeal, and grant planning permission for the change of use to residential and the stationing of three mobile homes and two touring caravans for an extended gypsy family at Quarter Paddock, Bletchenden Road, Headcorn, Kent TN27 9JB in accordance with the terms of the application, Ref MA/03/2366, dated 11 October 2003, and the plans submitted with it, subject to the conditions set out in the Schedule at the end of this decision.

Background and main issues

7. At the first Inquiry into this matter, two enforcement appeals were linked to the planning appeal. Subject to certain statutory provisions and variations the enforcement notices were upheld. Those enforcement appeal decisions were not challenged in the High Court and continue to have effect.
8. The Council originally refused planning permission for four reasons. Two of these related to the effect of the proposal on the surrounding area, and whether there are reasons to justify an exception to the policies of countryside restraint. These matters are still in dispute (although one of the relevant policies quoted in the reason for refusal has not been saved).
9. One of the other reasons for refusal related to flood risk. However, after the Council's decision and just before the first Inquiry, the Environment Agency indicated that their objection had been addressed by evidence on flood risk. The objection was withdrawn subject to the imposition of a condition. This reason for refusal is no longer contested.
10. The final reason for refusal related to the alleged lack of evidence that the site would be occupied by gypsies – as then defined. However, the Council now accepts the gypsy status of the appellant¹ and did not contest this reason for refusal in relation to any of the current occupiers of the site.
11. Given this background the main issues in this case are:
- The effect of the proposal on the character and appearance of the countryside
 - Whether any harm arising from the above issue is outweighed by the need for accommodation to meet the needs of gypsies, and/or by the personal circumstances of the appellant and other occupiers of the site.

Reasons

Policy context

12. The parties agreed that the development plan includes the Kent and Medway Structure Plan (2006) (SP) and the saved policies of the Maidstone Borough Wide Local Plan (2000) (LP). In particular, SP policies EN1 and EN3 deal with the protection of the countryside. The appeal site is within the Low Weald Special Landscape Area (SLA), which is given additional protection by SP policy

¹ Statement of Common Ground

EN5. The SP also includes a policy (HP9) dealing with the provision of permanent and transit gypsy accommodation. At the local level, LP policies ENV28 and ENV34 deal with the protection of the countryside and with SLAs respectively.

13. LP policy H36 formerly dealt with gypsy sites. It was extant at the time of the last Inquiry, but has not been saved and is no longer relevant.
14. The Council has begun preparation of its Local Development Framework (LDF), but it was agreed by the parties that there are no emerging policies which have reached a stage to be relevant to this appeal. It is of consequence that the Council has resolved (October 2008) to prepare a freestanding Development Plan Document (DPD) on gypsy and traveller matters in advance of the production of its Core Strategy. Adoption of this DPD is timetabled within 35 months (i.e. nearly 3 years) of the date of the resolution.

The effect on the character and appearance of the countryside

15. The appeal site is located around 1.5km south of the edge of Headcorn, a large village which is agreed to have a good selection of local facilities. Bletchenden Road is a narrow country road leading off the A274. At the junction with the A274 are bus stops and a mobile home park.
16. The site has a frontage of around 102 metres, and a depth of some 50 metres. There is a central access road, off which access to the individual plots is gained. There is a field to the rear, outside the appeal site but shown as being in the appellant's ownership on the application plan, which is used for grazing. It also included two touring caravans at the time of my visit.
17. The site itself is between a plant nursery to the east – at the front of which a mobile home has recently been placed (with planning permission granted in 2008) – and an open field to the west. This field (which was agreed by the parties to be outside the control of anyone on the appeal site) contains a number of containers and sheds which currently appear disused. The parties advised that this field had been more intensively used for containers and similar storage in the past. Beyond that field is a dwelling.
18. The area generally is open countryside, with some sporadic frontage development, characterised by small fields enclosed by deciduous hedgerows and trees. Prior to the occupation of the site for its current use, I understand the land was undeveloped.
19. The general policy approach at the national, county and local level is that the quality and character of the countryside should be protected for its own sake. Development that does not need a rural location, except as otherwise provided for under other policies, is to be resisted. An element of additional policy protection is provided by the fact that the site is within the Low Weald SLA, within which particular attention should be given to the protection and conservation of the scenic quality and distinctive character of the area. In LP policy terms, priority should be given to the landscape over other planning considerations, although this approach is not reflected in national policy.
20. The proposal would introduce a series of elements onto the site which are alien to a rural landscape. Caravans and mobile homes, ancillary buildings and

domestic paraphernalia would clearly be out of place in this rural context. I am conscious that I am dealing with the scheme as applied for rather than the development currently on the site, but inspection of the site as it now exists further illustrates the alien nature of this type of development in a rural area. The appellant has accepted that the development is harmful to the character and appearance of the countryside, and that there is accordingly a policy conflict.

21. I have taken account of the presence of the approved mobile home which has been placed comparatively close to the road on the adjacent nursery land. This development, unrelated to the occupiers of the site, has increased the sense of sporadic development in the area. I do not consider that it lends particular support to the appeal proposal, but rather that is a neutral factor, as it could be argued to support the case of either party.
22. Hedgerow planting has been undertaken along the fence which divides the appeal site from the field to the rear, along the western boundary of the site, between the site and the nursery to the east, and around/behind the gateway. Some of this was undertaken before the last Inquiry, and some has been planted subsequently.
23. Views of the site are now largely from the site entrance together with more distant views through hedgerow gaps further down the lane. The appellant stated that additional planting could be undertaken and that this could still be done even in the context of a limited period permission. Despite the planting around the entrance which has been undertaken I consider it would be necessary to require additional planting in this area in the event that planning permission was granted, as this is where the visual intrusion would be the greatest.
24. Circular 01/2006 makes it clear that local landscape designations should not be used in themselves to refuse planning permission for gypsy sites. Despite the appellant's argument, I regard the SLA as being this type of local designation - although it apparently extends beyond this local authority area. In any event, I have considered the potential harm to the area arising from the development, rather than treating the designation, in itself, as being a reason for objecting to the proposal. The accepted harm to the character and appearance of the area must be weighed against other material considerations. I will undertake this exercise below.
25. Despite the fact that the greatest impact on the rural area is from the entrance to the site, and notwithstanding the potential for additional planting in this location, I have no doubt that the proposal would be seriously harmful to the rural character and appearance of the area, including the SLA. It would therefore conflict with the countryside protection policies summarised above.

The general need for gypsy sites

26. As mentioned above, the Council no longer contests the issue of gypsy status. I am satisfied that the appellant and occupiers of the site fall within the definition of gypsies and travellers at para. 15 of Circular 01/2006 *Planning for Gypsy and Traveller Caravan Sites*. I shall therefore apply national and local policy regarding gypsy sites.

27. The Council accepts that there is a continuing need for more gypsy and traveller sites in the Borough, and that there is a regional need for more sites across all parts of Kent. I agree with that assessment, which is based on a number of factors.
28. The Gypsy and Traveller Accommodation Assessment (GTAA) (2005/6) is part of the evidence base for the LDF, and the Council accepted that this gives a clear indication of need. It was suggested by the appellant that the GTAA has underestimated the real position but, even as it stands, it indicates a substantial level of need.
29. In addition, the Partial Review of the South East Plan, being undertaken by the South East of England Regional Assembly, has shown a draft requirement of 32 - 48 pitches to 2016 in the Borough. The emerging preferred option (D) for the distribution of sites across the region shows a requirement for 35 net additional permanent pitches within the Borough by 2016.
30. To this evidence of need must be added the latest available gypsy count (July 2008) which shows 74 caravans sites in the Borough without planning permission. The number of caravans on socially provided sites has also seen a steady increase, although I was told that no additional pitches have been provided on these sites and it appears that there may be some overcrowding. Similarly the number of caravans on authorised private sites has risen. From the evidence before me, it also appears that there is a steady rise in the level of unauthorised encampments.
31. To seek to meet this agreed urgent need, the Council has apparently investigated enlarging its socially provided sites at Stilebridge and Ulcombe. However it was confirmed at the Inquiry that these efforts have not progressed.
32. In the absence of any extension of its existing sites or any proposed new sites, the Council is looking to the emerging DPD on gypsy and traveller matters to identify suitable locations. It was accepted by the parties that SP policy H9 will be an important element in the preparation of the DPD, and it is for that process to consider the suitability and availability of sites, and to consider how they perform against the locational approach of the policy. This will not occur for some years although, as set out above, the freestanding Gypsy/Traveller DPD will be produced in advance of the Core Strategy and I was advised that the work on this DPD has been contracted to Kent County Council.
33. However there was no agreement as to the way in which SP policy H9, which essentially sets out a sequential approach to site provision, might apply to the current appeal. The appellant maintains that the policy sets a broad strategic approach and that it is not incumbent on the appellant to demonstrate how the appeal site complies with the sequential approach. However the Council considers that the policy is applicable to the proposal and that the site fails to perform well against the sequential approach, as it is not within or close to a settlement, main urban area or rural service centre (Headcorn being the nearest such centre). The authority maintains that it is most unlikely that the site will fall within a preferred location in the emerging DPD.
34. SP policy H9 is contained in a recently adopted part of the development plan, and accordingly must be given the weight accorded by S38(6) of the Act. In

addition, it was adopted after the publication of Circular 01/2006, although a comparison of the draft and final versions of the SP suggest that only limited alterations may have been made as a result of the emergence of the Circular. Although it is clearly intended to set out a strategic approach, I consider it also has relevance to individual proposals, especially in cases where there is no relevant LP or DPD policy.

35. In this case, given the distance to Headcorn, I have some sympathy with the Council's position that the site fails to perform well against the sequential approach. In addition the site is not ideally located to reduce the use of the private car although this is not, in my view, a significant objection in its own right. These matters remains to be assessed in detail in the context of the emerging DPD. Similarly, the alleged tension between the locational approach of SP policy H9 and national policy in Circular 01/2006 will doubtless be considered in the context of the DPD.

36. Overall, it is clear that there is an agreed urgent need for the provision of additional gypsy sites within the Borough, and it is unlikely that the identified need will be fully met in advance of the expected provision via the DPD. Appeal decisions elsewhere, most particularly at Headcorn², Staplehurst³ and Linton⁴, although locationally different from this appeal, tend to support the need for sites and the lack of availability. This general need and the lack of availability weighs in favour of the current proposal.

The appellants/occupiers need for accommodation & their personal circumstances

37. The current occupation of the site is as set out in the Statement of Common Ground (SOCG). In addition the SOCG summarises the medical position of the occupants. A separate update on the educational position of the resident children was presented to the Inquiry⁵.

38. The occupiers' need for accommodation was not disputed by the Council. In addition the authority confirmed that it had no suitable alternative sites to offer, nor any specific suggestions as to avenues which could be explored. This was particularly in the light of the amount of the Borough which is covered by special landscape designations or by Green Belt.

39. The medical position of the occupiers of the site was summarised in the SOCG, was given in the appellant's written and verbal evidence, and was not contested by the Council. In particular, it appears that the needs of Mr George Harber Snr (who has had a triple heart bypass operation) and Obie Harber Jnr are particularly acute. Obie Harber suffers from Alport's Syndrome. The implications of this include the need for rapid access to diagnosis and treatment of infection, supplies of fresh clean water, ready access to good toilet and washing facilities, and hygienic living conditions.

40. It is clearly of benefit to all those resident on the site to have access to stable medical care when needed. In particular they would benefit from settled

² 1181803

³ 2075195

⁴ 2077029

⁵ Doc 8

access to primary health care and a lifestyle that allows them to communicate with and attend specialist treatment at hospital when necessary. That would be disrupted if they had to leave the site, especially in the absence of any suitable lawful alternative accommodation. It is also a benefit that being located together allows some additional support from the extended family.

41. In addition, especially in the case of Obie Harber, there are some members of the group with particular health problems to which I attach weight. Although these health issues do not necessarily require location on this particular site, or even in this vicinity, I give considerable weight to the need for stability given the range and severity of health problems of some members of the group.
42. Turning to educational matters, there are currently three children from the site at school, three receiving home tuition, and one hoping to start college later this year. Again, there is no evidence that these educational needs require location on this particular site or in this area but, in the absence of any alternative location, the education of the children would undoubtedly suffer if they had to leave the site. Many gypsy children fail to re-establish regular attendance once removed from school when their family moves on, and I attach some additional weight to the educational circumstances of those on the site.
43. I am also mindful of the local ties and support which has been demonstrated in the submitted letters. Whilst this is a material consideration, I do not accord it any great weight in itself, as local support might well be forthcoming in other locations.
44. Overall, it is agreed that there are no authorised sites available to the appellant and the residents of the site within Maidstone Borough. I have seen no evidence which persuades me that prospects in Kent as a whole would be better. In addition to the personal implications of having to move from the site, it was agreed that the wider social cost of unauthorised encampments should be considered, especially in the light of the findings of the Commission for Racial Equality that unauthorised encampments were the most common cause of tension between communities. I accord these factors substantial weight in the overall balance of this case.

Balancing exercise

45. I will deal first with the possible grant of permanent planning permission.
46. I have found that, notwithstanding the potential for additional planting, the proposal would seriously harm the rural character and appearance of the area, including the SLA. Against that harm I have balanced the agreed general need for gypsy sites and the lack of availability of such sites, together with the personal situation of the occupiers of the site.
47. I have also carefully considered the fact that, if a planning permission of some sort is not granted, the residents of the site would in all likelihood have to vacate without any certainty of another lawful site being available. This would clearly be an interference with their home, private and family life within the terms of Article 8 of the European Convention on Human Rights (ECHR). However these are qualified rights which have to be balanced against the wider public interest. For the reasons given above, I have found that the grant of

permanent permission would be seriously harmful to the character and appearance of the area.

48. I have taken account of the impact that that the refusal of planning permission and the likely consequential roadside existence would have on the appellants' Article 8 rights. However I do not find these matters, taken together, to be sufficient to persuade me that permanent planning permission should be granted. I find that the harm to the character and appearance of the area which would be caused by the grant of a permanent planning permission is not outweighed by the need for accommodation to meet the needs of gypsies, nor by the personal circumstances of the appellant and other occupiers of the site, nor by these factors taken together. I consider that the refusal of permanent planning permission is a necessary and proportionate response in the circumstances and hence would not represent a violation of the occupants' rights under Art 8 of the ECHR.
49. I am aware that this conclusion is different to that reached by previous Inspectors considering this case. However much has changed even since the more recent Inquiry. In particular the development plan has changed with the adoption of the SP and the loss of LP policy H36. Circular 01/2006 has been published (although this was dealt with by written representations after the close of the last Inquiry) and its implications have been more widely discussed and appreciated. In particular, the Council has resolved on its course of action related to the freestanding DPD on gypsy and traveller matters.
50. Turning to the possibility of a limited period planning permission, similar considerations apply, except that the duration of the harm to the area would be limited. This is an important consideration. Although the application was for full planning permission, it was indicated that a limited period planning permission would be acceptable in the context of the advice in Circular 01/2006 related to the grant of temporary permissions. The Circular deals with situations where there is an unmet need and no available site provision but where, at the end of a period, there is a reasonable expectation that sites will become available through the DPD process. The Circular advises that in such cases consideration should be given to the grant of a temporary permission, and that substantial weight should be given to the unmet need.
51. In this case, there is an agreed unmet urgent need, and no evidence of available site provision. There is also a reasonable expectation that, with the future production of the DPD, sites will become available within a foreseeable period. Under these circumstances, I consider that a limited period planning permission is reasonable as the temporary harm to the character and appearance of the area would be outweighed by the need for accommodation to meet the needs of gypsies, and by the personal circumstances of the appellant and other occupiers of the site. In terms of the Art 8 rights of the site occupants, and the degree of interference to those rights arising from a refusal of planning permission, I consider that a decision to grant a temporary planning permission is necessary and proportionate in the circumstances. I discuss the duration of such a permission below.
-

Conditions

52. In view of the considerations which have led to my decision, it is clearly necessary to limit the planning permission to occupation by gypsies and, more specifically, to the individual occupiers of the site whose personal circumstances have been a material consideration.
53. The duration of the limited period was discussed at the Inquiry. Given the Council's intention to produce a freestanding DPD in three years, that is the start point for my consideration of the duration of the permission. However, in order to allow for any slippage, and to allow allocated sites to actually become available, I consider a limited period of four years is reasonable.
54. In the interests of the area, commercial activities and lighting should be controlled.
55. It was agreed at the Inquiry that various matters should be the subject of a site development scheme. These include drainage works, the layout of the site, and further landscaping. I agree that this is necessary, in the interests of the appearance of the site and in relation to the provision of adequate drainage. I have slightly modified that condition in the interests of clarity and to accord with the version published by the Planning Inspectorate.

