

# AGENDA

## PLANNING COMMITTEE MEETING



Date: Thursday 15 January 2015  
Time: 6.00 pm  
Venue: Town Hall, High Street,  
Maidstone

### Membership:

Councillors Ash, Collins, Cox, Edwards-Daem,  
English (Chairman), Greer, Harwood,  
Hogg, Moriarty, Paine, Paterson,  
Mrs Robertson and J.A. Wilson

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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 Items withdrawn from the Agenda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 - 22 January 2015

**Continued Over/:**

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**Issued on 7 January 2015**

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*Alison Broom*

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

6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
7. Disclosures by Members and Officers
8. Disclosures of lobbying
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
10. Minutes of the meeting held on 18 December 2014 - to follow
11. Presentation of Petitions (if any)
12. Report of the Head of Planning and Development - Deferred Items
13. 13/1823 - Mayfield Nursery, Ashford Road, Harrietsham, Maidstone, Kent, ME17 1BN 1 - 30
14. 14/500420 - 4 Three Tees, White Horse Lane, Otham, Kent, ME15 8RG 31 - 34
15. 14/501193 - Oak Lodge, Tilden Lane, Marden, Kent, TN12 9AX 35 - 45
16. Appeal Decisions 46 - 47
17. Update on Matters Referred to Cabinet Members
18. Chairman's Announcements

**PLEASE NOTE**

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

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

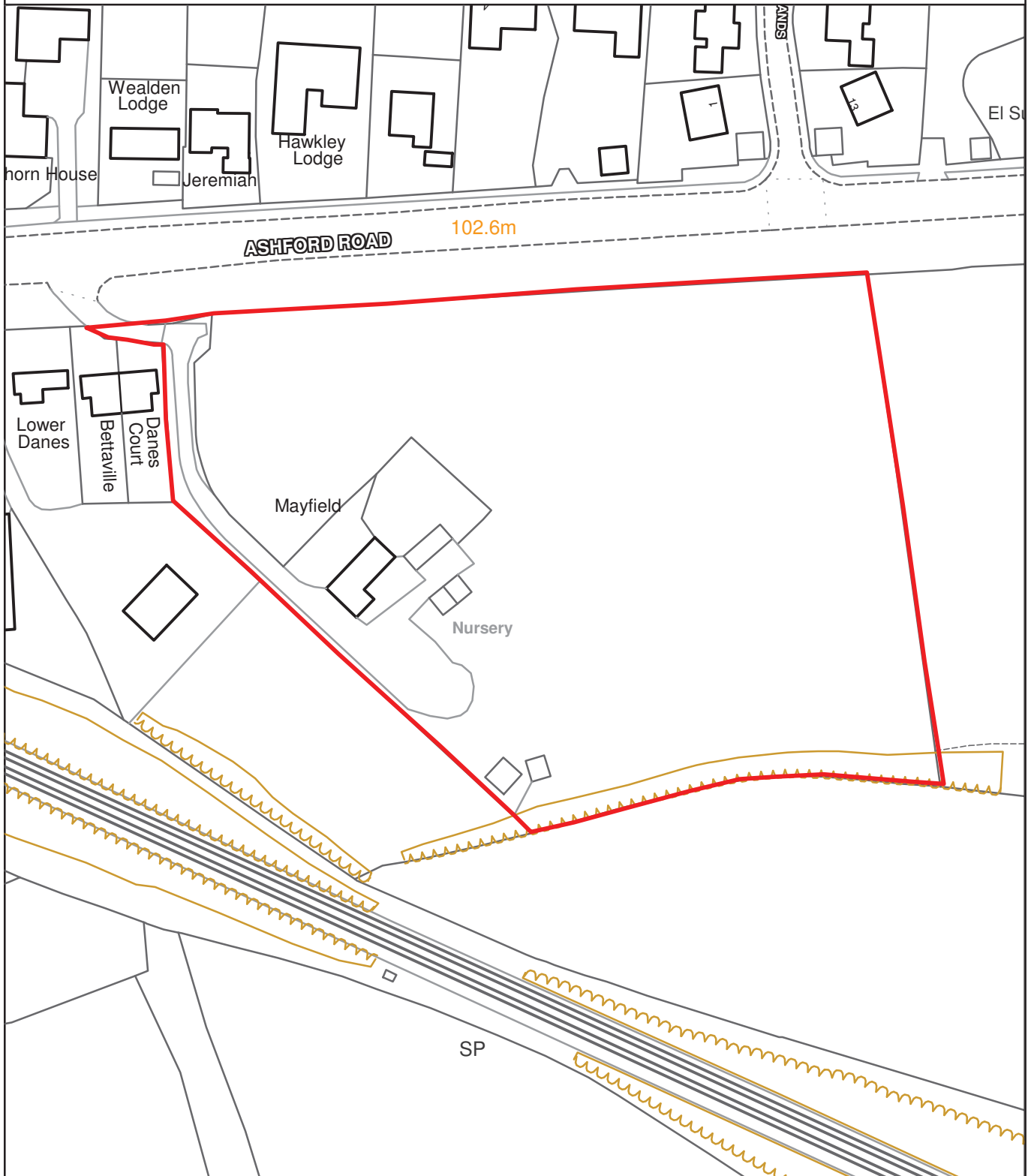
**BACKGROUND DOCUMENTS:**

**The background documents for the items on the agenda are to be found on the respective planning files for each application and on the files for those applications referred to in the history section of each report. Background documents are available for inspection during normal office hours at the Maidstone Borough Council Gateway Reception, King Street, Maidstone, Kent ME15 6JQ**

# THE MAIDSTONE BOROUGH COUNCIL

Mayfield Nursery,  
Ashford Road,  
Harrietsham, Maidstone,  
Kent, ME17 1BN

MBC Ref: 13/1823



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**Rob Jarman**  
Head of Planning

## REPORT SUMMARY

<b>REFERENCE NO - 13/1823</b>		
<b>APPLICATION PROPOSAL</b>		
An outline planning application for the demolition of existing buildings and the erection of 49 dwellings and associated car parking and landscaping, with the matter of access to be considered at the current time and all other matters reserved		
<b>ADDRESS</b>		
Mayfield Nursery, Ashford Road, Harrietsham, Maidstone, Kent, ME17 1BN		
<b>RECOMMENDATION</b>		
GRANT OUTLINE PLANNING PERMISSION SUBJECT TO PRIOR COMPLETION OF AN APPROPRIATE LEGAL MECHANISM AND CONDITIONS		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
The proposal is a departure from the Development Plan.		
Councillor Harwood, as acting Liberal Democrat Spokesman, called the application in before Planning Committee for the reasons set out in the report.		
The recommendation is contrary to the views of Harrietsham Parish Council, who have requested that the application be reported to Planning Committee in the event of a recommendation for approval.		
<b>WARD</b> Harrietsham And Lenham Ward	<b>PARISH/TOWN COUNCIL</b> Harrietsham	<b>APPLICANT</b> Mr Habil Kapasi <b>AGENT</b> Robinson Escott Planning
<b>DECISION DUE DATE</b> 30/01/14	<b>PUBLICITY EXPIRY DATE</b> 30/01/14	<b>OFFICER SITE VISIT DATE</b> Various
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		

- MA/98/0955 Erection of garden centre building; erection of replacement farm shop; re-siting of polytunnel and retention of existing farm shop as a potting shed (resubmission following refusal of MA/98/0111) - APPROVED WITH CONDITIONS
- MA/98/0111 Erection of garden centre building; erection of replacement farm shop; re-siting of polytunnel and retention of existing farm shop for use as a potting shed - REFUSED
- MA/97/0892 Variation of condition 07 of MA/93/1519 to read ' no goods shall be sold from the site other than those directly associated with agriculture and horticulture items for gardens and gardening and products for the feeding and care of domestic animals except as otherwise agreed beforehand in writing' - APPROVED WITH CONDITIONS
- MA/93/1519 Erection of building and use of land as a garden centre - APPROVED WITH CONDITIONS

- MA/86/1848 Erection of shed to be used as farm shop for the sale and storage of imported produce and produce grown on site with no more than 50% of the floorspace used for the sale and storage of plant, shrubs and small miscellaneous items - APPROVED WITH CONDITIONS
- MA/85/1747 Change of use from nursery to garden centre – REFUSED
- MA/84/0741 Change of use from nursery to garden centre – WITHDRAWN
- MA/83/0896 Widening and improvement to access driveway - APPROVED WITH CONDITIONS
- MA/81/0842 Extension to nursery and garden centre, retail farm produce - REFUSED
- MA/81/0380 New access to existing property - REFUSED
- MA/80/0532 Bedroom and porch extensions plus internal alterations – APPROVED

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The proposal site is located immediately to the south of the defined settlement boundary of Harrietsham in open countryside and is not subject to any environmental or other designations, whether nationally or Maidstone Borough-Wide Local Plan 2000 specific. The site is located to the south of Ashford Road, a classified public highway (the A20), which is a main arterial route between Maidstone and the towns and villages further to the east. The village boundary of Harrietsham runs along the opposite side of the highway in this location; this is reflected in the fact that there is a pedestrian pavement along the northern side of the highway, but not along the southern edge, which instead has a grassed highway verge with a width of approximately 3m.
- 1.02 The proposal site, which has an area of approximately 1.5Ha, comprises a roughly trapezium shaped overgrown field or paddock which has a vacant dwelling (“Mayfield”) and several single storey outbuildings in the south west area, collectively known as Mayfield Nurseries. There are no neighbouring heritage assets, and the site is not located in an area recorded by the Environment Agency as being prone to fluvial flooding.
- 1.03 The topography of the site forms a shallow valley running east to west which is manifested in land levels which fall gently within the site towards the south before rising again in the southern third of the site, whilst the land levels in close proximity to the front (north) and rear (south) boundaries of the site slope steeply towards the exterior of the site. In the case of the north boundary, there is a difference in levels of between 1m and 2.2m between the interior of the site and the highway verge. The highest ground levels are found in the north east and south east corners of the site, whilst the lowest are in the central part of the west of the site in the vicinity of the main building on the site.
- 1.04 The site boundaries to the south and east of the site, which adjoin land in nominally agricultural use, are defined by mature native hedgerows, as is that along the northern boundary of the site along the A20, which is separated from the proposal site by generous grassed highway verge. These hedgerows are distinctive in the landscape of the area and serve to provide effective screening to the site. There are a number of trees in the west and south west of the site which are of mixed species and quality.

- 1.05 The site has an existing vehicular access from Ashford Road which is shared with the residential properties known as Danes Court and Bettaville, however the track leading into the proposal site, which is located in close proximity to the east elevation of Danes Court, is overgrown and does not appear to have been used for some time.
- 1.06 The closest residential properties are Danes Court, Bettaville and Lower Danes, which are located to the west of the site, fronting onto Ashford Road. On the opposite side of Ashford Road is a consolidated area of residential development within the defined village boundary, predominantly dating from various periods within the twentieth century. The mainline railway line between London and Maidstone/Ashford runs in close proximity to the south boundary of the site along an elevated embankment. Beyond this are the High Speed 1 railway line and the M20.

## **2.0 PROPOSAL**

- 2.01 The application seeks outline planning permission for the erection of 49 dwellings with the matter of access to be considered at this stage and all other matters (being of appearance, layout, landscape and scale) being reserved for future consideration. As Members will be aware, following legislative changes, in cases where appearance, layout, landscape and scale are reserved matters, there is no requirement for applicants to provide details of these matters, however an indicative site layout has been provided, as have indicative streetscenes.
- 2.02 The application seeks approval of access to the site. This is to be achieved through the introduction of an access to the site which would be located off set from the centre of the frontage in the west of the site, opposite "Howards Lodge". As set out above in paragraph 2.01, the application is outline with layout a matter reserved, however the indicative site layout shows a main internal spine route within the site, from which would flow secondary routes which dwellings would front onto.
- 2.03 An indicative site layout has been provided which indicates that the number of units sought can be achieved on the land, together with adequate landscaping, private and public amenity space, and parking to achieve an acceptable quality to the scheme. This layout shows accommodation to be predominantly provided by way of detached and semi-detached dwellings with a single terrace of three and two "flats over the garage", together with a three storey block of flats in the north east corner of the site which would provide nine apartments. The supporting information states that the dwellings shall be of two storeys, whilst the apartment block would be of three storeys, notwithstanding the fact that scale is a reserved matter. The indicative layout shows private gardens of reasonable size to be provided to all dwellings, as well as a shared open area centrally within the site, which is shown to include a local area for play (LAP). The southern margin of the site is shown as being undeveloped in order to provide a receptor site for reptiles on the site.
- 2.04 The indicative layout shows the achievement of a strong landscape buffer to the south and west boundaries of the site. The buffer to the northern boundary of the site with the A20 is shown to be narrower, however the change in levels between the interior of the site and the highway, and the presence of the highway verge act to soften this frontage of the site. In any case, as set out above, layout and landscaping are reserved matters, and therefore this can, if necessary be resolved at the reserved matters stage and more robust landscaping to this boundary be secured by way of condition.
- 2.05 The application documentation states that the development would provide 40% affordable housing, which is shown on the indicative layout as being located in the

north east of the site, including the three storey flatted block. The housing mix is set out in the table below:

<b>Affordable</b>	<b>No.</b>
1 bed FOG	2
1 bed apartment	5
2 bed apartment	4
2 bed house	2
3 bed house	5
4 bed house	2
	(20)
<b>Market</b>	
3 bed house	16
4 bed house	13
	(29)
<b>Total</b>	<b>49</b>

2.06 The development would achieve Level 4 of the Code for Sustainable Homes.

### **3.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, T13, CF1  
Supplementary Planning Documents: Affordable Housing Development Plan Document (2006), Open Space Development Plan Document (2006)  
Maidstone Borough Council Draft Local Plan: SS1, SP3, SP5, H1(27), H2, DM1, DM2, DM4, DM6, DM10, DM11, DM12, DM13, DM23, DM24, DM30, ID1  
Harrietsham Draft Neighbourhood Plan: Identifies site for residential development

3.01 As set out in paragraph 1.01, the application site is located outside of the settlement boundary of Harrietsham, as defined in the Maidstone Borough-Wide Local Plan 2000. Notwithstanding this, it is identified in the Maidstone Borough Council Draft Local Plan policy H1 as a housing allocation with an expected yield of 50 units, subject to the development criteria set out in Appendix A (H1(27)) of the Local Plan.

3.02 The Council has recently finished its Regulation 18 consultation on its emerging Local Plan and representations from that consultation are currently being assessed. The emerging plan is a material consideration and can, however, be given some weight when considering planning applications by virtue of its progress through the stages in the adoption process.

3.03 The site is also identified in the Harrietsham Draft Neighbourhood Plan policy LIV03 as suitable for residential development, subject to the criteria set out in the policy. The Draft Neighbourhood Plan is a material consideration, however there are still key stages ahead in its progression.

### **4.0 LOCAL REPRESENTATIONS**

4.01 A site notice was displayed at the site on 28<sup>th</sup> November 2013.

4.02 Ten neighbour representations were received from (or on behalf of) seven households. Of these, all raised objection to or concern over the proposal. The following issues were raised:

- Location of site outside defined settlement boundary, remote from centre of village and core services and facilities.
- Setting of precedent and prematurity in respect of emerging Neighbourhood Plan.
- Contribution toward urban sprawl and ribbon development along the A20.
- Overdevelopment of the site, excessive density of built development, visual impact upon the open countryside.
- Design of the proposal being out of keeping with the character of the village.
- Highway issues, including traffic generation, inadequate provision of on site parking, inappropriate location for a new access, speed of traffic/speed limit, design of proposed highways mitigation; inadequate transport assessment.
- Flood risk on the site.
- Harm to residential amenity by way of loss of privacy/overlooking.
- Lack of information relating to detail of the proposal.
- Pressure on social infrastructure and waste water services.
- Lack of consideration of impact on biodiversity, particularly bats.
- Residential amenity of occupiers of development, in respect of air quality and noise.

4.03 Two representations were received on behalf of Harrietsham Against Reckless Development (HARD), which raised the following concerns:

- Overdevelopment of the site, excessive density of built development, visual impact upon the open countryside.
- Design of the proposal being out of keeping with the character of the village.
- Highway issues, specifically inappropriate location for a new access.

## 5.0 CONSULTATIONS

5.01 **Councillor Harwood** (as acting Liberal Democrat Spokesman) requests that the application be reported to Planning Committee for the following reasons:

5.01.1 "This application is generating some local controversy in the village, and from a quick look around the site it is indeed sensitive in local landscape, amenity and biodiversity terms.

5.01.2 If the scheme is to be permitted it will be very important to endure that layout and design minimises any negative impacts. The illustrative "estate layout" does not satisfy me that the sensitivity of this site is understood. Therefore, to ensure that any potential outline permission sets acceptable development parameters I would like to request that if this scheme is to be recommended for approval by officers that it be reported to Planning Committee."

5.02 **Harrietsham Parish Council** wish to see the application refused on the following grounds:

- The site is not within the current village envelope.
- The entry into Harrietsham from the east is the very "Gateway" to this end of the village and should therefore reflect the rural aspect with highway traffic calming



features to reflect this. The visual impact of the development would be incongruous to the "Gateway" access preferred.

- The highways function, vehicular turning points and pedestrian crossover points would require revisiting to be safe and functional. There is no consideration of the siting of the existing or new speed indicator device (SID).
- The vehicular entrance into the development would require much more landscaping, indeed a significant buffer to landscaping is needed but not we feel provided. The impact of the development from Lenham direction should be a prime consideration with the density reduced to reflect this, together with the repositioning of properties on the north east of the site.
- There needs to be consideration for access to the bus shelters, a provision of an additional bus shelter and footpath provision.
- We feel that given the location of this proposal in relation to the village centre that there is insufficient green space, it is poorly located within the development and does not allow the residents within it to enjoy what should be a valuable social and usable amenity.
- We feel that flooding problems have not been considered adequately as this area is historically often flooded.
- There needs to be consideration of the wider impact of the site to its knock-on-effect elsewhere in the village. Contributions through S106/CIL to other areas within the community include, play provision within the village, doctors surgery, village hall, footpaths etc.
- The proposed development should take the Harrietsham Neighbourhood Plan, and the current Local Plan, which will be adopted within the next 18/24 months, into consideration under contributions to a requested Section 106 Agreement. As such we consider the application to be premature.

5.03 **Primary Care Trust (NHS Property Services)** seek contributions towards local primary and community health services, being the Glebe Medical Centre and Len Valley Medical Centre, of £360.00 per person (based on calculated occupancy rates of market housing).

5.04 **Kent County Council** seek contributions towards community and education infrastructure in the local area as follows:

- Primary Education: £2360.96 per applicable house and £590.24 per applicable flat towards expansion of Harrietsham Primary School.
- Secondary Education: currently no requirement.
- Libraries: £122.01 per dwelling.
- Community Learning: £30.70 per dwelling.
- Youth Service: £8.44 per dwelling.
- Adult Social Care: £15.95 per dwelling.