Conclusion

56. For the reasons given above I conclude that the appeal should be allowed, and planning permission granted for a temporary period, subject to the conditions set out in the Schedule below.

P. J. G. Ware

Inspector

**Schedule of conditions for Appeal Ref: APP/U2235/A/08/2071739
Quarter Paddock, Bletchenden Road, Headcorn, Kent TN27 9JB**

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of Circular 01/2006.
- 2) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Obie Harber (born 12 January 1974 and his wife Kathleen, George Harber Snr (born 7 October 1947) and his wife Ellen Harber (born 10 January 1948), George Harber Jnr (born 3 August 1968) and his wife Priscilla Harber (born 13 April 1967), Ellen Harber (born 9 July 1966) and James Baker (born 10 October 1969).
- 3) The use hereby permitted shall be for a limited period being the period of 4 years from the date of this decision. At the end of this period, or when the site ceases to be occupied by those named in condition 2 above whichever shall first occur, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use, including any amenity blocks, shall be removed. Within 2 months of that time the land shall be restored to its condition before the development took place.
- 4) No more than 5 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 3 shall be static caravans or mobile homes) shall be stationed on the site at any time.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) No floodlighting or column lighting shall be installed and no more than one external light source shall be affixed to any mobile home.
- 7) The use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use, including any amenity blocks, shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (v) below:
 - i. within 2 months of the date of this decision a scheme for:
 - the drainage of the site including provision for maintenance of the drainage ditch to the southern boundary and the timescale within which such scheme should be implemented;
 - the internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas;
 - tree, hedge and shrub planting, including details of species, plant sizes and proposed numbers and densities together with a programme of maintenance and provisions for the replacement of dead and damaged species if necessary;

APPENDIX

Appeal Decision APP/U2235/A/08/2071739

- the restoration of the site to its condition before the development took place (or as otherwise agreed in writing by the local planning authority) at the end of the period for which planning permission is granted for the use, or the site is occupied by those permitted to do so

(hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority. The said scheme shall include a timetable for its implementation.

- ii. within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
- iv. the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- v. at the same time as the site development scheme is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of four years of the proposed planting beginning at the completion of the final phase of implementation as required by that condition; the schedule to make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

APPENDIX

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Watson of Counsel Instructed by Maidstone Borough Council

He called
Mr S Scott-Brown Consultant planner for the Council
DipTP MRTPI

FOR THE APPELLANT:

Mr S Cottle of Counsel Instructed by Mrs A Heine

He called
Mrs A Heine Heine Planning Consultancy
BSc (Hons) MSc MRTPI

DOCUMENTS

- 1 List of persons present at the Inquiry
- 2 Council's letter of notification and list of persons notified
- 3 Bundle of letters received at the Inquiry, submitted by the appellant
- 4 South East of England Regional Assembly – Regional Planning Committee. Report (28/1/09) on Gypsies, Travellers and Travelling Showpeople Review: Preferred Option
- 5 Homes and Communities Agency. Gypsy and Traveller Sites Grant Guidance 2009/2010
- 6 Commission for Racial Equality report – Common Ground. Equality, good race relations and sites for Gypsies and Irish Travellers (extract) 2006
- 7 Appeal decision (2075195) at Staplehurst
- 8 Educational situation of resident children
- 9 Appeal decision (2077029) at Linton
- 10 South East of England Regional Assembly draft Options

PLANS

A/1 – A/2 Site plan at 1:1250, layout plan at 1:500

Item no. 15

Page no. 103

**Address: Quarter Paddocks,
Bletchenden Road, Headcorn**

Reference no. MA/13/1315

A further objection has been received raising the following concerns:

- Existing site occupants extremely tidy and well behaved. Concerned that if anyone can occupy site they may be replaced by people who may not conduct themselves in a similar manner.
- With Shenley Park just opposite consider that there is more than enough caravans already for this small road.

MY RECOMMENDATION REMAINS UNCHANGED subject to the following additional condition:

Condition 8:

The development hereby permitted shall be carried out in accordance with the following approved plans: as shown on drawings received on the 25th July 2013 and the 10th March 2014.

Reason: To ensure the quality of the development is maintained in the interests of amenity.







166







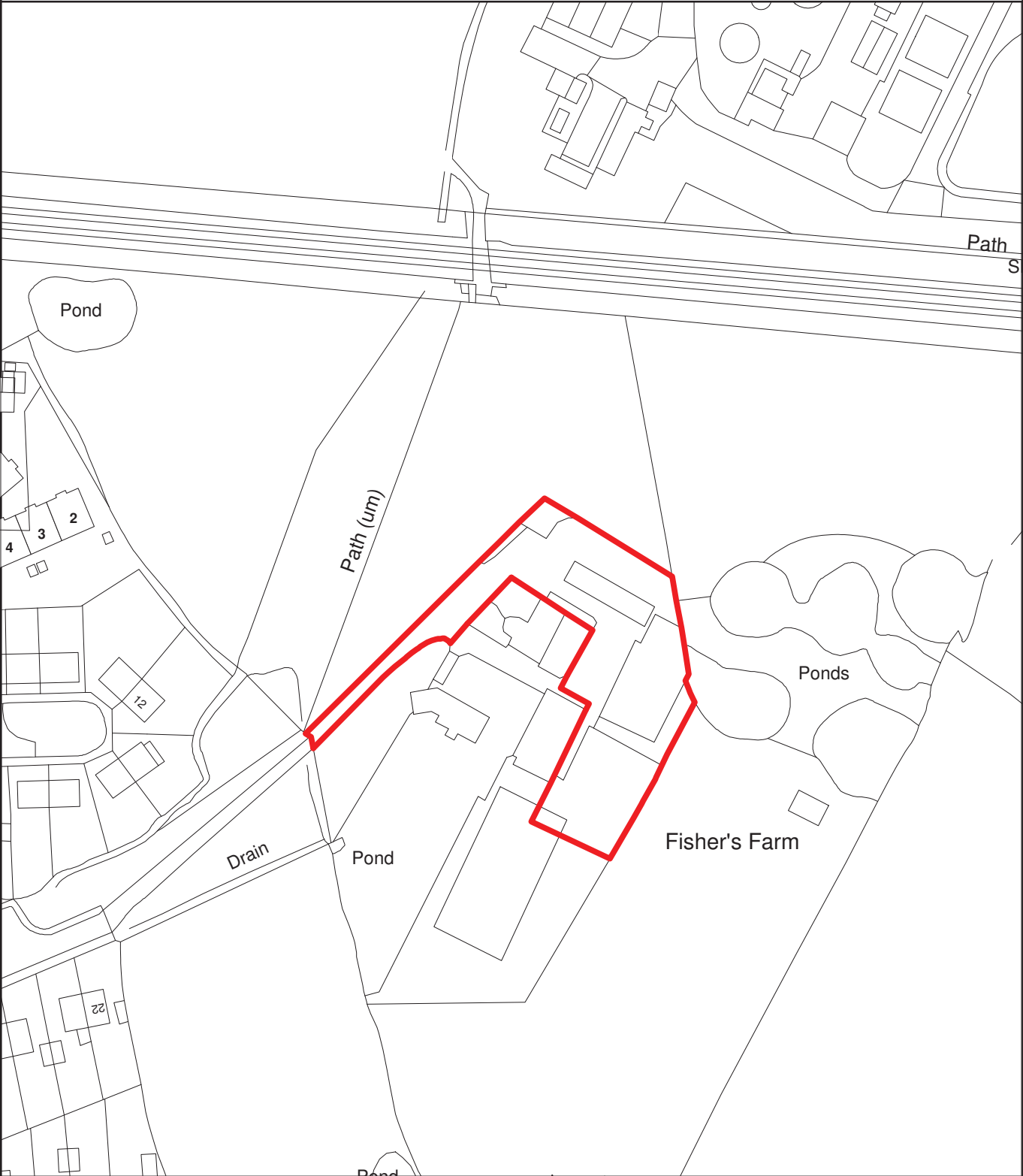


THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/1580

GRID REF: TQ7844

**LAND AT FISHERS OAST, FISHER ROAD,
STAPLEHURST.**



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Rob Jarman
Head of Planning and Development

APPLICATION: MA/13/1580 Date: 11 September 2013 Received: 9 December 2013

APPLICANT: Mr & Mrs Peter Burton

LOCATION: LAND AT FISHERS OAST, FISHERS ROAD, STAPLEHURST,
TONBRIDGE, KENT, TN12 0DD

PARISH: Staplehurst

PROPOSAL: Demolition of motor vehicle body repair workshop and demolition of 2no. existing dwellings in converted farm buildings. Erection of 4no. two-bedroomed dwellings and 2no. three-bedroomed dwellings with associated garaging/parking and landscaping as shown on drawing nos. 01, 03, 04, 05, 06, 07, 08, 09, 10, 11 received on 10/9/13; 001A received on 26/9/13; and 02A and 13 received on 9/12/13.

AGENDA DATE: 20th March 2014

CASE OFFICER: Geoff Brown

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

- it is a departure from the Development Plan

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV26, ENV28
- Village Design Statement: N/A
- Government Policy: NPPF

2. HISTORY

I consider the relevant planning history to be:

MA/12/1346 - An application for a certificate of lawful development for an existing use being use of Cottage 1 as a single dwelling – Approved

MA/12/1345 - An application for a certificate of lawful development for an existing use being the use of Cottage 2 as a single dwelling – Approved

MA/06/2198 - Outline application for the demolition of motor vehicle workshop, office and residential outbuildings and erection of nine two and three bedroom dwellings adjoining the existing farmhouse and converted oasthouse, with layout

and access to be considered at this stage and all other matters reserved for future consideration – Refused and appeal dismissed

MA/95/1053 - Erection of detached 2 bedroom dwelling – Refused and appeal dismissed

MA/93/1214 - Removal of condition (iv) attached to planning permission
MA/85/1262 E (condition limits permission to Mr. Peter Burton only) – Approved

MA/85/1262 - Demolition of existing workshops and erection of replacement single storey workshop – Approved

MA/81/0365 - Continued use of building for motor vehicle repairs – Refused but appeal allowed

3. CONSULTATIONS

- 3.1 STAPLEHURST PARISH COUNCIL wishes to see the application approved.
- 3.2 KCC HIGHWAYS AND TRANSPORTATION has no objection.
- 3.3 KCC PUBLIC RIGHTS OF WAY AND ACCESS SERVICE has no objection.
- 3.4 THE KCC BIODIVERSITY OFFICER has no objection subject to a condition requiring the submission of an ecological method statement.
- 3.5 THE MBC LANDSCAPE OFFICER has no objection subject to the standard landscaping condition requiring full detail.
- 3.6 THE MBC ENVIRONMENTAL HEALTH OFFICER has no objection subject to a condition to cover potential contamination.

4. REPRESENTATIONS

- 4.1 TWO LETTERS OF OBJECTION have been received. The following points are raised:
 - a) The development would adversely affect the outlook from housing in Fishers Close.
 - b) The volume of traffic would increase along Fishers Road and onto the A229. Fishers Road is narrow and not capable of accommodating the extra traffic.
 - c) The public footpath may be interfered with.
 - d) The site is home to wildlife which would be adversely affected.
 - e) Local services can not take the strain of new housing.

- 4.2 ONE LETTER HAS BEEN RECEIVED SUPPORTING THE APPLICATION but expressing concern as to the impact of additional traffic in Fishers Road.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site is located in the rural area, just beyond the defined village boundary to the north east of Staplehurst. The land is not the subject of any particular designation. The public highway of Fishers Road ends at the defined village boundary and beyond that becomes a private road serving the small group of buildings at Fishers Farm. Public Right of Way (PROW) KM295 shares the line of the road before diverting off northwards to the railway line, whilst PROW KM296 continues around the north and east sides of the built group.
- 5.1.2 Fishers Farm involves Fishers Farmhouse and Fishers Oast on the frontage of the private road with a pair of small single storey cottages to the north of the oast, set at right-angles to the road. The farmhouse and its curtilage are not part of the application site. Behind these houses (ie to the south east) is a modern barn-like structure, of utilitarian design, that was in use as a car repair workshop with access to it running between the aforementioned oast and cottages. The workshop is served by a small yard to its front and south side. Between the farmhouse/oast and the car repairs yard is garden land associated with the oast that accommodates a swimming pool and a tennis court.
- 5.1.3 Much of the application site is covered by hardstandings with yard areas associated with the car repairs use; and various access roads and parking areas around the buildings. The oast is essentially surrounded by hardsurfacing. Nor are the boundaries of the site well landscaped: save for a line of leylandii to the east of the site, the northern and western boundaries are largely open to the grassed fields that border the railway line to the north. Further south there is some poor hedging to the south of the barn, separating the site from the grassed paddocks and ponds to the east and south.

5.2 Proposal

- 5.2.1 This is a full application for the redevelopment of the site for housing. The car repairs workshop would be removed (and that use extinguished), as would the two cottages to the north of the oast. Looking at the general layout, the pattern of access would be maintained with the track around the east side of the oast remodelled to serve new housing to the east and south of the farmhouse/oast. A short 'terrace' of three two-bedroomed properties would occupy roughly the same position and alignment as the existing cottages with a detached double garage to the north of that terrace. A detached two-bed dwelling and separate

garage would be erected on the site of the workshop; whilst two detached three-bedroom houses would be constructed on land immediately to the south west of the current workshop.

- 5.2.2 A total of 12 parking spaces (both within garages and 'open air') are shown to serve the six new houses. A comprehensive approach has been taken to the landscaping of the site, along with ecological enhancement works. These issues are discussed in more detail below.
- 5.2.3 The two-bedroomed properties are shown as low level, chalet-style cottages with a maximum height of 6m to the ridge. The larger detached dwellings are again in a chalet-style but are slightly taller at just over 7m. They are of simple traditional design, particularly to the front elevation, with dormer windows and rooflights in the rear elevations to facilitate first floor accommodation. Materials for the new dwellings would involve stock brickwork under clay tile roofs with timber windows, whilst the garaging would be of weatherboarding under a clay tile roof.

5.3 Principle of Development

- 5.3.1 The site is outside the currently defined settlement boundary of Staplehurst which is a designated Rural Service Centre.
- 5.3.2 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.
- 5.3.3 The starting point for consideration is saved Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 which states:

IN THE COUNTRYSIDE PLANNING PERMISSION WILL NOT BE GIVEN FOR DEVELOPMENT WHICH HARMS THE CHARACTER AND APPEARANCE OF THE AREA OR THE AMENITIES OF SURROUNDING OCCUPIERS, AND DEVELOPMENT WILL BE CONFINED TO:

- (1) THAT WHICH IS REASONABLY NECESSARY FOR THE PURPOSES OF AGRICULTURE AND FORESTRY; OR**
- (2) THE WINNING OF MINERALS; OR**
- (3) OPEN AIR RECREATION AND ANCILLARY BUILDINGS PROVIDING OPERATIONAL USES ONLY; OR**
- (4) THE PROVISION OF PUBLIC OR INSTITUTIONAL USES FOR WHICH A RURAL LOCATION IS JUSTIFIED; OR**
- (5) SUCH OTHER EXCEPTIONS AS INDICATED BY POLICIES ELSEWHERE IN THIS PLAN.**

PROPOSALS SHOULD INCLUDE MEASURES FOR HABITAT RESTORATION AND CREATION TO ENSURE THAT THERE IS NO NET LOSS OF WILDLIFE RESOURCES.