- 5.05 **Kent County Council Highway Services** raise no objection to the proposal subject to the new access being secured under a S38 agreement and contributions towards the A20 improvement scheme.
- 5.06 **Maidstone Borough Council Parks and Open Spaces** raise no objection to the proposal, but confirm that at the reserved matters stage further details of on site provision will be required, and that in the event of on site provision not being suitable in terms of its quality or extent, contributions towards off site provision at Booths Field will be sought by way of a suitable legal mechanism attached to any subsequent reserved matters or full application for planning permission.
- 5.07 **Maidstone Borough Council Housing Services** raise no objection to the proposal, stating that the proposed provision of affordable housing (being 40%), the tenure mix (being 60/40 affordable rent to shared ownership), and the mix of units (as set out in the table above in under paragraph 2.05) is acceptable, but raise concern over the distribution of the affordable units within the site.
- 5.08 **Kent County Council Biodiversity Officer** raises no objection to the proposal, subject to conditions requiring the implementation of the recommendations of the Ecological Assessment and Ecological Survey Report Bats and Reptiles, and securing the provision of an acceptable reptile receptor site within the site with suitable levels of connectivity with the surrounding reptile habitat, also suitable for the provision of habitat for the Cinnabar Moth (e.g. through the provision of Ragwort planting).
- 5.09 **Natural England** raise no objection to the proposal, making reference to their standing advice.
- 5.10 **Kent Wildlife Trust** raise no objection to the proposal subject to conditions requiring implementation of the recommendations of the Ecological Assessment.
- 5.11 **Environment Agency** raises no objection to the proposal subject to conditions requiring the submission of details of sustainable surface water drainage, contaminated land investigation and remediation, and foundations, and the implementation of the approved details.
- 5.12 **Maidstone Borough Council Landscape Officer** raises no objection to the proposal subject to parameters being set in respect of any subsequent reserved matters application in relation to landscape and visual impact appraisal, and the imposition of conditions requiring the submission of details of detailed landscape proposals (including implementation details and a long term management plan), an arboricultural impact assessment and tree protection plan, and implementation of the approved details.
- 5.13 **Maidstone Borough Council Environmental Health Manager** raises no objection to the scheme subject to conditions requiring implementation of the recommendations of the Acoustic Assessment and Air Quality Assessment, and the subject to the submission of details of contaminated land investigation and remediation and external lighting, and implementation of the approved details.
- 5.14 **Kent Police** raise no objection to the proposal, but raise concern over subsequent detailed application and request conditions relating to the compliance with Secured by Design in respect of the reserved matter of layout.

- 5.15 **Southern Water** raise no objection to the proposal subject to conditions requiring the submission of details of foul and surface drainage, and implementation of the approved details, and confirm that foul sewerage disposal can be accommodated subject to a formal application for a connection to the public sewer.
- 5.16 **Southern Gas Networks** raise no objection to the proposal, but draw attention to the presence of gas mains within the vicinity of the site.
- 5.17 **UK Power Networks** raise no objection to the proposal.

## 6.0 BACKGROUND PAPERS AND PLANS

- 6.01 The development proposals are shown on drawing numbers 1372/ C102, 1372/V01, 1412, S101 and S102 received 24<sup>th</sup> October 2013; and 1372/C101C received 22<sup>nd</sup> April 2014.
- 6.02 The application is supported by a Planning Statement, Ecological Assessment (undertaken by JFA Landscape and Ecology, reference KEN 1836), Air Quality Assessment (undertaken by Lustre Consulting, reference 1218/AK/10-13/169), Transport Assessment (undertaken by Gateway TSP reference LF/13-0601 TSv1), Flood Risk Assessment (undertaken by Herrington Consulting Limited), Acoustic Assessment (undertaken by Peter Moore Acoustics, reference 13070/1), Arboricultural Report (Undertaken by Sylvan Arb, reference SA/771/13) and Sustainability Statement (undertaken by Bluesky Unlimited), all received 24<sup>th</sup> October 2014; a Design and Access Statement received 12<sup>th</sup> December 2013 (with housing mix as amended by a covering email received 29<sup>th</sup> September 2014); and an Ecological Survey Report Bats and Reptiles (undertaken by JFA Landscape and Ecology, reference KEN 1836) received 22<sup>nd</sup> April 2014.

## 7.0 APPRAISAL

### Principle of Development

- 7.01 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. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000, and as such the starting point for consideration of the proposal is policy ENV28 which relates to development within the open countryside. The policy states that:

*“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.”*

- 7.02 In this case, none of the exceptions against the general policy of restraint apply, and therefore the proposal represents a departure from the Development Plan. It then falls to be considered firstly whether there are any material considerations which indicate that a decision not in accordance with the Development Plan is justified in the circumstances of this case, and (if so) secondly whether a grant of planning

permission would result in unacceptable harm, such that notwithstanding any material justification for a decision contrary to the Development Plan, the proposal is unacceptable.

7.03 The key material consideration outside of the Development Plan in the determination of applications for residential development in the open countryside is national planning policy as set out in the National Planning Policy Framework 2012 (NPPF) and the Council's position in respect of a five year housing land supply.

7.04 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;"*

7.05 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). Subsequent to this, the objectively assessed housing need was revised downwards to 18,600. This figure, which is based on central government population projections based on 2011 census data, was reported to, and accepted by, Cabinet on 10<sup>th</sup> September 2014.

7.06 In April 2013 when most recently calculated, the Council had a two year supply of housing assessed against the objectively assessed housing need of 19,600 dwellings (at that time). Even when considered in light of the reduction in the assessed housing need and the housing permissions granted since that date, the Council remains in the position of being unable to demonstrate a 5 year housing land supply.

7.07 This lack of a five year supply is a significant factor and at paragraph 49 of the NPPF it is stated 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. This position has been reflected in recent appeal decisions issued since the publication of the NPPF. In this policy context, the presumption in favour of sustainable development identified in paragraph 14 of the NPPF 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.

7.08 In respect of the circumstances of the specifics of this case, the proposal site is located adjacent to the settlement boundary of Harrietsham, identified as a Rural Service Centre (RSC) in the draft Local Plan under draft policy SP3, providing a range of key services including a school and community facilities, albeit that they will

require improvement commensurate with any increase in population, and good public transport links to employment and retail centres.

7.09 RSC's are considered the most sustainable settlements in Maidstone's settlement hierarchy, as set out in the draft Local Plan, outside of the town centre and urban area by virtue of their accessibility, potential for growth and role as a service centre of surrounding areas. The draft Local Plan states 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."

7.10 In this context, it is considered that the location of the site is sustainable in the terms of the NPPF and draft Local Plan.

7.11 Furthermore, the application site is a housing allocation within the emerging Local Plan for 50 dwellings under the scope of policy H1(27), subject to the following detailed criteria:

- *The woodland areas along the southern boundary of the site will be retained, in order to screen new housing from the railway line.*
- *The line of trees along the eastern and western boundaries of the site will be retained and enhanced, in order to provide a suitable buffer between the existing housing to the west and the adjacent open countryside to the east.*
- *Access will be taken from the A20 Ashford Road only.*
- *Development will be subject to the results and recommendations of a phase one ecological survey.*
- *Provision of publicly accessible open space as proven necessary, and/or contributions.*
- *Appropriate contributions towards community infrastructure will be provided, where proven necessary.*
- *Development will be subject to a noise survey to determine any necessary attenuation measures in relation to the railway line.*
- *Appropriate contributions towards a highways improvement scheme for the section of the A20 Ashford Road that passes through Harrietsham.*
- *Appropriate contributions towards the provision of a safe pedestrian and cycle crossing point on the A20 Ashford Road, to be agreed with the Highways Authority.*
- *Improvements to and provision of pedestrian and cycle links to the village centre.*
- *Approximate development density of 30 dwellings per hectare.*

7.12 The Council is not in a position to demonstrate a five year housing land supply, and as such normal restraints on volume residential development in the open countryside do not currently apply as the adopted Local Plan is considered out of date. In such

circumstances the NPPF advises that when planning for development through the Local Plan process and the determination of planning applications, the focus should be on existing service centres and on land within or adjoining existing settlements. The development of this site is therefore in accord with the objectives of the NPPF. The application is also supported by the allocation of the site for housing in the emerging Local Plan, and also in the draft Harrietsham Neighbourhood Plan (which as stated above is a material consideration, although I do not consider it grounds to approve the application in its own right).

- 7.13 Furthermore, the bringing forward of development on this sustainable site adjacent to an RSC, identified as being suitable for residential development in the emerging Local Plan, will of itself contribute towards the provision of housing and therefore help in meeting the shortfall in housing supply. This also represents a strong material consideration in favour of the development.
- 7.14 The concerns raised in respect of pre-maturity of consideration of the application due to the current status of the draft Local and Neighbourhood Plans is noted, however the Local Planning Authority has a duty to determine applications as and when submitted, and cannot refuse to determine applications on the basis that the policy framework is immature. Given the requirement for further work and procedural stages to be completed in respect of both documents, including examination, and the likely timetable for this to take place, and in light of the Council's position on its 5 year land supply (as discussed above) it is not appropriate or reasonable to delay consideration of the application in this regard.
- 7.15 For these reasons, it is considered that the principle of the development is, by virtue of national planning policy as set out in the NPPF and local planning policy as set out in the emerging Local Plan, acceptable in the circumstances of this case, subject to detailed consideration of whether any adverse impacts of the development would outweigh the benefits of the application in respect of the provision of housing in a sustainable location. In the circumstances of this case, the key planning issues are considered to be visual impact, density of the development (including whether the site can suitably accommodate 49 dwellings), residential amenity, access/highway safety and ecology.

### **Visual Impact**

- 7.16 The proposal is outline with all matters, other than access, reserved; as such, it is difficult to scrutinise the precise visual impact of the development in terms of its architectural detail, however the general visual impact of development of the site can be assessed. The development of greenfield sites will inevitably result in some degree of visual change to the environment, however this must be set against the existing pattern of development local to the site and the absence of any local or national recognition of the site as a valued landscape. In this case, the key views are from the A20 by virtue of the absence of public rights of way, and other public vantage points, in the vicinity of the site.
- 7.17 A critical feature of the proposal site is that it is set down in relation to the A20 by a steep vegetated embankment with a height of between 1m and 2.2m, and its interior has levels which continue to fall towards the south as a result of its topography which takes the form of a shallow east-west valley. This, together with the substantial highway verge immediately to the north, results in any development on the site being naturally subservient in views from the highway, and this can be safeguarded by way of conditions setting parameters in respect of the reserved matter of scale.

- 7.18 It is also the case that the site boundaries to the south and east of the site are robustly vegetated by mature native hedges, which provide a substantial degree of screening to the interior of the site from these perspectives. The indicative site layout shows these hedges to be retained and open space and landscaping to be provided within the development, however as both layout and landscape are matters reserved for future consideration, the retention and provision of these features can be secured by way of conditions attached to any outline consent as can the introduction of additional screening through suitable planting in order to strengthen the landscaping to the northern boundary of the site, which is currently varied in respect of its screening quality.
- 7.19 In wider views the development will be seen against the existing surrounding development, which includes two and two and a half storey dwellings to the north of the A20, in Downlands, and to the west of the proposal site, as well as large, albeit low set, commercial buildings also to the west, substantial bungalows to the north of the site, and the railway line to the south of the site, the course of which is also heavily vegetated.
- 7.20 For these reasons, in the circumstances of this case, the broad visual impact of the development is considered to be acceptable as the development will be seen as a logical extension to Harrietsham with strong landscaping boundaries to the surrounding open countryside.
- 7.21 However, in light of the village periphery status of the site, a high quality design solution will be expected for this site that responds appropriately to its context and the predominantly rural character of the locality. Any detailed proposal in this location will require a landscape-led approach, particularly the edge treatments where it will be important to retain and enhance all the existing landscape buffers especially on the north and east boundaries. It should also carefully integrate the scheme with the locality's existing low density, character, pattern and scale of surrounding development. A stronger landscape structure than indicated on the illustrative layout will be expected that connects the existing and proposed landscape/ecological buffers and corridors. A softer more informal dispersed pattern of development that applies a less regimented layout with a 'looser' built form and less hard-standing whilst creating an active frontage onto the A20 aligned with the properties to the west of the site, will be sought. A thorough contextual and character analysis and Visual & Landscape Impact Assessment to justify and explain the vision, rationale and design evolution of the scheme will be expected in support of a subsequent detailed planning application.
- 7.22 The indicative layout submitted as part of the application purely demonstrates that up to 49 dwellings can be accommodated on the site. It applies a very suburban response to the site and together with the illustrative sketches indicates that there could be considerable infill where there is an appreciable difference in levels between the A20 and the site. To fully appreciate the full impact of the proposal the heights, scale, appearance and detailing of the dwellings, in particular rooflines, site boundary treatments, plot boundary treatments and north-south sections across the site, the A20 and 'Downlands' will be required. It will also be important to distinguish and carefully position key buildings such as the gateway/landmark structure located in the north east corner of the site, other focal buildings terminating vistas, fronts and backs including dual aspect dwellings, level and prominence of car parking, and their spatial relationship and function within the streetscene(s).
- 7.23 Notwithstanding the above, whilst any scheme coming forward will be required to be of an acceptably high standard, it is considered that specific restrictions on materials, architectural design approach, or layout of buildings by way of the imposition of

design codes, other than those securing appropriate landscape buffering to the site, would be unduly restrictive given the wide variety of residential development in close proximity to the site and the absence of neighbouring heritage assets. Notwithstanding this, the quality of any scheme coming forward should be secured by way of conditions requiring robust planting and landscape protection along site boundaries in order to safeguard the soft edges of the site, particularly to the A20, and requiring the submission of a detailed visual impact assessment in the event of a detailed application being submitted (discussed further below in paragraphs 7.54 and 7.55).