The proposed development does not fit into any of the exceptions set out in Policy ENV28 which is why it has been advertised as a departure from the Development Plan.

5.3.4 It is necessary therefore to consider two main issues in relation to the proposals. Firstly, whether there are any material considerations that would indicate that a decision not in accordance with the Development Plan is justified, and secondly whether the development would cause unacceptable harm. (Detailed issues of harm will be discussed later in the report).

5.3.5 In terms of other material considerations, the National Planning Policy Framework (NPPF) is a key consideration, particularly with regard to housing land supply. Paragraph 47 of the NPPF states that Councils should;

'identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;'

5.3.6 Relevant to this, the NPPF requires that local authorities have a clear understanding of housing needs in their area, and as such they should prepare a Strategic Housing Market Assessment (SHMA) to assess their full needs; working with neighbouring authorities where housing market areas cross administrative boundaries. Maidstone has carried this out with Ashford Borough Council and Tonbridge and Malling Borough Council. The SHMA (2014) confirms the objectively assessed housing need for the borough over the plan period 2011 to 2031 as 19,600 dwellings (980 dwellings per annum). This was agreed by Cabinet on 27th January 2014 and on 24th February 2014 to be included within the draft Local Plan (to be sent out for public consultation).

5.3.7 In April 2013 when most recently calculated, the Council had a 2.0 year supply of housing assessed against the objectively assessed housing need of 19,600 dwellings, which is the figure against which the supply must be assessed. Taking into account housing permissions granted since that date, this position will not have changed significantly and would still remain below the 5 year target.

- 5.3.8 This lack of a five year supply is a significant factor and at paragraph 49 of the NPPF it is states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing (such as ENV28 which seeks to restrict housing outside of settlements) should not be considered up-to-date if a five year supply cannot be demonstrated. The presumption in favour of sustainable development in this situation means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole.
- 5.3.9 In terms of the location of the site, The NPPF advised that when planning for development i.e. through the Local Plan process, the focus should be on existing service centres and on land within or adjoining existing settlements. Staplehurst is a defined rural service centre (RSC), which outside of the town centre and urban area, are considered the most sustainable settlements in Maidstone's settlement hierarchy, under the draft Local Plan. The draft Local Plan outlines that, *"Rural service centres play a key part in the economic and social fabric of the borough and contribute towards its character and built form. They act as a focal point for trade and services by providing a concentration of public transport networks, employment opportunities and community facilities that minimise car journeys."* The settlement offers a good range of facilities and services including shops, pubs, a primary school, library, medical centre and railway station; and a sizeable designated employment area. As such, the site is at a sustainable location and is close to the existing settlement.
- 5.3.10 In the light of the above five year supply position, bringing forward development on this sustainably located site close to a rural service centre would assist in helping to meet the shortfall in housing supply and I consider this to be a material consideration in favour of the development.
- 5.3.11 For reasons to be outlined below, I conclude that the development would not result in unacceptable harm to the character and appearance of the countryside
- 5.3.12 Given that this particular development as proposed would not, in my view, cause significant harm to the character and appearance of the countryside and the current lack of a five-year housing land supply, I do not raise objections to the development as proposed in principle.
- 5.3.13 I note previous attempts to redevelop this site for housing have been rejected. Most recently MA/06/2198 was dismissed on appeal but, at that time, it was demonstrated that the Council had an adequate housing land supply and, in the mind of the Council and the Inspector, there was no need to set aside countryside protection policies and allow the redevelopment: clearly the situation has now changed. I also see that MA/06/2198 proposed a larger scale

development of 9 houses (as opposed to the currently proposed 6). This current application site forms part of a larger area of land that has recently been accepted as part of the Strategic Housing and Economic Development Land Availability Assessment but I give that little weight here as the public consultation on that document has not yet commenced.

5.4 Visual Impact and Landscaping

- 5.4.1 Additional housing in this locality would add to sporadic residential development on the fringes of Staplehurst. To my mind the new housing here would be clearly visible from the aforementioned footpath network, albeit behind the 'frontage' formed by the farmhouse and converted oast.
- 5.4.2 There are some factors here that mitigate that harm. Firstly the redevelopment of the site would rid the area of the utilitarian workshop building and associated development that is clearly the most bulky structure within the group. It would also remove the incidence of parked vehicles and vehicles awaiting repair scattered around the building.
- 5.4.3 Secondly the proposed development would lead to a significant 'greening' of the locality with new planting of native species put in place as a part of a comprehensive landscaping scheme, at the expense of the substantial areas of hardstanding that are currently an unattractive feature of the site. Significant new areas of lawn would be put in place to serve the new homes and this, in itself, is a substantial improvement. A new hedge would be established along the northern boundary of the site, with the existing poor quality hedging to the east and south of the site re-instated, including the removal of leylandii trees in part of that hedgerow. The site entrance would be comprehensively treated with new grassed areas and shrub planting to the oast front garden, around the access road and close to the proposed garaging. Within the site, specimen planting of trees would take place including field maple, birch, wild service tree and fruit trees. Fencing on the margins of the site would generally take the form of low post and rail fencing. In my view this substantial removal of hardstandings and replacement with landscaped areas represents a significant mitigating factor.
- 5.4.4 The design of the new houses is, in my view, satisfactory without being exceptional. They have the merit of being quite modest, low level dwellings of traditional materials. In all, new housing in locations such as this adds to sporadic development in the countryside but there are significant mitigating factors here which lead me to conclude that the harm is sufficiently ameliorated.

5.5 Ecology

5.5.1 The application is accompanied by a Preliminary Ecological Appraisal and Great Crested Newt Habitat Suitability Survey. The KCC Biodiversity Officer has examined the report and is satisfied that no further survey work is required. The report essentially concludes that the site has low ecological value although there are roosting opportunities for bats and a 'soft' demolition is recommended. The site has low potential to support reptiles and amphibians. The Biodiversity Officer agrees that the proposed mitigation would avoid the potential for harm to protected species but advises that further information is required in relation to the potential for hibernating animals being present: she advises that this can be secured by a condition requiring an ecological method statement.

5.5.2 The application proposes ecological enhancement works. Clearly the landscaping works proposed above would present substantial ecological benefits in themselves. In addition, a hibernacula is proposed just beyond the footpath to the north of the site; bat bricks would be incorporated in the larger new houses; and swift and house sparrow nesting boxes would be installed at various points around the site. The Biodiversity Officer, commenting on these measures, states:

"We are satisfied that the inclusion of the proposed features would provide mitigation for the loss of wildlife opportunities on the site and enhance the ecological value of the site post-development."

I conclude that there is no reason to object here on ecology issues.

5.6 Residential Amenity

5.6.1 The only nearby properties directly affected by the development would be the farmhouse and oast and I am satisfied that the scale and design of the development is such that there would be no loss of light, outlook or privacy to those (or any other) houses. In my view the amenities of these existing houses would be likely to improve with the removal of the noise and disturbance associated with the B2 car repairs use.

5.6.2 A rail noise study has been carried out which concludes that no mitigation measures are required to protect the future residents of the site. I conclude that the prospective residents of the dwellings would enjoy at least a reasonable living environment.

5.7 Highways

- 5.7.1 No objection has been raised by the Highways Officer. The traffic generated by the six new dwellings would 'replace' that generated by the car repairs use and the two cottages to be demolished and I conclude that Fishers Road, the access road beyond that and the access arrangements generally are adequate to accommodate any extra traffic. A combination of garaging and open parking spaces yields a total of 12 spaces for the six dwellings and I consider this appropriate. Following discussions on site with the Footpaths Officer the routes of footpaths KM295 and KM296 has been established and these routes safeguarded as a part of the submitted scheme, without the need for any diversion.

5.8 Other Matters

- 5.8.1 With regard to the Code for Sustainable Homes it is fair to say that this scheme was designed with Level 3 as its aim. Level 4 is now the Council's preferred level for new build housing but I do not consider it reasonable to impose that level 'retrospectively' on this scheme as it was designed some time ago. I therefore recommend that the relevant condition refer to Level 3 as the minimum necessary.

6. CONCLUSION

- 6.1 Having regard to the situation as regards the five-year housing land supply and my view that this development would not cause significant harm to the character and appearance of the countryside, I recommend that this application be approved.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
drawing nos. 01, 03, 04, 05, 06, 07, 08, 09, 10, 11 received on 10/9/13; 001A received on 26/9/13; and 02A and 13 received on 9/12/13;

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

3. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the local planning authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

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

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

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Classes A, B, C, D, E and F to that Order shall be carried out without the permission of the local planning authority;

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

6. No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with

measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall include full details of all proposed boundary treatments and shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted.

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

Reason: To ensure a satisfactory setting and external appearance to the development.

8. The dwellings shall achieve at least code 3 of the Code for Sustainable Homes. A final code certificate shall be issued not later than one calendar year following first occupation of the dwellings certifying that level 3 has been achieved.

Reason: To ensure a sustainable and energy efficient form of development.

9. No development (including and demolition, ground works and site clearance) shall take place until a method statement for mitigating the potential impacts to bats, great crested newts, reptiles and nesting birds and for creating new wildlife features has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the following:
 - a) Purpose and conservation objectives for the proposed works;
 - b) Review of site potential and constraints;
 - c) Detailed design and working methods necessary to achieve the stated objectives;
 - d) Extent and location/area of proposed works on appropriate scale maps and plans;
 - e) Timetable for implementation demonstrating that works are aligned with the proposed phasing of the development;
 - f) Persons responsible for implementing the works.The works shall be carried out strictly in accordance with the approved details.

Reason: In the interests of ecology.

10. 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
 - 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 risk 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 (2). 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. The scheme shall thereafter be implemented as approved;

Reason: In order to ensure that potential contamination is properly dealt with.

The proposed development does not conform with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000. However, the development is at a sustainable location, is close to an existing settlement, and is not considered to result in significant visual harm to the area. Given the current shortfall in the required five-year housing supply, the low adverse impacts of the development are not considered to significantly outweigh its benefits. As such the development is considered to be in compliance with the National Planning Policy Framework and this is sufficient grounds to depart from the Local Plan.

Item no. 16

Page no. 132

Address: Fishers Oast, Staplehurst

Reference no. MA/13/1580

Councillor Lusty recommends approval.

MY RECOMMENDATION REMAINS UNCHANGED

OFFICER COMMENT: As I address in the main report, in the circumstances I have recommended that the relevant condition refer to Level 3 of The Code for Sustainable Homes. However, I wish to add an informative encouraging the developers to maximise sustainable construction methods on this project and to aim for Level 4.

RECOMMENDATION: Add the following informative:

‘The developers are encouraged to maximise sustainable construction methods on this project and to aim for Level 4 of The Code for Sustainable Homes.’



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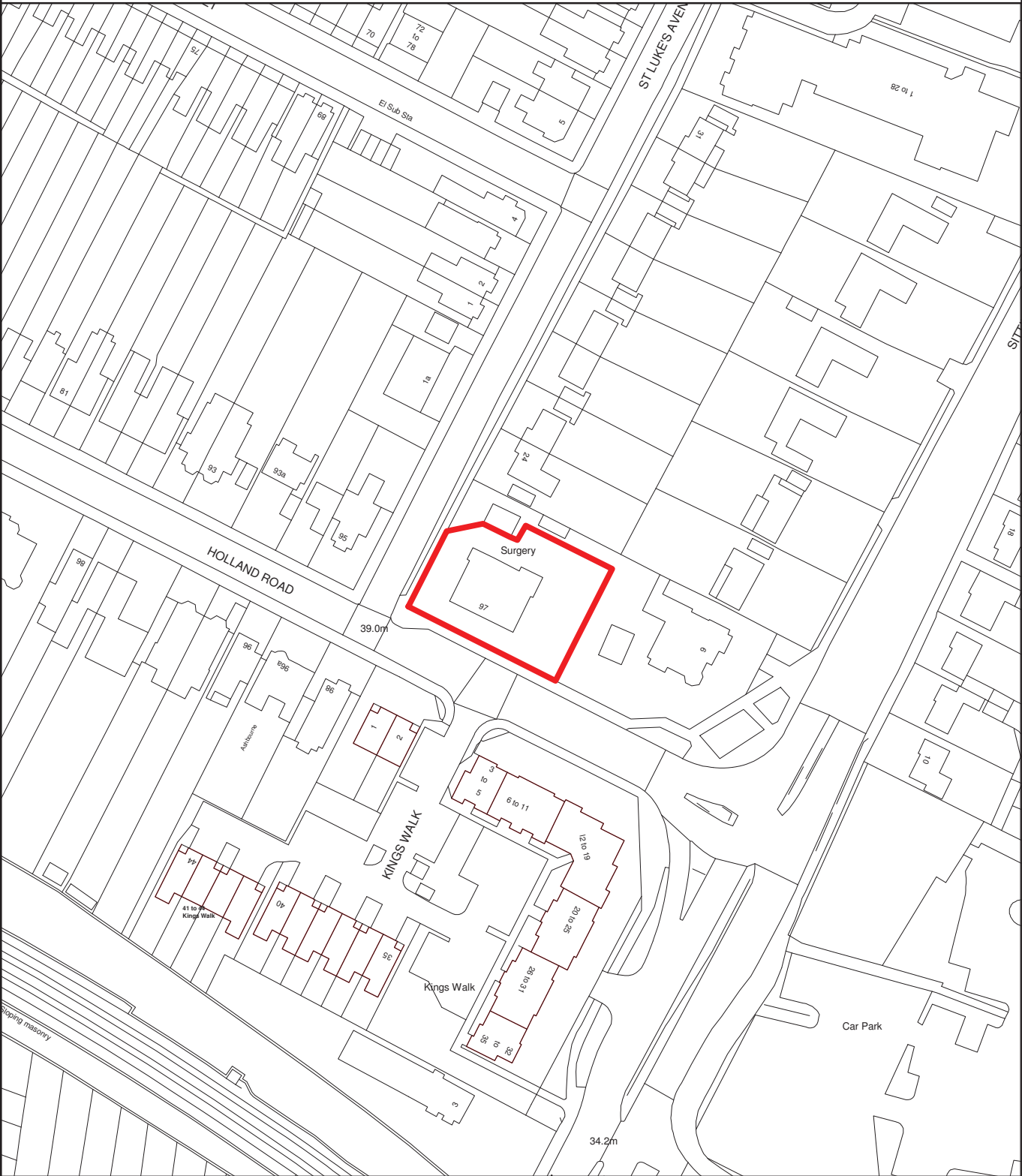
Agenda Item 17

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/13/1711

GRID REF: TQ7656

97 HOLLAND ROAD,
MAIDSTONE.



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Rob Jarman
Head of Planning and Development

APPLICATION: MA/13/1711 Date: 6 October 2013 Received: 21 November 2013

APPLICANT: Dr Peter Szwedziuk

LOCATION: 97, HOLLAND ROAD, MAIDSTONE, KENT, ME14 1UN

PARISH: Maidstone

PROPOSAL: An application for outline planning permission for the erection of 5No. town houses with all matters reserved for future consideration as shown on drawing numbers 1339PS-PP01, 1339PS-PP02, 1339PS-PP03, 1339PS-PP04 and 1339PS-PP05 supported by a design and access statement and covering letter, all received 7th October 2013; NHS Property Services letter received 24th October 2013; and Arboricultural Impact Assessment and drawing numbers 1339PS-PP-T1, 1339PS-PP-T2, 1339PS-PP-T3 and 1339PS-PP-T4 received 21st November 2013.

AGENDA DATE: 20th March 2014

CASE OFFICER: Catherine Slade

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

- Councillor Naghi requested that it be reported for the reason set out in the previous committee report, attached as Appendix 1.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, T13, CF3
- Government Policy: National Planning Policy Framework 2012, National Planning Practice Guidance 2014

2. BACKGROUND

- 2.1 This application was reported to Planning Committee on 6th February 2014. The Committee deferred making a decision in order for investigation to be made as to whether on site parking could be provided as part of the site, and the highway safety implications of any proposed parking.