### **Cumulative impact**

- 7.24 Members will be aware that the current application is one of several that have come forward for volume residential development in and around the settlement of Harrietsham over the last year. These include the Hook Lane site (80 dwellings), the Tongs Meadows site (105 dwellings), the CTRL site (113 dwellings) and the Church Road site (79 dwellings), which was considered at the last Planning Committee. These schemes, together with that currently under consideration, would provide a gross total of 426 dwellings. In the context of the emerging Local Plan, which has identified Harrietsham a Rural Service Centre suitable for accommodating residential growth due to its range of key services and good accessibility to Maidstone and other retail and employment centres, and as such the cumulative impact of the scheme is considered to be acceptable, subject to continuing improvements in community facilities such as the recent replacement primary school.
- 7.25 In terms of pressure on local social infrastructure, including highways, it is clear from the consultation responses that subject to financial mitigation being provided for the expansion or provision of additional services, Harrietsham is considered capable of absorbing the additional population which would result from a grant of planning permission in this case in addition to these other developments. These contributions are discussed in further detail below in paragraphs 7.28-7.41 below.
- 7.26 In any case, the applications relating to the CTRL and Tongs Meadows sites are currently undetermined, and that relating to Church Road is outline; there is therefore no certainty that they will come forward for developing out in the foreseeable future.
- 7.27 For these reasons it is considered that the cumulative impact of the development, when assessed in the context of the existing consents on other sites in and around Harrietsham, is acceptable.

### **Affordable Housing and S106 Contributions**

- 7.28 A development of this scale will 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, policy CF1 of the Maidstone Borough-Wide Local Plan 2000 and the Council's Open Space DPD allow for suitable contributions to make the development acceptable in planning terms to be sought in line with policies of the Local Plan.
- 7.29 This is supported by policy ID1 of the emerging Local Plan, which relates to infrastructure delivery. The preamble of the draft policy sets out the Council's progress towards developing its Community Infrastructure Levy (CIL), and in the event of competing demands for developer contributions towards the delivery of infrastructure for new development proposals, identifies the Council's hierarchy of prioritisation as follows:



affordable housing, transport, open space, public realm, health, education, social services, utilities, libraries and emergency services.

7.30 In this case, the applicant proposes 40% affordable housing built to lifetime Homes standards, which is in accordance with the current Maidstone Borough Council Affordable Housing DPD. The proposed distribution of affordable housing within the site (plots 32 – 49 inclusive) and the mix of housing stock and tenure (60% social rented and 40% shared ownership), being a mix of 7 x 1-bed units, 6 x 2-bed units, 5 x 3-bed units and 2 x 4-bed units have been arrived at in consultation with the Council's Housing Officer who has raised no objection to the details proposed. Therefore, subject to a S106 agreement safeguarding this provision, this element of the proposal is considered to be acceptable.

7.31 In terms of financial contributions towards social infrastructure other than affordable housing, any request for contributions needs to be scrutinised, in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. This has strict criteria that set out that any obligation must meet the following requirements: -

It is:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

7.32 In this case, the following contributions have been sought in respect of the proposed development, which will be considered in detail below:

- **£2,360.96 per 'applicable' house and £590.24 per 'applicable' flat** is sought towards the expansion of Harrietsham Primary School.
- **£122.01 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.
- **£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.
- **£8.44 per dwelling** is sought to be used to address the demand from the development towards youth services locally.
- **£15.95 per dwelling** is 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.
- **£23,587** (£360 per person, per market housing unit calculated in accordance with NHS formulae of occupancy) is sought towards the improvement of primary care medical facilities local to the development.
- **A sum in the region of £3,500 per unit** (delegated powers to be sought to finalise the exact sum under the scope of the legal agreement) is sought towards the improvement of the A20 and associated public realm improvements.

7.33 Kent County Council has requested a contribution of £2,360.96 per 'applicable' house and £590.24 per 'applicable' flat towards extension of Harrietsham Primary School. Evidence has been submitted that demand for places at this school will, as a

result of the cumulative impact of developments in the vicinity of the village, exceed capacity. The contributions set out above 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.

- 7.34 A contribution of £122.01 per dwelling is sought by Kent County Council towards additional bookstock and services at the local library on the basis that the development would result in additional active borrowers when overall borrower numbers are in excess of area service capacity and bookstock in Maidstone generally below the County and UK average. I consider this request to be compliant with policy CF1 and to meet the tests set out above.
- 7.35 A contribution of £30.70 per dwelling is sought by Kent County Council towards the provision of new/expanded facilities and services for adult education centres and outreach community learning facilities in light of the current shortfall in provision and likely additional strain that would be placed on the service by the proposed development. I consider that this request is justified, compliant with policy CF1 and the three tests as set out above.
- 7.36 A contribution of £8.44 per dwelling is sought by Kent County Council towards local youth services in order to accommodate the additional strain that would be placed on the service by the proposed development. I consider that this request is justified, compliant with policy CF1 and the three tests as set out above.
- 7.37 A contribution of £15.95 per dwelling is sought by Kent County Council towards adult social services to be used towards provision of assistive technology and enhancement of local community facilities to ensure full DDA compliant access to clients. I consider that this request is justified, compliant with policy CF1 and meets the three tests as set out above.
- 7.38 A contribution of £23,587 is sought to support the delivery of investments highlighted within the PCTs Strategic Service Development Plan. This would be directed towards local surgery premises at The Glebe Medical Centre and Len Valley Medical Centre. I consider this request to be justified, compliant with policy CF1 and the three tests as set out above.
- 7.39 A contribution of approximately £3,500 per unit (actual sum to be finalised under delegated powers) is sought towards the A20 improvement scheme which would provide traffic calming measures and public realm improvements to the A20 in Harrietsham in accordance with emerging Local Plan policy (including those relating to housing allocations in Harrietsham). Draft emerging Local Plan policy H1 (27) refers to appropriate contributions towards a highway improvement scheme for the section of the A20 Ashford Road that passes through Harrietsham. The Borough Council is currently working with consultants and the County Council on an improvement scheme to redress the setting of the A20 from an outmoded and overbearing design incorporating excessive road space, to one which is more conducive to lower traffic speeds and user friendly conditions for pedestrian and other resident users, thereby reducing the detrimental impact of the A20 in forming a physical and psychological barrier between the northern and southern parts of the village, whilst the land freed up by the narrowing and re-alignment of the highway will be available for improvements to the public realm including the enlargement of the village green.