3. ADDITIONAL INFORMATION RECEIVED

- 3.1 The concerns raised by Councillors were communicated to the applicant, and further information was sought as a result. Subsequently a further statement was received from the applicant which confirms that no on site parking is proposed to be provided. The statement explains the rationale behind the decision not to provide on site parking, namely that to introduce an access to Holland Road would be detrimental to highway safety due to the proximity of the junction with Holland Road, and to introduce an access from St Luke's Avenue would result in conditions prejudicial to the residential amenity of future occupiers. The statement also confirms that the decision to omit on site parking was taken in response to a pre-application advice letter which confirmed that none was required.
- 3.2 This concurs with the findings of both the Kent County Council Highway Safety Officer and the case officer. As set out in the previous report, in the light of the absence of any Local Plan policies in respect of car parking and the sustainable location of the site, it is not considered reasonable to refuse planning permission on the grounds of on site parking, and any refusal on this basis is unlikely to be sustained at appeal. The Kent County Council Highway Engineer has confirmed this, and makes the following detailed comments:
- 3.3 *"I would contend as indicated before that zero parking at this location, for this scale of development, is acceptable due to its sustainable location. I would further agree that an access onto Holland Road at this proximity to a strategic junction would be highly undesirable and unacceptable both in terms of safety and the likelihood of it unduly interfering with the operation and thereby capacity of the junction.*
- 3.4 *Access and parking off St Luke's Avenue would be more acceptable. The ability for everybody to park turn and exit in forward gear would need to be demonstrated however and I agree that the site constraints probably make this very difficult (if not impossible and in planning terms, remove any soft landscaping/gardens). If any parking and turning could be demonstrated, that of course would be acceptable. Whilst zero parking may have an effect on marketing, for this scale of development at this location I consider that zero parking is acceptable.*
- 3.5 *In my view any additional on street parking demand for parking on St Luke's Avenue is considered to be a matter of convenience for residents and of parking management. I do not consider that any additional demand that may arise here from this application could be directly attributed to a tangible (and severe, NPPF) road safety concern."*

- 3.6 As set out in the Kent County Council Highway Services comments, the introduction of a new access to the site from Holland Road would be prejudicial to highway safety, and would be resisted by the Highway Authority. Whilst the retention or alteration of the existing site access from St Luke's Avenue would be more desirable in respect of matters of highway safety, such an arrangement would inevitably prejudice the quality of any scheme coming forward at the reserved matters stage or any subsequent full application, and would also be detrimental to the amenity of future occupiers of any development in firstly introducing parking manoeuvring areas in close proximity to the proposed dwellings and also through a reduction in the private amenity space available to occupiers.
- 3.7 I am aware of the views of the Maidstone Borough Council Parking Services Manager, in that "the local roads may potentially need to accommodate an additional fifteen vehicles on street", however as the Kent County Council Highway Services Engineer states, this is a matter of convenience, not of highway safety per se as the narrow and busy nature of the local roads are such that illegal parking is unlikely to be a realistic option for vehicle owners, and the level additional demand for on street parking resulting from the scale of the proposed development. It is also the case that the comments of the Maidstone Borough Council Parking Services Manager sought by Councillor Naghi are based on the maximum number of on street car parking passes which could potentially be issued to the occupiers of each dwelling, which is a worst case scenario, and by no means represents the actual parking need generated by the application. In particular, the sustainable location and reliance on on street car parking is likely to give rise to occupiers having a reduced reliance on private car ownership.
- 3.8 To summarise, the introduction of an access from Holland Road would be unacceptable in terms of highway safety, whilst the alternative, to use an access to St Luke's Avenue, would be detrimental to the amenity and design of the scheme. Furthermore, additional on street car parking is not considered by Kent County Council Highway Services to be detrimental to highway safety in this location, and in any case, it is likely that any future occupiers, who would have full prior knowledge of the parking provision of the dwellings, would be likely to be less reliant on private motor vehicles than elsewhere due to the location of the development and its character.
- 3.9 To my mind, whilst the concerns of Members, local residents and the Maidstone Borough Council Parking Services Manager are noted, in the context of an absence of locally adopted parking standards and the sustainable location of this site it is not considered that a refusal of the proposal on the grounds of an absence of on site car parking is sustainable.

4. ADDITIONAL NEIGHBOUR REPRESENTATIONS

- 4.1 Two additional representations have been received from local residents, however these do not raise any new concerns not addressed in either this or the previous report to Planning Committee.

5. CONCLUSION

- 5.1 For the reasons set out above, subject to the imposition of conditions as discussed in the previous report, the application is considered to be acceptable, and I therefore recommend the application for approval subject to conditions, as per the previous recommendation.

6. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-
 - a. Layout b. Scale c. Appearance d. Access e. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

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

Reason: To ensure a satisfactory appearance to the development in accordance with the provisions of the National Planning Policy Framework 2012.

3. The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in

accordance with the approved details before the first occupation of the buildings or land and maintained thereafter. The details shall submitted shall include, inter alia, a boundary treatment of not greater than 1m to the site boundaries with Holland Road and St Lukes Avenue;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with the provisions of the National Planning Policy Framework 2012.

4. The development shall not commence until, details of satisfactory facilities for the storage of refuse and recycling on the site have been submitted to and approved in writing by the Local Planning Authority and the approved facilities shall be provided before the first occupation of the buildings or land and maintained thereafter;

Reason: No such details have been submitted and in the interest of amenity in accordance with the provisions of the National Planning Policy Framework 2012.

5. The dwellings hereby permitted shall achieve a minimum of Level 4 of the Code for Sustainable Homes;

Reason: to ensure a sustainable and energy efficient form of development in accordance with the provisions of the National Planning Policy Framework 2012.

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

Reason: To ensure a high quality external appearance to the development in accordance with the provisions of the National Planning Policy Framework 2012.

7. The development shall not commence until details of foul and surface water drainage have been submitted to and approved by the Local Planning Authority, and the development shall thereafter be carried out in accordance with the approved details;

Reason: In the interest of the prevention of pollution and flood prevention in accordance with the provisions of to the National Planning Policy Framework 2012.

8. Details submitted pursuant to condition 1 (reserved matters submission relating to scale) shall show dwellings not exceeding three storeys in height;

Reason: To ensure that the development remains in proportion and in scale and character with the surrounding area in accordance with the provisions of National Planning Policy Framework 2012.

9. Details submitted pursuant to condition 1 (reserved matters submission relating to layout) shall show no part of the dwellings hereby approved being closer than 5 metres to the back edge of the public highway fronting the site;

Reason: To ensure good landscaping provision, safeguard the visual quality of the development, and secure an acceptable living environment for future occupiers in accordance with the provisions of National Planning Policy Framework 2012.

10. All planting, seeding or turfing comprised in the approved details submitted pursuant to condition 1 (reserved matters submission relating to landscaping) shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with the provisions of the National Planning Policy Framework 2012.

11. The development hereby permitted shall be undertaken in complete accordance with the recommendations of the MWA Arboricultural Impact Assessment received 21st November 2013;

Reason: to safeguard trees of amenity value and secure the amenity of the surrounding area in accordance with the provisions of the National Planning Policy Framework 2012.

12. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved;

Reasons: To protect vulnerable groundwater resources and prevent pollution of

the environment in accordance with the provisions of the National Planning Policy Framework 2012.

13. The development hereby permitted shall not commence until a suitable local replacement surgery facility is operational. Details of the replacement facility shall be submitted to and approved in writing by the Local Planning Authority prior to any works on site commencing, and the approved details subsequently implemented;

Reason: to prevent the loss of a community facility for which a replacement has not been provided in accordance with policy CF3 of the Maidstone Borough-Wide Local Plan 2000 and the provisions of the National Planning Policy Framework 2012.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1 Classes A, B, C and E to that Order shall be carried out without the permission of the Local Planning Authority;

Reason: To ensure a satisfactory appearance to the development and safeguard the residential amenity of the occupiers of surrounding dwellings.

Informatives set out below

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

You are advised that Southern Water seeks to emphasise the development must be served by adequate drainage infrastructure.

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.

No vehicles, in connection with the construction of the development, may arrive, depart, be loaded or unloaded within the general site, and plant and machinery shall not be operated, that would generate noise beyond the boundary of the site, except between the hours of 0800 hours and 1800 Mondays to Fridays and 0800 and 1300 hours on Saturdays (and at no time on Sundays or Bank or Public Holidays).

A formal application for connection to the public sewerage system is required in order to service this development. For further details please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688), or www.southernwater.co.uk.

Southern Water's current sewerage records do not show any public sewers to be crossing the above site. However, due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

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

APPENDIX

APPLICATION: MA/13/1711 Date: 6 October 2013 Received: 21 November 2013

APPLICANT: Dr Peter Szwedziuk

LOCATION: 97, HOLLAND ROAD, MAIDSTONE, KENT, ME14 1UN

PARISH: Maidstone

PROPOSAL: An application for outline planning permission for the erection of 5 No. town houses with all matters reserved for future consideration as shown on drawing numbers 1339PS-PP01, 1339PS-PP02, 1339PS-PP03, 1339PS-PP04 and 1339PS-PP05 supported by a design and access statement and covering letter, all received 7th October 2013; NHS Property Services letter received 24th October 2013; and Arboricultural Impact Assessment and drawing numbers 1339PS-PP-T1, 1339PS-PP-T2, 1339PS-PP-T3 and 1339PS-PP-T4 received 21st November 2013.

AGENDA DATE: 6th February 2014

CASE OFFICER: Catherine Slade

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

- it has been called in by Councillor Naghi for the reasons set out in the report.

1. **POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, T13, CF3
- Government Policy: National Planning Policy Framework 2012

2. **HISTORY**

MA/97/0310	Single storey rear extension, conversion of garage to practice nurse/treatment room, and rear entrance ramp with extended car parking area – APPROVED SUBJECT TO CONDITIONS
MA/89/1097	Demolition of single storey garage and erection of 2 storey extension to surgery – APPROVED SUBJECT TO CONDITIONS
MA/79/1731	Extension for additional doctors surgery and W.C. – APPROVED SUBJECT TO CONDITIONS
MA/75/1369	Change of use from dwelling to doctors surgery – APPROVED SUBJECT TO CONDITIONS

APPENDIX

MA/74/0770	Demolition of 97 Holland Road and erection of twelve flats – REFUSED
MA/74/0276	Three storey block and 3 No. 4 person flats and 23 car parking spaces – REFUSED
73/0833/MK1	The demolition of existing building and erection of two storey block of bed sitting units - APPROVED SUBJECT TO CONDITIONS
73/0535/MK1	Outline application for the demolition of the existing dwellinghouse and the erection of a three storey block comprising twenty one bed sitting units - REFUSED
61/0542A/MK1	Continued use of premises as additional accommodation for Maidstone College of Art – RAISE NO OBJECTION
61/0542/MK1	Use of premises as additional premises for College of Art – RAISE NO OBJECTION
60/0085/MK1	Erection of a detached bungalow and garage - APPROVED
59/0626/MK1	Outline application for the erection of a detached bungalow and garage - APPROVED SUBJECT TO CONDITIONS
53/0230/MK1	Outline application for the development land by the erection of houses thereon, having a frontage of approximately 340ft to Sittingbourne Road, and approximately 325ft to St Lukes Avenue and situated to the south of Riseholm – APPROVED SUBJECT TO CONDITIONS
51/0027/MK1	Change of use from two dwellings to two flats and one maisonette - APPROVED

3. **CONSULTATIONS**

- 3.1 **Maidstone Borough Council Landscape Officer** raises no objection to the proposal and makes the following detailed comments:
- 3.1.1 *"There are no protected trees on or adjacent to this site.*
- 3.1.2 *The Arboricultural impact assessment produced by MWA Arboriculture Ltd is very thorough but I do have reservations about the number of units proposed on the site and potential issues around future pressure for removal of trees, particularly the Lime tree identified as T1.*
- 3.1.3 *If, however, you are minded to grant consent for this application you will need to ensure that there is a strong condition attached requiring compliance with the recommendations of the above arboricultural method statement prior to the submission of a detailed application."*

APPENDIX

- 3.2 **The Kent County Council Highway Services** raise no objection to the proposal, and make the following detailed comments:
- 3.2.1 *"Zero off road parking provision at this location would be within the County's car parking standards. I write to confirm therefore on behalf of the Highway Authority that I have no objection to this application."*
- 3.3 **Southern Water** raise no objection to the proposal and make the following detailed comments:
- 3.3.1 *"Southern Water requires a formal application for a connection to the foul sewer to be made by the applicant or developer."*
- 3.3.2 *We request that should this application receive planning approval, the following informative is attached to the consent:*
- 3.3.3 *"A formal application for connection to the public sewerage system is required in order to service this development, please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688), or www.southernwater.co.uk".*
- 3.3.4 *Southern Water's current sewerage records do not show any public sewers to be crossing the above site. However, due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site."*
- 3.4 **UK Power Networks** raise no objection to the proposal.

4. **REPRESENTATIONS**

- 4.1 **Councillor Naghi** has requested that the application be reported to Planning Committee on the grounds of "potential negative impact upon residential amenity and the streetscene." Concern was also raised in respect of the lack of on site parking.
- 4.2 5 representations were received. All representations raised concern over the proposal. The matters of concern are set out below:
- Insufficient on site parking provision.
 - Impact on residential amenity.
 - Loss of the existing medical facility.
 - Lack of information relating to the scale and design of the proposed dwellings. Concerns over sustainability of development, including proposed level of Code for Sustainable Homes and option of refurbishment of existing building.
 - Impact on services.

APPENDIX

- Loss of view.

4.3 Concern was also raised over the publicity procedure due to the site notice slipping down the sign post that it was attached to.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The proposal site comprises a part two storey, part single storey detached mid twentieth century building originally built as a dwellinghouse. The building has been used as a medical surgery since the mid 1970's, and remains a community facility to the current day. The remainder of the site is largely given over to hard surfacing. The site is located to the north east of the junction between Holland Road, the B2012, and St Lukes Avenue, an unclassified road.

5.1.2 The existing building is of limited architectural or historic interest, and is visually severed to a degree from the wider streetscene by an existing 1.8m brick wall.

5.1.3 The surroundings predominantly comprise residential properties of varying scale, age and appearance. The streetscape along Holland Road to the west of the site is made up of two storey Victorian semi detached and detached dwellings, whereas the properties to the north of the site along St Lukes Avenue are a mixture of Victorian and mid twentieth century semi-detached and detached dwellings. On the opposite side of Holland Road, to the south of the site, is an early twenty-first century development of three storey town houses and a substantial three and four storey apartment block which extends along Holland Road and south of the junction with Sittingbourne Road.

5.1.4 Notwithstanding the above, two of the buildings closest to the proposal site are in non-residential use. These are St Lukes Studio, a modest detached pitched roof building to the north of the site separating it from 24 St Lukes Avenue. The other is 9 Sittingbourne Road to the east of the site, a prominent detached Victorian building located on the junction of Holland Road and Sittingbourne Road, the A249. These buildings are understood to be in institutional use.

5.1.5 Holland Road in the vicinity of the site is subject to parking restrictions due to the proximity of the junction between the two A roads, and south of the site the road becomes two lane to provide filter lanes to service the junction.

5.1.6 The site is located in a sustainable edge of town centre location, and is within easy reach of a wide range of facilities, services and transport options. The site has no specific environmental or economic designations in the Maidstone Borough- Wide Local Plan 2000.

5.2 Proposal

5.2.1 The current application seeks outline planning permission for the erection of five dwellinghouses. As Members will be aware, applications for outline planning permission are assessed primarily in terms of the principle of the development,

APPENDIX

together with any matters to be considered under the scope of the outline application. The application is for outline planning permission with all matters being reserved, and therefore the detail of the proposal is not for full consideration at the current time. Although the application documentation states that all matters are to be reserved, the applicant has confirmed that the proposed development would not provide any on site parking, and therefore that there will not be any matters of access to determine.