- 7.40 Due to the scale of new residential development proposed to both the north and south of the A20 in Harrietsham and resultant increases in vehicular and pedestrian movements which will inevitably result, and the need for the relevant authorities to fully consider the cumulative impact of the major housing schemes coming forward in the round, it is considered that the proposed works to the highway are reasonable, necessary and related to the planning applications in respect of lowering traffic speeds, re-engaging motor vehicle users with the village itself and improving the safety and overall environment of pedestrians and other road users. The sum is yet to be finalised as the precise detail of the highway improvement scheme is still in the process of being determined, however it is likely to be in the region of £3,500 per unit. This request is considered to be justified and compliant with Maidstone Borough-Wide Local Plan 2000 policy CF1, emerging Local Plan policy H1 (27) and the draft Harrietsham Neighbourhood Plan, as well as the three tests as set out above.
- 7.41 The contributions set out above are considered to be necessary to mitigate the impact upon local social and other infrastructure, to be reasonably related to the character and scale of the proposed development, to be fully financially justified, tested against the requirements of S122 of the Community Infrastructure Levy Regulations 2010, and otherwise compliant with existing and emerging Development Plan policy. The provision of these contributions by way of an appropriate legal mechanism is therefore considered to be acceptable.

#### **Density**

- 7.42 Concerns have been raised in respect of the density of the development, which is 32.6 dwellings per hectare. This is considered to be acceptable in an edge of rural service centre location such as this, and in fact accords with the proposed development density for the development of the site put forward in the draft Local Plan allocation.
- 7.43 Whilst the introduction of a block of flatted accommodation in the north east of the site would represent a novel form of development to the south of the A20 in this locality, large scale buildings of appropriate design are not of themselves unacceptable, and the block of flatted accommodation at the junction of Ashford Road with Church Lane 150m to the west of the site demonstrates that development of such character and scale can be achieved in a sensitive and site specific manner appropriate to the context of Harrietsham. The indicative layout of the dwellinghouses is considered to be acceptable in relation to the grain and pattern of the existing residential development located to the west and north of the site, which exhibits a moderate level of variation.
- 7.44 For these reasons, it is considered that the proposed density of the development is acceptable, subject to the full details required by way of the reserved matters.

#### **Residential Amenity**

- 7.45 The site is located adjacent to the village envelope and in close proximity to a large number of residential properties, however these are in the main to the north of the A20, and severed from the proposal site by this highway as well as being at a higher topographic level. It is not considered on the basis of this special relationship that the proposal would have any significant impact upon the amenity of the occupiers of these dwellings.

- 7.46 Of more concern is the property to the immediate west of the site, Danes Court, however this dwelling has no facing windows to habitable rooms, and as shown on the indicative site layout, adequate separation can be achieved between the property and proposed dwellings to avoid conflicts in respect of overlooking and overshadowing. In any case, the detailed layout and design of the buildings are matters reserved for future consideration, and such aspects of the development would be subject to full scrutiny at such a time as fully detailed proposals coming forward. Members will be aware that such conflicts can easily be resolved by way of good design, particularly in a context such as this where there is considerable scope for flexibility in the detailed layout and appearance of the buildings within the site. It is not considered that the development of the site for the provision of dwellings would give rise to any significant level of disturbance over and above what might be expected in association with any other residential purpose.
- 7.47 For these reasons, it is considered that the proposal is acceptable in terms of its impact upon the occupiers of existing residential properties.
- 7.48 The site is located in close proximity to the A20 and the London to Ashford mainline railway, which are both key strategic transportation routes, which can give rise to issues of air quality and noise and other disturbance for the future occupiers of the proposed dwellings. However, acoustic and air quality reports have been submitted in support of the application, and the Council's Environmental Health Manager has confirmed that subject to the imposition of conditions securing compliance with the recommendations of these documents, no objection is raised to the proposal.

### **Highways**

- 7.49 Access is the only matter for consideration at the current time; this is proposed by way of the introduction of a new access in the west of the site frontage as shown on the site layout, which is in accordance with the relevant criterion set out in emerging Local Plan policy H1 (27). No vehicular access to the site would be gained via the existing access which currently serves the properties to the west (Lower Danes, Bettaville and Danes Court).
- 7.50 The introduction of the access will require works to the public carriageway including the introduction of a filter lane, a pedestrian refuge and footways to the southern side of the A20.
- 7.51 The proposed access and associated features have been fed into the draft A20 improvement scheme, which includes alterations to the highway which will serve the proposal site as well as achieving a reduction in the speed limit to 30 mph throughout the village, supported and enforced by way of the introduction of gateway features to the east and west of the village centre, narrowing and realignment of the carriageway, shared pedestrian/cycle paths, adjustments to street lighting, and the works to facilitate pedestrian movement across the highway, including the introduction of additional crossing points, and the repositioning/reworking of existing crossing points, all of which will cumulatively benefit and mitigate the highway impact of this and other developments coming forward in and adjacent to the village. A contribution towards the cost of the implementation of the final scheme is being sought, as set out above in paragraphs 7.32, 7.39 and 7.40, which is likely to be in the region of £3,500 per unit, delegated powers being sought to finalise the exact amount under the scope of the negotiation of the legal agreement.
- 7.52 Kent County Council Highways have raised no objection to the location or design of the proposed access, and agree the principle of the associated works, subject to the

completion of an appropriate legal mechanism to secure them. I am aware that concern has been raised by the occupiers of dwellings with existing accesses to the A20 in respect of the impact of the works on the functioning of these accesses. The detailed highway works will be required to not only allow the access to the proposal site to function safely, but also to conform with the wider A20 improvement scheme referred to above in paragraph 7.39, and agreement will not be given for works that prejudice the functioning of existing infrastructure. This being the case, and the precise scope and detail of the works to the public highway (excluding the access to the site itself) not being finalised at the current time, it is considered that there is no objection to the scheme on highway grounds.