- 5.2.2 Members will be aware that, following legislation published in 2010, Local Planning Authorities can no longer, in cases where layout and scale are reserved matters, require the applicant to provide details of the location of buildings, routes and open spaces within the development, or upper and lower limits for the height, width and length of the buildings proposed. The application therefore falls to be determined on whether the principle of the redevelopment of the site for the provision of five dwellings is acceptable or not.
- 5.2.3 Notwithstanding the above, the submitted documentation indicates that the dwellings would be arranged within the site in a pair of semi-detached properties and a terrace of three fronting onto Holland Road with front and rear gardens. The documentation describes the properties as being "three storey town houses of 3/4 bedrooms each" with a "similar design and feel as Kings Walk opposite".

5.3 Principle of Development

- 5.3.1 The planning policy context comprises the Development Plan (the saved policies of the Maidstone Borough-Wide Local Plan 2000, together with any other formally adopted planning policy documents), and national planning policy and guidance as set out in the National Planning Policy Framework 2012 (NPPF). There are no Local Plan policies relating to residential development in locations such as this, however the NPPF states that housing applications should be considered in the context of the presumption of sustainable development, which is identified as one of the key objectives of the planning system.
- 5.3.2 As stated above, the site is located in a sustainable location in close proximity to local facilities and services including shops, schools and health facilities within the defined settlement boundary of Maidstone. The site is considered to represent previously developed land and has no specific economic designations in the Local Plan. As such the principle of residential use in this location is considered to be acceptable in terms of the general principle of the siting of new residential development and sustainable development in general, as set out in the National Planning Policy Framework.
- 5.3.3 Notwithstanding the above, saved Local Plan policy CF3 seeks to prevent the loss of community facilities where an alternative facility has not been provided. In this case, the applicant has stated that there is an intention to merge with a second local surgery, the resultant practice being located in a new facility. This is supported by letter from NHS Property Services which indicates that an

APPENDIX

application to them for a new surgery practice premises is in train. However, there do not appear to be any of the necessary planning permissions in place at the current time which would allow the relocation to the identified site to take place lawfully. However, to my mind a condition preventing any permission granted under the scope of MA/13/1711 commencing until such a time as a replacement facility or adequate compensatory facility at an existing surgery has been locally provided to the satisfaction of the Local Planning Authority, would adequately safeguard against the loss of the current facility. As such, planning permission could be granted without being contrary to the provisions of policy CF3.

- 5.3.4 For the reasons set out above, it is considered that the principle of the development is acceptable in policy terms, subject the condition stipulated in paragraph 5.3.2 above and all other material considerations.

5.4 Assessment of indicative reserved matters

Layout

- 5.4.1 As set out above, the applicant is not required to provide any details of layout when layout is a reserved matter under the current legislative regime, however an indicative layout has been provided which shows that the proposed dwellings would be arranged within the site as a pair of semi-detached dwellings, and a terrace of three, all fronting onto Holland Road with front and rear gardens. The dwellings are shown as having a depth of 12m and a width of 4.65m (55.8m²), which is comparable to that of other dwellings in the locality and adequate to provide a reasonable internal living space. As such, I am satisfied that the proposal site can accommodate the density of development proposed, and that the potential scale, arrangement and siting of the dwellings would not be out of keeping with the grain of the local area, which features terraces of modest proportions with diminutive front and rear gardens, as well as more substantial semi-detached and detached dwellings.
- 5.4.2 The indicative layout shows the front elevations of the dwellings to be set back from the highway by a distance approximate to that of the existing building, and to respond to the pattern of the surrounding built development to a satisfactory degree. The set back of built development can be secured by way of condition. It is also the case that, the loss of the existing frontage wall and the introduction of boundary treatments of a more domestic scale and appearance will have the effect of opening up the appearance of the site, which is to be welcomed, and would be controlled by way of condition.

Access

- 5.4.3 Although the matter of access is a reserved matter, it is clear from the application documentation that the proposal does not include any on site vehicle parking provision, and therefore does not include the provision of a vehicular access to the site. The highways in close proximity to the site are subject to

APPENDIX

parking restrictions, either by way of double yellow lines or resident permit/time limited restrictions.

- 5.4.4 Whilst the concerns of Cllr Naghi and the occupiers of neighbouring dwellings in respect of the impact of the development in respect of on-street car parking are noted, Members will be aware that Maidstone Borough Council has no adopted parking standards, and as set out above Kent County Council Highway Services raise no objection to the proposal on the grounds of insufficient parking provision. In light of the highly sustainable location and the absence of any objection from the Highway Authority, there is not considered to be any justification for refusing the scheme on this ground.

Scale

- 5.4.5 As described above, the application documentation describes the properties as being "three storey town houses of 3/4 bedrooms each" with a "similar design and feel as Kings Walk opposite".
- 5.4.6 The context is made up predominantly of dwellings of a variety of scales and types, from modest two storey Victorian terraces along the north side of Holland Road to the west and more substantial two storey detached and semi-detached dwellings along the south side of Holland Road to the west; substantial two storey mid twentieth century dwellings to the north of the site along St Lukes Avenue; and denser residential development formed of three and four storey flatted development and three storey townhouses to the immediate south of the site. The non-residential buildings in close proximity to the site are also variable in scale, the studio to the immediate north of the site being not dissimilar in scale to a early twentieth century detached garage, and the building to the east of the site being a prominent Victorian buildings of significant scale and visual impact in the streetscape.
- 5.4.7 In this context, the introduction of three storey buildings of a domestic appearance and scale would be acceptable in terms of their contribution to the overall streetscene, and would not appear overly dominant. However, a condition should be imposed restricting the development to three storeys in height in order to safeguard against overly tall development that would result in harm to the streetscene and a form of development that would be poorly proportioned.
- 5.4.8 The concerns over the potential impact of the proposed development on the residential amenity of the occupiers of neighbouring dwellings are noted. The detailed design of the proposal, which would be fully assessed at such a time as a application for reserved matters or full planning permission is submitted would be undertaken in such a way as to address any potential impact in respect of privacy.
- 5.4.9 Notwithstanding the above, in any case, to my mind the separation distances involved, and the presence in most cases of intervening public highways, are

APPENDIX

such that harm to residential amenity would not result to the occupiers of existing properties from the proposed development.

Appearance

- 5.4.10 As with the reserved matters of scale and layout, the applicant is not required to provide information pertaining to appearance where that matter is not to be considered at outline stage. In this case, the applicant has not provided any drawings of the proposed dwellings, only states that the proposed dwellings will be of a "townhouse" style, of a "similar design and feel as Kings Walk opposite." Kings Walk is a modern development of traditional form and contemporary appearance, primarily achieved by way of the use of red brick and render with Juliet balconies in terms of the elevational details, with slate roofs with eave height overhangs. This is considered to be a valid design approach to the development, however alternative visual palettes would potentially be acceptable in this location, and given that the matter of appearance is a reserved matter, I do not consider it appropriate in this case to impose a condition requiring the appearance to be in accordance with the limited details submitted.

Landscaping

- 5.4.11 Landscaping is also a reserved matter, and as such no further details are required from the applicant at this stage. However, the applicant has indicated that the proposed dwellings would have front and rear gardens, the landscape details of which would be subject to scrutiny at the time of an application for approval of reserved matters or full planning permission.
- 5.4.12 Notwithstanding the above, the proposed development would be located in close proximity to a highway tree on St Lukes Avenue which is considered to be of significant amenity value. The Arboricultural Impact Assessment submitted in support of the applicant demonstrates that the specimen can be successfully retained. To this end, a condition requiring compliance with the submitted report is considered to be both reasonable and necessary for the purposes of safeguarding the contribution of this tree to the amenity of the area.
- 5.4.13 The comments of the Maidstone Borough Council Landscape Officer in respect of future pressure for removal of the tree are noted, however this is most likely to arise as a result of the provision of a window to the west elevation of the nearest property; this is a matter that can be addressed by way of the detailed design of this dwelling, which as set out above, is not a matter for consideration at this stage.

5.5 Other Matters

- 5.5.1 There are no heritage or biodiversity assets which would be affected by the proposed development and the site is not in a location recorded by the Environment Agency as being prone to flood.

APPENDIX

- 5.5.2 The applicant has confirmed in writing that the proposed dwellings would achieve Level 4 of the Code for Sustainable Homes, which in the circumstances of this case is considered to be appropriate and in accordance with both emerging Local Plan policy and the expectations of the Council in respect of residential development of this scale. The attainment of a minimum of Level 4 of the Code for Sustainable Homes can be secured by way of condition.
- 5.5.3 As Members will be aware, loss of views are not a planning matter and therefore cannot be taken into consideration in the determination of planning applications.
- 5.5.4 The comments received in respect of the publicity procedure are noted, however the Council has, in displaying a site notice, fulfilled the statutory publicity requirements. Whilst it is regrettable that the notice slipped down the post it was attached to, it is not considered that this prejudiced any party. Indeed, the presence of the notice was noted by at least two respondents. In addition to this, the Council wrote to a number of local residents.
- 5.5.5 It is therefore considered that the Council has therefore satisfactorily discharged its obligations in respect of publicising the application.

6. CONCLUSION

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

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-
 - a. Layout
 - b. Scale
 - c. Appearance
 - d. Access
 - e. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

APPENDIX

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

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

Reason: To ensure a satisfactory appearance to the development in accordance with the provisions of the National Planning Policy Framework 2012.

3. The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter. The details shall submitted shall include, inter alia, a boundary treatment of not greater than 1m to the site boundaries with Holland Road and St Lukes Avenue;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers in accordance with the provisions of the National Planning Policy Framework 2012.

4. The development shall not commence until, details of satisfactory facilities for the storage of refuse and recycling on the site have been submitted to and approved in writing by the Local Planning Authority and the approved facilities shall be provided before the first occupation of the buildings or land and maintained thereafter;

Reason: No such details have been submitted and in the interest of amenity in accordance with the provisions of the National Planning Policy Framework 2012.

5. The dwellings hereby permitted shall achieve a minimum of Level 4 of the Code for Sustainable Homes;

Reason: to ensure a sustainable and energy efficient form of development in accordance with the provisions of the National Planning Policy Framework 2012.

APPENDIX

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

Reason: To ensure a high quality external appearance to the development in accordance with the provisions of the National Planning Policy Framework 2012.

7. The development shall not commence until details of foul and surface water drainage have been submitted to and approved by the Local Planning Authority, and the development shall thereafter be carried out in accordance with the approved details;

Reason: In the interest of the prevention of pollution and flood prevention in accordance with the provisions of to the National Planning Policy Framework 2012.

8. Details submitted pursuant to condition 1 (reserved matters submission relating to scale) shall show dwellings not exceeding three storeys in height;

Reason: To ensure that the development remains in proportion and in scale and character with the surrounding area in accordance with the provisions of National Planning Policy Framework 2012.

9. Details submitted pursuant to condition 1 (reserved matters submission relating to layout) shall show no part of the dwellings hereby approved being closer than 5 metres to the back edge of the public highway fronting the site;

Reason: To ensure good landscaping provision, safeguard the visual quality of the development, and secure an acceptable living environment for future occupiers in accordance with the provisions of National Planning Policy Framework 2012.

10. All planting, seeding or turfing comprised in the approved details submitted pursuant to condition 1 (reserved matters submission relating to landscaping) shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the

APPENDIX

development in accordance with the provisions of the National Planning Policy Framework 2012.

11. The development hereby permitted shall be undertaken in complete accordance with the recommendations of the MWA Arboricultural Impact Assessment received 21st November 2013;

Reason: to safeguard trees of amenity value and secure the amenity of the surrounding area in accordance with the provisions of the National Planning Policy Framework 2012.

12. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved;

Reasons: To protect vulnerable groundwater resources and prevent pollution of the environment in accordance with the provisions of the National Planning Policy Framework 2012.

13. The development hereby permitted shall not commence until a suitable local replacement surgery facility is operational. Details of the replacement facility shall be submitted to and approved in writing by the Local Planning Authority prior to any works on site commencing, and the approved details subsequently implemented;

Reason: to prevent the loss of a community facility for which a replacement has not been provided in accordance with policy CF3 of the Maidstone Borough-Wide Local Plan 2000 and the provisions of the National Planning Policy Framework 2012.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1 Classes A, B, C and E to that Order shall be carried out without the permission of the Local Planning Authority;

Reason: To ensure a satisfactory appearance to the development and safeguard the residential amenity of the occupiers of surrounding dwellings.

APPENDIX

Informatives set out below

Attention is drawn to Sections 60 and 61 of the Control of Pollution Act 1974 and to the Associated British Standard Code of practice BS5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

You are advised that Southern Water seeks to emphasise the development must be served by adequate drainage infrastructure.

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.

No vehicles, in connection with the construction of the development, may arrive, depart, be loaded or unloaded within the general site, and plant and machinery shall not be operated, that would generate noise beyond the boundary of the site, except between the hours of 0800 hours and 1800 Mondays to Fridays and 0800 and 1300 hours on Saturdays (and at no time on Sundays or Bank or Public Holidays).

A formal application for connection to the public sewerage system is required in order to service this development. For further details please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688), or www.southernwater.co.uk.

Southern Water's current sewerage records do not show any public sewers to be crossing the above site. However, due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

APPENDIX

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.

Highway matters:

An additional representation has been received which raises concern over the lack of on site parking. This matter is fully addressed in the officer report.

Nonetheless, discussions have been ongoing with the Council's Parking Services team, who have confirmed that, subject to the imposition of a condition requiring the reinstatement of the kerb, additional on street parking spaces could be provided. As such, I propose the additional condition:

"The development shall not commence until written details showing the stopping up of the existing vehicular access, and reinstatement of the footway and kerb following removal of the existing crossover and an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP), which shall include details of the highway tree to be retained and the proposed measures of protection, undertaken in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations' have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of any of the dwellings hereby permitted;

Reason: in order to secure an acceptable appearance to the development."

Previous urgent update:

The recommendations of the previous urgent update presented to Planning Committee at the meeting held on 27th February 2014 have not been carried forward in the report on the agenda. The recommendation should therefore be amended to incorporate, in addition to the condition set out above, the following change to the recommendation, amended condition 2 and additional informative, as set out below:

Subject to the prior completion of a S106 agreement in such terms as the Head of Legal Services may advise to ensure that

- No works shall commence on the site until such time as a replacement facility has been provided and is operational

the Head of Planning and Development be given delegated powers to grant planning permission subject to conditions and completion of a suitable section 106 agreement as per officer report and this urgent update.

Additional condition:

The development shall not commence until written details showing the stopping up of the existing vehicular access, and reinstatement of the footway and kerb following removal of the existing crossover have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of any of the dwellings hereby permitted;

Reason: in order to secure an acceptable appearance to the development.

Amended condition 2:

The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials. The materials shall include, inter alia, the incorporation of 3No. bat boxes and 3No. swift bricks, to be distributed between the buildings;

Reason: To ensure a satisfactory appearance to the development and provide ecological enhancements in accordance with the provisions of the National Planning Policy Framework 2012.

Additional informative:

The bat boxes and swift bricks required by condition 2 shall be located in accordance with guidance published by the Bat Conservation Trust and Royal Society for the Protection of Birds, which can be found at http://www.bats.org.uk/pages/bat_boxes.html and <http://www.rspb.org.uk/advice/helpingbirds/nestboxes/smallbirds/siting.aspx>.

Amend recommendation as per the above:

SUBJECT TO THE PRIOR COMPLETION OF A S106 AGREEMENT IN SUCH TERMS AS THE HEAD OF LEGAL SERVICES MAY ADVISE TO ENSURE THAT

- **NO WORKS SHALL COMMENCE ON THE SITE UNTIL SUCH TIME AS A REPLACEMENT FACILITY HAS BEEN PROVIDED AND IS OPERATIONAL**

THE HEAD OF PLANNING AND DEVELOPMENT BE GIVEN DELEGATED POWERS TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND COMPLETION OF A SUITABLE SECTION 106 AGREEMENT AS PER OFFICER REPORT AND THIS URGENT UPDATE.

217

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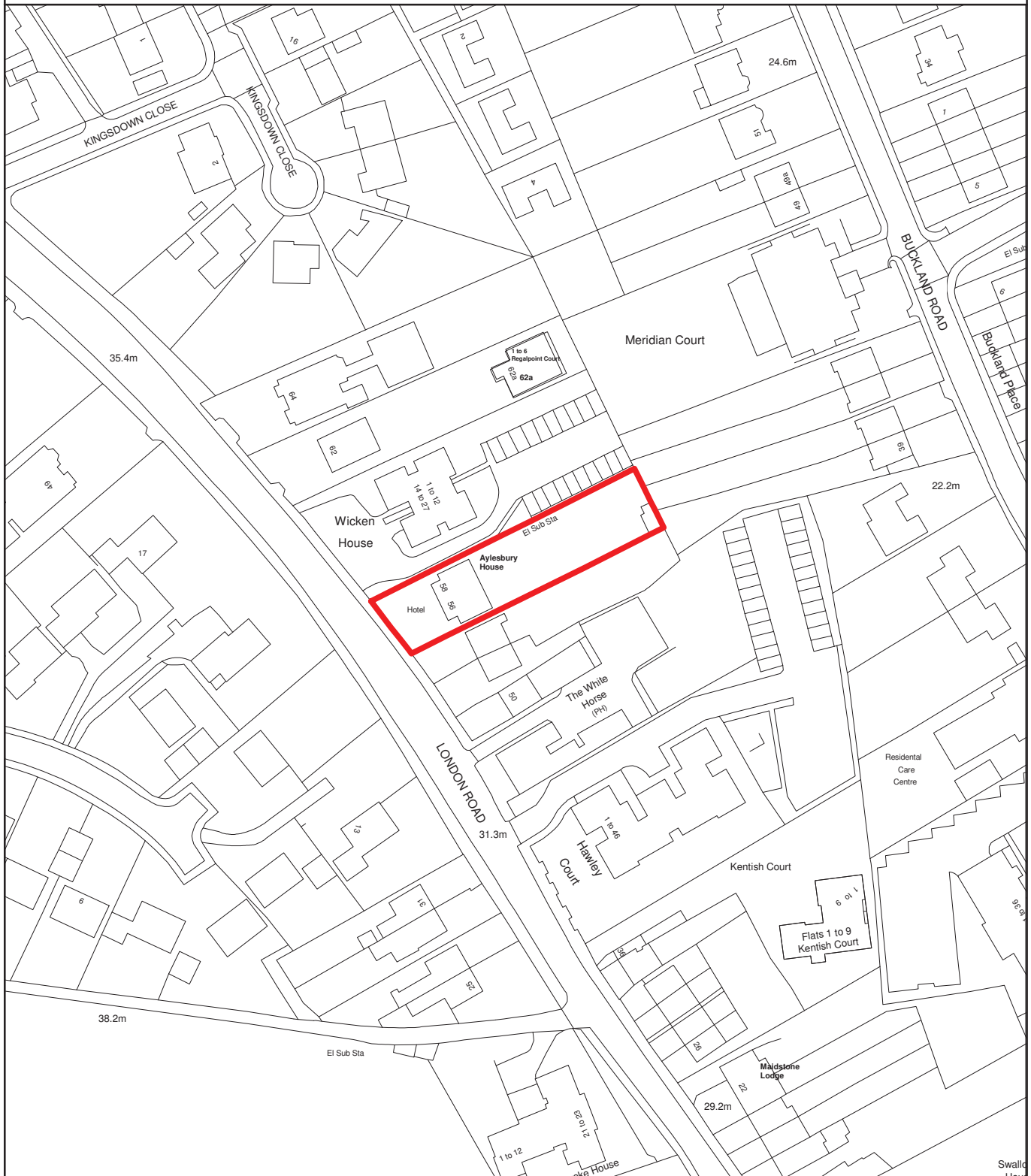


THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/14/0116

GRID REF: TQ7555

AYLESBURY HOUSE, 56 LONDON ROAD,
MAIDSTONE.



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Rob Jarman
Head of Planning and Development

APPLICATION: MA/14/0116 Date: 22 January 2014 Received: 23 January 2014

APPLICANT: Mr Neil Coles Housing Services Manager, Housing & Community Services

LOCATION: AYLESBURY HOUSE, 56, LONDON ROAD, MAIDSTONE, KENT, ME16 8QL

PARISH: Maidstone

PROPOSAL: Change of use from hotel to a 12 room hostel for use as emergency temporary accommodation for households accommodated by the council

AGENDA DATE: 20th March 2014

CASE OFFICER: Louise Welsford

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

- the Council is the applicant

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: None specific
- Government Policy: National Planning Policy Framework, National Planning Practice Guidance

2. HISTORY

MA/10/0248	Extension and internal re-arrangement to provide staff accommodation and additional guest bedrooms – Approved 7 April 2006
MA/10/1547	Change of use from Guest House to two semi-detached dwellings – Approved 29 October 2010
MA/11/0674	Change of use from Guest House to two semi-detached dwellings – Approved 21 June 2011

3. CONSULTATIONS

3.1 Kent Highways Services: No objections.

3.2 Environmental Health Manager: No objections, recommends informatives.

4. REPRESENTATIONS

4.1 Representations have been received from 3 neighbouring properties, 2 objecting and 1 commenting upon the grounds of anti-social behaviour, management, loss of property value/income and emergency access and alarms ringing unattended.

Kent Police: Have stated that they would welcome a meeting with the applicant and they have provided a copy of guidelines from "Secured By Design".

5. CONSIDERATIONS

5.1 Site Description

5.1.1 This application relates to a vacant hotel premises within the urban area of Maidstone. Originally a pair of semi-detached dwellings, it was historically converted to a hotel with 8 guest bedrooms and associated staff living accommodation.

5.1.2 The site is located upon a main arterial route (London Road), a relatively short distance from Maidstone Town Centre. Surroundings are mainly residential.

5.2 Proposal

5.2.1 Planning permission is sought for the change of use of the site from a hotel (Class C1) to a 12 room hostel for use as emergency temporary accommodation for households accommodated by the Council (sui generis). This is in order to meet the Council's duties under housing legislation and could include (but not be limited to), for example, residents who are displaced from their homes due to emergencies such as flooding.

5.3 Principle of Development

5.3.1 The National Planning Policy Framework generally takes a positive approach to changes of use of buildings for residential purposes where there is an identified need for such accommodation and there are no strong economic reasons why the development would be inappropriate. It seeks that local authorities plan for a mix of housing and consider the needs of different groups in the community.

5.3.2 In this case, the use is required to meet the Council's needs to provide emergency accommodation on a temporary basis. The applicant has confirmed that the need for such accommodation cannot always be met within the Borough

and this can have a negative impact upon the health and well being of those households. This use would help to broaden the mix of uses in the Borough. It would, for example, help to meet the needs of those experiencing difficult times, such as coping with flooding.

- 5.3.3 I do not consider there to be any strong economic reason to resist the application, since planning permission has already been granted to convert the building to two dwellings under reference MA/11/0674 and that permission is still extant. Moreover, I am not aware of any shortage of guest accommodation in the locality. It is noted that there is a 100 bedroom hotel in fairly close proximity to the site. It is therefore concluded that the principle is acceptable.

5.4 Visual Impact

- 5.4.1 No material changes are proposed to the external appearance of the building.

5.5 Residential Amenity

- 5.5.1 No extensions are proposed which would affect light or outlook for adjoining properties. In terms of privacy, no new windows are shown to be proposed and side fenestration is shown to serve staircases and a shower room, rather than main habitable rooms. The boundary with the properties to the rear is around 40m from the rear of Aylesbury House.
- 5.5.2 In terms of noise and disturbance, the existing parking area and access to the front of the site are to be used. These are not in a position to cause significant noise issues, especially given the expected background noise upon the A20 main arterial route. Also, I understand that the applicant would appoint a management team to oversee the functioning of the use and issues of unreasonable levels of noise and disturbance would be issues to be dealt with under the management regime.
- 5.5.3 Furthermore, the lawful use of the building as a hotel could still be carried out without the need for Planning Permission. The proposed use is not considered to result in significant residential amenity issues over and above the level expected from the lawful use.

5.6 Highways

- 5.6.1 The existing access onto London Road would remain unaltered and the 7 existing car parking spaces would be retained. The Kent County Council Highways Engineer has been consulted and raises no objection to the proposal. He states that he expects low car ownership and no discernible impact upon the highway.

5.6.2 Given that this is a sustainable urban location, relatively close to the town centre, (where other modes of transport could be used) this is considered an acceptable conclusion.

5.7 Other Matters

5.7.1 Representations have raised the issue of anti-social behaviour. Kent Police have commented upon the application, but have not objected. They have stated that they would welcome a meeting with the applicant and they have provided a copy of guidelines from "Secured By Design".

5.7.2 As there is no operational development requiring planning permission, it is considered that the information supplied by Kent Police should be brought to the attention of the applicant by way of an informative.

5.7.3 It is also important to note that the applicant intends to implement this development themselves and has confirmed that they intend to procure a management service. This management service would therefore be responsible for ensuring that the use is carried out in an acceptable manner and dealing with any anti-social behavioural issues, should they arise. In consequence, it is not considered that there are any anti-social behaviour issues which would justify a refusal in this case.

5.7.4 The issue of alarms ringing is a management service issue.

6. CONCLUSION

6.1 The proposal constitutes sustainable development and complies with the National Planning Policy Framework. There are no significant highway issues and a management regime would be put in place to ensure that the use functions in an appropriate manner. Approval is therefore recommended.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no.s H1100 01a, H1100 12a, H1100 13a, H1100 14a, H1100 15a, H1100 16a, H1100 17a and H1100 18a received on 22/01/14;

Reason: To ensure the quality of the development is maintained and to preserve visual and residential amenity.

Informatives set out below

The applicant's attention is drawn to the advice concerning 'Secured by Design' in the representation from Kent Police dated 5 February 2014 and to the Kent Design Initiative (KDI) Design Out Crime Prevention document dated April 2013. The applicant is strongly recommended to seek advice upon the issue of crime prevention from Kent Police prior to implementing this consent.

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

Asbestos:

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.

Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

Dust Nuisance:

In order to minimise dust and dirt being blown about and potentially causing a nuisance to occupiers of nearby premises the following precautions should be taken.

- Reasonable and practicable steps should be used during any demolition or removal of existing structure and fixtures, to dampen down the general site area, using a suitable water or liquid spray system.
- Where practicable, all loose material on the site should be covered during the demolition process.

- During the construction, reconstruction, refurbishment or modification of the building and where practicable the exterior should be sheeted, enclosing openings etc. as necessary.

Noise and Vibration transmission between properties:

Attention is drawn to Approved Document E Building Regulations 2003 'Resistance to the Passage of Sound'. It is recommended that the applicant adheres to the standards set out in this document in order to reduce the transmission of excessive airborne and impact noise between the separate units in this development and other dwellings.

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

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

Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

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

230



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231



27. 2. 2014

AYLESBURY
HOUSE
RESTAURANT
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2332

AYLESBURY HOUSE

27. 2. 2014

THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/14/0175

GRID REF: TQ7555

HAZLITT THEATRE, EARL STREET,
MAIDSTONE.



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Rob Jarman
Head of Planning and Development

APPLICATION: MA/14/0175 Date: 29 January 2014 Received: 21 February 2014

APPLICANT: Mr Graeme MacLennan, Parkwood Leisure

LOCATION: HAZLITT THEATRE, EARL STREET, MAIDSTONE, KENT, ME14 1PL

PARISH: Maidstone

PROPOSAL: Advertisement consent for the installation of 6no non illuminated vertical banner signs to existing brackets and 3no non-illuminated windows graphics as shown on application Form received 3rd February 2014 and supporting plans and information received 21st February 2014.

AGENDA DATE: 20th March 2014

CASE OFFICER: Kevin Hope

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

- The Council has an interest in the application.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV8
- Village Design Statement: N/A
- Government Policy: National Planning Policy Framework 2012

2. HISTORY

- 2.1 MA/11/0912 - Introduction of a plant room and associated equipment and staircases to the roof – Approved with conditions
- 2.2 The proposal site has an extensive planning history, in respect of applications for planning permission, listed building consent and advertisement consent, most of which are not directly applicable to the current proposal. The most recent application is listed above.

3. CONSULTATIONS

- 3.1 **Conservation Officer:** Raises no objections with the following comments:-

"The proposed signs are acceptable in their impact on the listed building and conservation area. I raise no objections to this application on heritage grounds".

4. REPRESENTATIONS

- 4.1 No representations have been received.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site is located within the town centre of Maidstone to the south east of Earl Street, the north east of Market Buildings and the south west of Rose Yard. The site comprises the Hazlitt Theatre which forms part of a group of Grade II listed two storey mid nineteenth century buildings of classical form, including a Corn Exchange, with later twentieth century additions and alterations to the rear (Rose Yard).
- 5.1.2 The site is located within the Maidstone Centre Conservation Area, and within the secondary retail area of Maidstone.
- 5.1.3 The surrounding properties are in mixed commercial uses, and there is no residential development immediately adjacent to the site of the proposed development.

5.2 Proposal

- 5.2.1 Advertisement consent is sought for the installation of 6no non illuminated vertical banner signs to existing brackets and 3no non-illuminated windows graphics.
- 5.2.2 The proposed banner signs would be located on existing brackets with two to the front elevation, two to the south western side elevation and two to the north eastern side elevation of the building. The banners would measure 1.5m in height and 0.5m in width and would include the Hazlitt Theatre logo and text as well as the Maidstone Borough Council logo.
- 5.2.3 The proposed window graphics would be located to the ground floor of the south western side elevation and would comprise theatre contact information and current/coming soon events.

5.3 Assessment

- 5.3.1 The National Planning Policy Framework requires consideration to be given to the issues of visual amenity and public safety, which is consistent with the considerations outlined under The Town and Country Planning (Control of Advertisements) (England) Regulations 2007. The most relevant policy under the Maidstone Borough Wide Local Plan 2000 is Policy ENV8 which permits new advertisements provided that, in terms of scale and design, they would not be detrimental to the character and appearance of the surrounding area. In this case, of particular importance is the impact of the proposal on the character and appearance of the conservation area and host listed building which will be assessed below.

5.4 Visual Impact

- 5.4.1 In terms of visual amenity, the key issue to consider is whether the proposed banners would cause visual harm to the surrounding area given the listed status of the building and the Conservation Area location of the site. As previously discussed, the brackets for the adverts are existing and have comprised similar adverts in the past. These are of an appropriate scale and do not cause significant harm to the visual appearance of the building itself. In terms of the conservation area, due to the town centre location of the site together with the mix of businesses, there is a wide variety of signs within the locality. This includes similar banners and flags to other buildings within the conservation area. I do not consider this to be visually harmful to the appearance of the area and consistent with the vibrant character of this busy street.
- 5.4.2 With regard to the window graphics, these would be located within a side elevation partly under the market buildings which is not a prominent section of the building. The adverts are appropriate in design and scale and are an acceptable form of advert to existing non-active windows. The conservation officer considers the proposed adverts to be acceptable and has raised no objections to the proposal. As such, I consider the adverts proposed to be appropriate in scale and design and would not have a detrimental impact upon the surrounding conservation area or host listed building.

5.5 Public Safety

- 5.5.1 The banners are positioned above pedestrian areas of Earl Street and Market Buildings and would be sited some 5m from ground level. This is clearly sufficient and would not lead to any public safety issues. Due to the nature of the window graphics proposed, there would not be any public safety issues as a result of these adverts.

5.5.2 Due to their height and non-illuminated nature, I do not consider that the adverts would affect highway safety.

5.5.3 Due to the nature of this proposal and its proximity to the surrounding buildings, there would not be any detrimental impact upon neighbouring residential amenity.

6. CONCLUSION

6.1 Taking all of the above into account, it is considered overall that the proposals comply with Development Plan policy and the Central Government guidance as set out in the National Planning Policy Framework. I therefore recommend conditional approval as below.

7. RECOMMENDATION

Subject to the expiry of the most recent consultation period, The Head of Development Management be granted delegated powers to approve subject to the imposition of following conditions:-

1. (i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

(ii) No advertisement shall be sited or displayed so as to-
(a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
(b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
(c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

(iii) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

(iv) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

(v) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: In accordance with the provisions of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2. The advertisement(s) for which consent is hereby granted must be removed in accordance with condition 1 (V) within five years of the date of this consent;

Reason: In accordance with the provisions of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

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

Application Form received 3rd February 2014 and supporting plans and information received 21st February 2014.

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

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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THE MAIDSTONE BOROUGH COUNCIL

PLANNING APPLICATION NUMBER: MA/14/0308

GRID REF: TQ7555

HAZLITT THEATRE, EARL STREET,
MAIDSTONE.



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Rob Jarman
Head of Planning and Development

APPLICATION: MA/14/0308 Date: 21 February 2014 Received: 24 February 2014

APPLICANT: Mr Graeme MacLennan, Parkwood Leisure

LOCATION: HAZLITT THEATRE, EARL STREET, MAIDSTONE, KENT, ME14 1PL

PARISH: Maidstone

PROPOSAL: Listed building consent for the attachment of new purple backing to existing fascia sign and alteration of lettering within the front elevation as shown on application form and supporting information received 24th February 2014.

AGENDA DATE: 20th March 2014

CASE OFFICER: Kevin Hope

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

- The Council has an interest in the application.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: N/A
- Village Design Statement: N/A
- Government Policy: National Planning Policy Framework 2012

2. HISTORY

- 2.1 MA/11/0912 - Introduction of a plant room and associated equipment and staircases to the roof – Approved with conditions
- 2.2 The proposal site has an extensive planning history, in respect of applications for planning permission, listed building consent and advertisement consent, most of which are not directly applicable to the current proposal. The most recent application is listed above.

3. CONSULTATIONS

- 3.1 **Conservation Officer:** Raises no objections with the following comments:-

"The proposed new backing is acceptable in its impact on the listed building and conservation area. I raise no objections to this application on heritage grounds".

4. REPRESENTATIONS

- 4.1 No representations have been received.

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site is located within the town centre of Maidstone to the south east of Earl Street, the north east of Market Buildings and the south west of Rose Yard. The site comprises the Hazlitt Theatre which forms part of a group of Grade II listed two storey mid nineteenth century buildings of classical form, including a Corn Exchange, with later twentieth century additions and alterations to the rear (Rose Yard).
- 5.1.2 The site is located within the Maidstone Centre Conservation Area, and within the secondary retail area of Maidstone.
- 5.1.3 The surrounding properties are in mixed commercial uses, and there is no residential development immediately adjacent to the site of the proposed development.

5.2 Proposal

- 5.2.1 Listed building consent is sought for the attachment of new purple backing to existing fascia sign and alteration of lettering within the front elevation.
- 5.2.2 The principle fascia sign on the front elevation would be subject to the proposed change to purple colour backing. The lettering on this sign would remain unchanged.
- 5.2.3 The existing fascia above the doorway on the front elevation would be subject to the proposed change to purple colour lettering. The white backing on this sign would remain unchanged.

5.3 Assessment

- 5.3.1 The National Planning Policy Framework highlights the importance of the conservation of the historic environment and that consideration is given to the impact upon the appearance and character of a heritage asset as well as its setting. There are no policies within the Maidstone Borough Wide Local Plan 2000 which are applicable in this case, however, the key issues for evaluation

are the impact of the proposal on the character and appearance of the listed building and conservation area which will be assessed below.

5.4 Visual Impact

- 5.4.1 In terms of visual amenity, the proposed purple backing to the main fascia sign on the building would extend across the full width of the sign retaining the existing white lettering. This would be consistent with the corporate colour scheme of the Hazlitt Theatre which is used internally and within external advertisements as proposed under MA/14/0175 (also under separate consideration of the planning committee). I consider this would be acceptable with regard to the appearance and character of the building and would be an appropriate alteration to the existing fascia sign respecting the conservation area location of the building.
- 5.4.2 With regard to the proposed lettering change, this is proposed to the existing fascia above the entrance on the front elevation and again would comprise the purple corporate colour. The existing white backing would remain and I consider this would achieve an acceptable overall appearance to the building. The conservation officer has been consulted and considers the proposed alterations to be acceptable raising no objections. I therefore do not consider there would be detrimental harm to the character or appearance of the building and surrounding conservation area.

5.5 Public Safety

- 5.5.1 The alterations to the signs proposed would not alter the overall scale or projection of the sign and consequently there would be no detrimental impact upon public or highway safety.
- 5.5.2 Due to the nature of this proposal and its proximity to the surrounding buildings, there would not be any detrimental impact upon neighbouring residential amenity.

6. CONCLUSION

- 6.1 Taking all of the above into account, it is considered overall that the proposals comply with Development Plan policy and the Central Government guidance as set out in the National Planning Policy Framework. I therefore recommend conditional approval as below.

7. RECOMMENDATION

Refer the application to THE SECRETARY OF STATE recommending that LISTED BUILDING CONSENT BE GRANTED with the following conditions:-

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

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

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

Application form and supporting information received 24th February 2014.

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

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.





THE MAIDSTONE BOROUGH COUNCIL
Tree Preservation Order No. 1 of 2014
Tree within the verge of Courtlands
to the south of Dolly Bees, Malling Road, Teston.

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Schedule

Individual Trees: T1 Lime

Groups of Trees: None

Areas of Trees: None

Woodlands: None

Signed

Date

Extract from OS Map TQ 7053
 Scale 1:1250

[Chief Executive]
 [Head of Planning and Development]
 [delete as appropriate]
 as authorised signatory

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

20th March 2014

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

REFERENCE: Tree Preservation Order No. 1 of 2014 Date: 9th January 2014

TITLE: Tree within grass verge of Courtlands to the south of Dolly Bees, Malling Road, Teston

CASE OFFICER: Paul Hegley

Tree Preservation Order (TPO) No.1 of 2014 was made under Regulation 4 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 to protect one Lime tree. One objection to the order has been received and the Planning Committee is, therefore, required to consider this before deciding whether the Order should be confirmed.

The recommendation on whether to confirm this TPO is being reported to Committee for decision because:

- One objection has been received

POLICIES

Maidstone Landscape Character Assessment (March 2012 amended 19 July 2013) and Supplement (2012- Saved Sections of the Landscape Character Assessment and Landscape Guidelines 2000)

Government Policy: ODPM, 'Tree Preservation Orders: A Guide to the Law and Good Practice'

BACKGROUND

Following the submission of Planning application MA/13/1036 for the erection of a new detached chalet bungalow within the rear garden of Dolly Bees, the Lime tree growing within the neighbouring grass verge was made subject to TPO No.8 of 2013 on a provisional basis due to its size and position close to the southern boundary of the development site. The tree was considered vulnerable to future post development pressure for felling or inappropriate pruning to abate problems such as honey dew, falling leaves and seeds and shading.

TPO No.8 of 2013 expired on 15th January 2014. There was one objection which was received outside of the statutory 28 day period from the order's making but it was not possible to report this to Planning Committee within the required time period. It was therefore considered expedient to continue the tree's protection by allowing the current order to lapse and to make a new order, TPO No. 1 of 2014.

The new order also addresses one of the concerns the objector raised to the original TPO which questioned the title and description of the Lime's location.

The grounds for the making of this new order were stated as follows: -

Provisional TPO No.8 of 2013 which protects one Lime tree growing within the grass verge to the south of Dolly Bees is due to expire on 15th January 2014. The Lime is considered to make a significant and positive contribution to local landscape quality and amenity of the area so it is considered expedient to continue its protection by making a new Tree Preservation Order in order to secure its long-term retention and address some of the objections raised to the original order.

The Section 201 direction bringing the order into immediate effect expires on 9th July 2014.

In the meantime, on the 10th June 2013 planning application MA/13/1036 was refused permission on the following ground:

"Sited on the verge fronting Courtlands and in close proximity to the site is a lime tree, the subject of TPO No 8 of 2013. This tree currently makes a substantial visual contribution to the street scene and character of the area while its age and condition is such that it is likely to double in size. Were the tree to substantially increase in size it would be likely to become excessively dominant and overbearing on the occupants of the proposed bungalow resulting in pressure to fell or carry out work to tree harmful to the character and appearance of the area. The proposal is therefore contrary to policies to protect trees and trees and tree cover set out in the Maidstone Borough Council Landscape Character Assessment and Landscape Guidelines together with Government Policy: DETR TPO's: Guide to the Law and Good Practice and the National Planning Policy Framework 2012."

OBJECTIONS

The TPO was served on the owner/occupier of the land in question and any other parties with a legal interest in the land. It was also copied to any landowners immediately adjacent to the site.

One objection to the order asking that the original objection be reconsidered, has been received, outside of the statutory 28 day period from the order's making, by Arboricultural Consultant Ben Larkham on behalf of the owner of the neighbouring property Dolly Bees, Malling Road, Teston.

The main grounds of the objection are summarised as follows: -

1. The Tree Preservation Order, TPO No. 8 of 2013 describes within its front page and schedule "Tree on verge to the south of Dolly Bees, Malling Road, Teston". It should be noted that it may have been more appropriate to describe the tree as being within the "grass verge of Courtlands to the south side of Dolly Bees, Malling Road, Teston.
2. The Lime stands within a grass verge which does not currently have a defined ownership having been registered to a company which is not longer

trading. It is understood that the Local Parish Council have previously maintained the verge through grass cutting. The Parish Council are understood to be proposing *de facto* ownership of the land due to their history of 'maintenance'. It is unusual for a Local Authority to serve a Tree Preservation Order on land in the control of the Parish Council as the Parish would usually be regarded as a reasonable guardian and a body which would act in the best interest of its parishioners.

3. There have been recent discussions between the owner of Dolly Bees and the respective County, Local and Parish councils over the obstruction to both the public carriageway and footpath from the unrestricted development of the branches of this tree. Despite maintaining the grass verge the Parish Council do not appear to have historically undertaken any maintenance of the subject Lime tree.
4. It is noted that the roots of the Lime tree to the south side are beginning to cause disruption to the tarmacadam footpath, a situation which will continue to worsen given the future growth of the tree and likely radial expansion of roots if retained in this position.
5. The general character of Courtlands is open plan typical of the 1960's format of single storey detached and semi-detached residential development. It is evident that when driving, or walking through Courtlands there is a significant absence of trees, or vertical elements within the front gardens. The subject Lime tree would be classed as a large tree in maturity and as such of inappropriate proportions for an estate comprising single storey properties and open plan character.
6. The benefit this tree provides to the locality may, as suggested by the local authority, be seen as positive in respect of amenity, or as I would contend negatively in the context of the setting of the site. The height and mass of the tree is incongruous to the overall open appearance of Courtlands. It is respectfully requested in determining whether to confirm the Tree Preservation Order that the Council identify whether Courtlands is subject to any restrictive covenants, or conditions, in respect of trees or other detail such as hedges and fences, put in place at the time of approving the original development in the 1960's.
7. The Tree Preservation Order, TPO No.8 of 2013, was served in direct reaction to planning application MA/13/1036 to subdivide the existing garden of Dolly Bees and construct a detached chalet bungalow. Whilst the service of Tree Preservation Orders is regularly undertaken at the time of planning applications it is generally accepted that the function of a Tree Preservation Order is not to preclude development or to act as obstacle to the effective use of a site. The sole ground for refusal of planning application 13/1036 is the presence of the tree and concerns over shading the tree may cause to future occupants of a new house in the rear garden of Dolly Bees. With no other grounds for refusal of planning application 13/1036 this order can only be seen to have been served to obstruct the reasonable development potential of this land.

8. It is suspected that one of the reasons for the open plan character of Courtlands is the benefit of the views to the south across the Medway Valley. The presence of this tree and restrictions to its management through the imposition of a Tree Preservation Order significantly limit the reasonable enjoyment of this outlook from my clients existing garden, and, probably, from adjacent gardens to the north on Malling Road, and to the east those properties within the first cul-de-sac in Courtlands. That this tree will increase in proportions and crown spread if left unmanaged will only further obstruct the benefit of this outlook for these properties.

In addition to the letter of objection summarised above, a letter was originally received from the owner of Dolly Bees on 18th July 2013 within the statutory 28 day period from order's making. At that time the letter did not raise any significant issues or formally object to the order being made.

CONSIDERATIONS

The Lime tree subject to this order is growing within the roadside verge to the north of Courtlands which flanks the southern boundary of Dolly Bees. A number of smaller ornamental trees are also growing within the verge. The Lime is of medium age for its species, attaining a height of approximately 10m and average radial crown spread of 6m. The overall crown height is low with a number of branches impeding pedestrian and vehicular traffic. At the time of inspection by the Landscape Officer, from ground level the Lime appeared to be in a reasonable physiological and structural condition for its age and species.

LEGAL CONTEXT

Local Planning Authorities (LPAs) may make a TPO if it appears to them to be:

'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

The Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees should therefore normally be visible from a public place, such as a road or footpath. The benefit may be present or future. It is, however, considered inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous.

LPAs are advised to develop ways of assessing the 'amenity value' of trees in a structured and consistent way, taking into account the following key criteria:

- (1) visibility
- (2) individual impact
- (3) wider impact

Officers use an amenity evaluation assessment form based on Government guidance and an industry recognized system which enables Arboricultural Officers to make an objective decision on whether trees fulfill the criteria for protection under a TPO.

However, although a tree may merit protection on amenity grounds, it may not be expedient to make it the subject of a TPO. For example, it is unlikely to be expedient to make a TPO in respect of trees which are under good arboricultural management. It may, however, be expedient to make a TPO if the LPA believe there is a risk of the tree being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate.

RESPONSE TO OBJECTION/S

The response to the principle points of objection set out above is as follows:-

1. The description of the tree's location in TPO No. 1 of 2014 has been revised to take into account the objection raised.
2. The legal ownership of the grass verge is uncertain as the company who hold the title are no longer trading. The Parish Council have taken it upon themselves to maintain the verge which they have done for a number of years although this does not make them the legal owners of the tree. Therefore, due to the uncertainty of land ownership the making of the TPO was considered to be expedient.
3. The Lime has had very little maintenance undertaken to it over the years which has resulted in branches becoming very low over the road and pedestrian footpath. Following advice from the Landscape Officer the Parish Council has recently submitted an application (ref:TA/0149/13) to crown lift the tree to give an all-round ground clearance of 3m and a height clearance of no more than 5.5m above the road by removing sub-branches. This application was granted permission on 26 February 2014.
4. Disruption to tarmacadam footpaths are often commonplace in urban streets planted with trees and as such is not considered to be a sufficient reason to remove healthy prominent trees. In this case, there appears to be some slight cracking of the tarmac surface nearest the Lime tree although there is no proof to implicate the tree as the probable cause. Simple repairs to the footpath could easily be undertaken in the future should root damage occur.
5. In general, the Courtlands estate has very little tree cover so those trees that are present, such as the Lime are considered to be more important in the context of making a significant and positive contribution to local landscape quality and amenity of the area.
6. The Lime tree does not provide a negative contribution in the setting of the site as it is clearly a prominent feature when entering the estate and its size and form is considered to be appropriate for its setting. It is not known if the estate is subject to any covenants or conditions that would restrict the planting of trees and hedges but this is not a consideration for determining whether to confirm the order.

7. The making of the order was not to prevent development of the neighbouring site but to preserve the Lime tree in the interests of amenity in accordance with current TPO regulation guidance.
8. The reasonable enjoyment of a view is not a material consideration when protecting a tree. In current law no one is entitled to a view and the imposition of a TPO does not restrict or prevent good arboricultural management through the application process.

CONCLUSION:

For the reasons set out above it is considered that:

There are no grounds of objection above which are sufficient to throw the making of the Order into doubt.

RECOMMENDATION:

CONFIRM WITHOUT MODIFICATION Tree Preservation Order No. 1 of 2014.

256



257



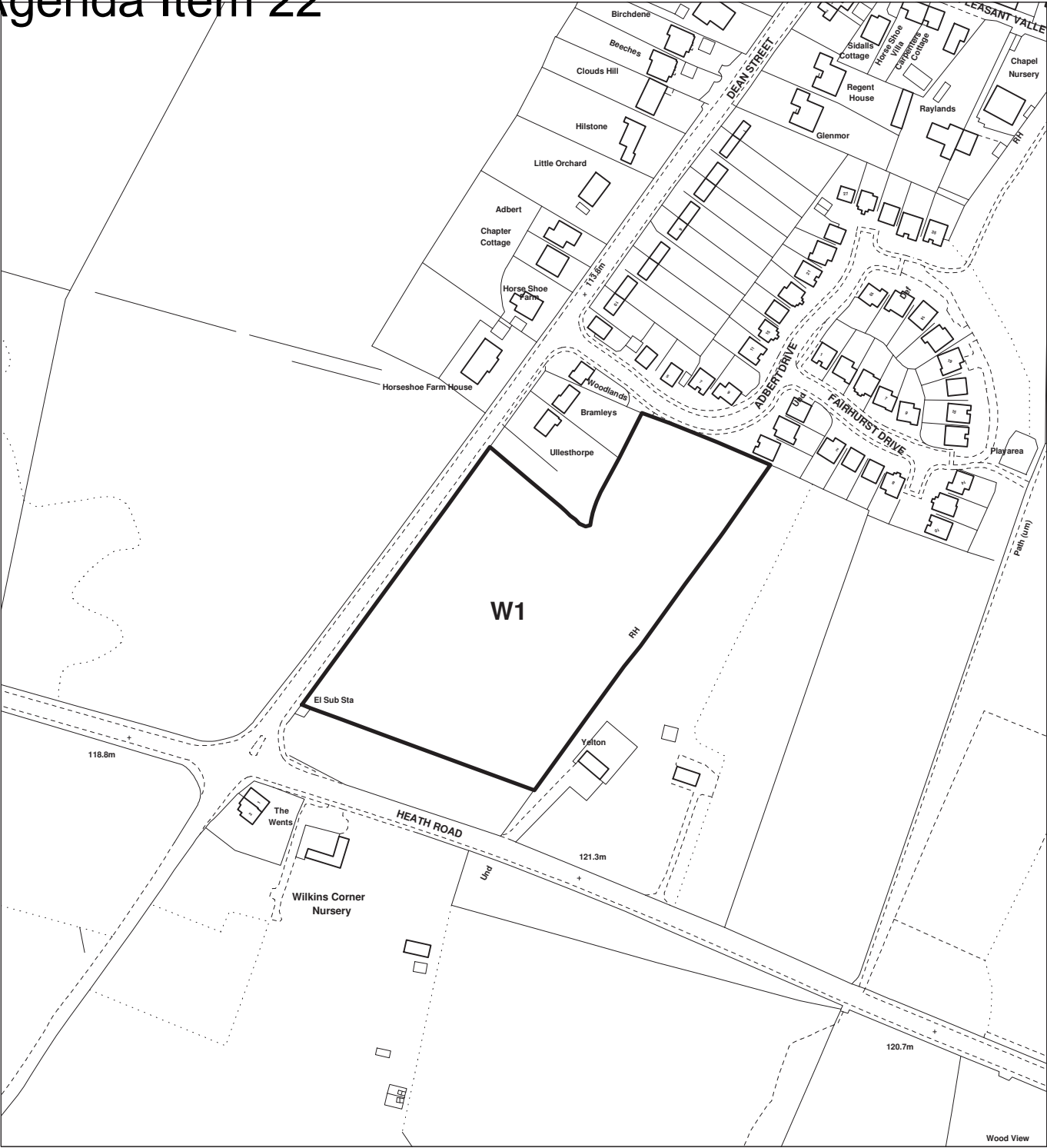
258



259



Agenda Item 22



THE MAIDSTONE BOROUGH COUNCIL Tree Preservation Order No. 13 of 2013 Woodland East side of Dean Street, East Farleigh, Maidstone, Kent.	Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. The Maidstone Borough Council Licence No. 100019636. 2013 Scale 1:2500
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Schedule

Individual Trees: None

Groups of Trees: None

Areas of Trees: None

Woodlands: W1, Mixed deciduous woodland consisting mainly of
Ash, Oak, Hazel, Prunus, Malus, Sweet Chestnut,
Hawthorn, Sycamore.

Extract from OS Map TQ 7351
Scale 1:2500

Signed

Date

[Chief Executive]
[Head of Planning and Development]
[delete as appropriate]
as authorised signatory

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

20th March 2014

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

REFERENCE: Tree Preservation Order No. 13 of 2013 Date: 20th September 2014

TITLE: Woodland east side of Dean Street, East Farleigh, Maidstone, Kent

CASE OFFICER: Paul Hegley

Tree Preservation Order (TPO) No.13 of 2013 was made under Regulation 4 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 to protect an area of developing woodland to the east side of Dean Street, East Farleigh. One objection to the order has been received and the Planning Committee is, therefore, required to consider this before deciding whether the Order should be confirmed.

The recommendation on whether to confirm this TPO is being reported to Committee for decision because:

- One objection has been received

POLICIES

Maidstone Landscape Character Assessment (March 2012 amended 19 July 2013) and Supplement (2012- Saved Sections of the Landscape Character Assessment and Landscape Guidelines 2000)

Government Policy: ODPM, 'Tree Preservation Orders: A Guide to the Law and Good Practice'

BACKGROUND

Located to the east side of Dean Street near the junction with Heath road is a small area of young regenerating woodland that consists mostly of deciduous species such as Oak, Ash, Hazel, Cherry, Sweet Chestnut, Apple and Sycamore. As a whole, the woodland adds to the sylvan character of the area and is considered to be important in landscape and ecological terms.

The site has recently been subject to pre-application advice (ref:PA/13/0471) for possible development which will threaten the trees within the wood. Therefore, it was considered expedient to protect the woodland by making it subject to TPO No.13 of 2013

The grounds for the making of the order were stated as follows: -

The trees growing within the woodland to the east side of Dean Street make a significant and positive contribution to local landscape quality and amenity of the area. Pre-application advice has been sought from the Council for possible development within the wood that would jeopardize the trees' long-term retention. Therefore, it is considered expedient to make the Wood the subject of a Tree Preservation Order in order to secure its long-term retention.

The Section 201 direction bringing the order into immediate effect expires on 20TH March 2014.

OBJECTIONS

The TPO was served on the owner/occupier of the land in question and any other parties with a legal interest in the land. It was also copied to any landowners immediately adjacent to the site.

One objection has been received to the order, within the statutory 28 day period from its making, from Arboricultural Consultant Curtis Barkel on behalf of the site owner.

The main grounds of the objection are summarised as follows: -

1. *Woodland Classification – Improper use of the woodland classification of TPO. The site is not a woodland and does not comprise of the diverse range of features characteristic of a native woodland.*

The site is an unmaintained orchard which has primarily become overgrown with small, short lived understorey or shrub-layer trees: Hazel, Hawthorn and Sallow. The majority of these trees are mature and have reached their maximum size, many are over-mature and beginning to decline. The trees do not present any future potential to increase in size or stature.

A 'Woodland' Order serves to provide protection for all trees of whatever species and age that currently exist or come to establish in the future. To classify the site under a 'Woodland' Order serves to effectively change the use of the land from what is quite clearly an unmaintained orchard, covered with a quite unremarkable shrub layer, to an area of protected woodland.

This carries highly prohibitive constraints to not only potential planning considerations but to general maintenance operations on the site, even preventing the re-instatement of orchard management practices.

The site does not display the typical characteristics of a locally native woodland. This can be easily demonstrated by stepping into the traditional woodland area to the south of the site which, even for such a small strip of land, harbours all the components of a local woodland, including a woodland structure of ground flora; shrub layer and natural regeneration. Even to the layman the difference in character and ambience between the unmaintained orchard and a true woodland is quite apparent. To promote the development of indigenous woodland on the site would be an enormous undertaking requiring the removal of the non-indigenous species such as the apple trees and arguably the one semi-mature Sweet Chestnut and one semi-mature Sycamore. In addition much of the dense Hawthorn understory would require thinning to try to promote natural regeneration or to ensure the success of planting. The amount of work required to achieve this would not be

dissimilar to the creation of a new woodland on an open field and would require the removal of many of the trees that are considered under the TPO to be of significant value.

2. *Amenity Value – The trees do not make a significant and positive contribution to local landscape quality and amenity of the area.*

Maidstone Borough Council state in their TPO Formal Notice that 'the trees growing within the woodland...make a significant and positive contribution to local landscape quality and amenity of the area'.

A request was submitted to Maidstone Borough Council for a copy of the amenity assessment that was carried out prior to the TPO being served, as is advised in the government guidance. The Tree Officer's response was that 'a site visit was made by a tree officer prior to serving the order and all observations were made from surrounding public areas (roads/footpaths etc)'. The method of amenity assessment was not clarified and no record of assessment provided.

Upon visiting the site I considered the three key criteria to be assessed when serving a TPO:

i. Visibility - *An assessment of how visible the woodland was from surrounding roads was carried out and it was apparent that the majority of the trees on the site are not visible at all from public viewpoints. It is just about possible to make out the tops of the larger individuals on the site when viewed from the north some distance along Dean Street; and dead or moribund Sallow are visible behind the boundary hedge from Adbery Drive. However other than the Hawthorn / Hazel boundary hedge and one semi-mature Sycamore of poor form located along the western boundary, there are no trees visible that could be described as being components of a woodland that is significant to the local environment.*

ii. Individual Impact - *The guidance states that in relation to a woodland, an assessment should be made of its collective impact. Other than the boundary hedge the majority of trees on the site are not visible from public viewpoints, as such whether assessing partial or combined impact the trees within the site do not make a significant contribution to the visual amenity of the area.*

iii. Wider Impact - *Due to the topography of the surroundings and the size of the trees on the site the area of protected trees is not of any significant visual importance in the local landscape. Other than the fifteen individual semi-mature trees identified on the site, all other tree cover comprises of short-lived, small species of tree i.e. Hazel, Hawthorn and Sallow, with the boundary hedge comprising primarily of Hawthorn and Hazel. The Hazel and Hawthorn cover that dominates the main part of the site will not develop to any greater height than the boundary hedge and as such does not offer any future potential to increase in visual significance. The Sallow in the north-eastern section of the site will (and has) grown slightly taller than the Hazel/Hawthorn, however with this being a short lived species once maximum height is achieved the trees soon begin to decline as is apparent when viewed from Adbery Drive.*

The fifteen individual semi-mature trees, although not currently of significance to the local area, do have the potential to develop into large trees which may offer notable amenity value in future years.

3. *Expediency - It is not considered to be expedient to serve a 'Woodland' TPO on land which pre-application planning advice states would offer the potential for local needs development.*

On the one hand the LPA states in their pre-application advice that the site presents the potential for local needs development. Whilst on the other hand a 'Woodland' TPO has been served to protect the 'woodland unit' i.e. all saplings and trees both present and future.

LPA's are advised that the intention of a TPO is not to obstruct development schemes. However, the serving of a Woodland Order clearly frustrates the potential for any future success in the planning process; for the development of a protected woodland would be far less likely to achieve planning approval than the development of a site hosting individual or group TPO trees. The serving of this Order therefore contradicts the pre-application advice provided.

CONSIDERATIONS

LEGAL CONTEXT

Local Planning Authorities (LPAs) may make a TPO if it appears to them to be:

'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

The Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees should therefore normally be visible from a public place, such as a road or footpath. The benefit may be present or future. It is, however, considered inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous.

LPAs are advised to develop ways of assessing the 'amenity value' of trees in a structured and consistent way, taking into account the following key criteria:

- (1) visibility
- (2) individual impact
- (3) wider impact

Officers use an amenity evaluation assessment form based on Government guidance and an industry recognized system which enables Arboricultural Officers to make an objective decision on whether trees fulfill the criteria for protection under a TPO.

However, although a tree may merit protection on amenity grounds, it may not be expedient to make it the subject of a TPO. For example, it is unlikely to be expedient to make a TPO in respect of trees which are under good arboricultural

management. It may, however, be expedient to make a TPO if the LPA believe there is a risk of the tree being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate.

RESPONSE TO OBJECTION/S

The response to the principle points of objection set out above is as follows:-

1. Woodland Classification.

The woodland consists mostly of self regenerating deciduous species such as Oak, Ash, Hazel, Cherry, Sweet Chestnut, Apple and Sycamore. As a whole, it adds to the sylvan character of the area and is considered to be important in landscape and ecological terms, particularly as it forms part of an extension to the larger lapsed Sweet Chestnut coppice woodland that flanks the southern boundary, which is protected by TPO No. 16 of 2009. It is acknowledged that trees within the woodland are of varying ages and physiological and structural condition. This variance is what you would expect to find within any woodland ecosystem.

At the time of the making of the order, given the species range and tree cover present on the site, a woodland classification was considered to be the most appropriate form of protection. Current TPO legislation does not define the term 'woodland' and there appears to be no definition either in legislation or case law. In the Secretary of State's view, trees which are planted or grow naturally within a woodland area after a TPO is made are also protected by the order. This is because the purpose of such an order is to safeguard the ecological integrity of the woodland unit as a whole, which depends on regeneration to be sustainable.

2. Amenity Value

Prior to the TPO being made, a visual assessment of the trees/woodland was undertaken from ground level from the surrounding public roads and paths that flank the boundary of the site in accordance with current government guidance. Visibility, individual impact and wider impact of the trees/woodland were all assessed from these public areas and an amenity assessment form was subsequently completed which gave a score of 20.5 out of a benchmark of 17, thus confirming that the woodland is of sufficient amenity value to merit protection.

3. Expediency.

As previously detailed in this report the site has been subject to recent pre-application advice for future potential development suitability. Regardless of this, there was nothing to stop the landowner from clear felling every tree so, in order to safeguard the situation, it was considered expedient to make them the subject of a TPO. The order was not made to hinder any future development proposals and it should be noted that if full planning consent is granted it would override the TPO.

CONCLUSION:

For the reasons set out above it is considered that:

There are no grounds of objection above which are sufficient to throw the making of the Order into doubt.

RECOMMENDATION:

CONFIRM WITHOUT MODIFICATION Tree Preservation Order No. 13 of 2013.





269



THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 20th March 2014**

APPEAL DECISIONS:

- 1. –MA/12/0232-** Erection of a class A1 retail store, associated parking and petrol filling station; transport interchange comprising bus and taxi drop-off/pick up facilities, 39 short stay railway station car parking spaces, and covered walkway to existing railway station building; and 660-space commuter car park and nature area the Phase 1 desk Study Environmental Assessment; Transport Assessment; Community Consultation Statement; Planning and Retail Statement; Flood Risk Assessment; Ecological Assessment; Interim Travel Plan; Landscape Supporting Statement; Design and Access Statement; site location plan; plan number 1674/P/09 A; 1674/P10 A; as received on 13 February 2012, plan number 1674/P/01 J; 1674/P/07 B; AA TPP 04; 1674/P/02 F; 1674/P/10 B; 1674/P/08 E; as received on 17 May 2012; Cumulative Impact Assessment (retail); Cumulative Impact Assessment (highways) as received on 7 September 2012, additional landscape and visual information submitted on the 13 December 2012, draft Heads of Terms submitted on 17 December 2012; and amended plans 1272/EC06 Rev B; 5002/ASP2 Rev K, 5002/ASP2 Rev L; 5002/ASP3 Rev E; 5002/ASP6; 5002/ASP5 Rev E, AA TPP 05 received on the 25 February 2013 and 1272/EC06 Rev C received on 30 April 2013.

APPEAL: WITHDRAWN BY APPELLANT 6/3/14

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

PLANNING COMMITTEE - 16/05/12

- 2. MA/12/2239-** An application for listed building consent for internal alterations to layout as shown on drawing numbers 12.616.01, 12.616.04 and 12.616.05 and a Heritage Asset Statement received on 12/12/12

APPEAL: DISMISSED

WIERTON GRANGE, BACK LANE,
BOUGHTON MONCHELSEA, MAIDSTONE,

KENT, ME17 4JR

DELEGATED POWERS

3. MA/13/1806-

Erection of a detached double garage with store and alterations to driveway, bank and wall

APPEAL: DISMISSED

28, SPOT LANE, BEARSTED, MAIDSTONE, KENT,
ME15 8NU

DELEGATED POWERS