- 7.53 Parking provision and layout are not matters for detailed consideration at the current time, however a suitable level and distribution of car parking could be achieved whilst securing a high quality of design of any detailed scheme coming forward.

### **Landscaping**

- 7.54 The existing landscaping on the site is of mixed and limited quality, and not considered worthy of specific protection. However, it provides context to the site and the wider village as a whole and where possible trees of value are retained within the scheme. The indicative layout indicates that this can be achieved with limited future pressure of removal. As can be seen above, the Council's Landscape Officer raises no objection to the proposal, subject to the imposition of conditions requiring the submission of details of detailed landscape proposals (including implementation details and a long term management plan), an arboricultural impact assessment and tree protection plan, and implementation of the approved details.

- 7.55 Given the limited information provided in support of the application in terms of the wider landscape and visual impact of the development (in large part due to the character of the application, being outline with all matters other than access reserved), a condition should also be imposed requiring the submission of a landscape and visual impact appraisal at the detailed stage in order that this aspect of the proposal can be fully assessed and the visual impact of the development on landscape quality be limited or adequately mitigated.

### **Biodiversity**

- 7.56 Concerns have been raised about the detrimental impact of the scheme on biodiversity assets. An Ecological Assessment and Ecological Survey Report (Bats and Reptiles) have been supplied in support of the application. These conclude that the site has moderate value for bats and low value for reptiles, and suggest mitigation, although no specific details are provided. In addition, the site provides habitat for the Cinnabar moth (a UK Biodiversity Action Plan priority species), and other species including badgers, hedgehogs and dormice.
- 7.57 As set out above, the Kent County Council Biodiversity Officer considers the information provided and mitigation proposed to be acceptable, subject to the imposition of conditions requiring compliance with the recommendations of the approved documents, and a condition securing the provision of an acceptable reptile receptor site within the site with suitable levels of connectivity with the surrounding reptile habitat, which shall also provide suitable provision of habitat for the Cinnabar Moth (e.g. through the introduction of Ragwort planting).
- 7.58 Subject to the imposition of the relevant conditions, it is not considered that there is any objection to the proposal on the grounds of harm to biodiversity assets.

### **Flood risk, drainage and contaminated land**

- 7.59 The site is not a location recorded by the Environment Agency as being prone to fluvial flood, and as such no objection is raised to the proposal on the grounds of flood risk. A flood risk assessment has been provided in support of the application, the focus of which is surface water flooding. The report recommends that a surface water management strategy be developed for the scheme, and that SuDS techniques be incorporated into the detailed design of the development, although no detail of either of these mitigation strategies are provided.
- 7.60 The Environment Agency accepts the recommendations of the report although it disagrees with the conjectures that the land is not subject to surface water flooding and is a brownfield site. Notwithstanding this, no objection is raised by the Environment Agency in respect of flood risk, subject to the imposition of pre-commencement conditions requiring the submission of details of a sustainable surface water drainage scheme, and implementation of the approved details.
- 7.61 In regards to foul drainage, Southern Water raise no objection to the proposal subject to the submission of details of foul and surface drainage, and implementation of the approved details.
- 7.62 The land is not known to be contaminated, however its former agricultural and commercial use is such that there may be contaminants present, and due to the geology of the site overlying aquifers and location in close proximity to groundwater fed surface springs and streams, additional conditions have been requested to safeguard vulnerable groundwater, and groundwater fed, resources. These are considered, in the circumstances of this case, to be reasonable and necessary.

### **Other Matters**

- 7.63 The loss of grade 2 agricultural land is noted and the views of the Council's Agricultural Advisor have been sought on the loss of this land to development. However, it is clear that there is insufficient brownfield land to meet the Borough's housing need and the fact that the Council does not have a 5 year land supply means that some development on greenfield sites, and best and most versatile land is inevitable. In this case, the site is awkwardly shaped parcel of land located on a wedge of land between the A20 and the London to Ashford mainline railway, and as such is not contiguous with other agricultural land, which diminishes its value for the purpose of provision of produce on a commercial basis.
- 7.64 The proposed development is described in the application documentation as achieving Code for Sustainable Homes Level 4, and as such is compliant with emerging Local Plan policy. A condition should be imposed safeguarding this standard of sustainable development in any subsequent reserved matters application.

## **8.0 CONCLUSION**

- 8.01 The proposal is contrary to adopted Maidstone Borough-Wide Local Plan 2000 policy, however for the reasons set out above, being the absence of a five year housing land supply, the age of the Development Plan, the allocation of the site for housing in the emerging Local Plan and the draft Harrietsham Neighbourhood Plan, and the location of the site adjoining an identified Rural Service Centre in a sustainable location, it is considered to be such that the proposal is acceptable in

principle in the context of decision making that accords with the National Planning Policy Framework.

- 8.02 Whilst the development would be seen in public views, particularly from the A20 and to a more limited degree other public rights of way to the north, it would be seen in the context of the existing built form of Harrietsham. Conditions are suggested that will require any detailed scheme to be landscape led in terms of its design and visual and landscape impact, retaining existing site boundaries of mature native hedging and trees. As a result it is considered that the overall visual impact of the proposed development is acceptable in the context set out above.
- 8.03 I have taken into consideration the consultation responses and other representations received in relation to the proposal, and assessed the application in respect of all material considerations. In this case, the limited harm that would result from the development, as mitigated by the proposed legal agreement and conditions, would not outweigh the demonstrable benefits of the provision of 49 dwellings, including affordable housing provision, in a sustainable location in the context of an inability to demonstrate a five year housing supply. As such compliance with the National Planning Policy Framework 2012 provides sufficient grounds for a departure from the Maidstone Borough-Wide Local Plan 2000. For this reason I recommend that Members grant delegated powers to the Head of Planning and Development to approve the application subject to the receipt of an appropriate S106 legal mechanism and the following conditions.

## **9.0 RECOMMENDATION**

That subject to the prior completion of a Section 106 legal agreement in such terms as the Head of Legal Services may advise to secure the following:

The provision of 40% affordable residential units within the application site; and

A contribution of £2,360.96 per applicable house and £590.24 per applicable flat towards the build costs of extending Harrietsham Primary School; and

A contribution of £30.70 per dwelling to be used to address the demand from the development towards the provision of new/expanded facilities and services both through dedicated adult education centres and through outreach community learning facilities local to the application site; and

A contribution of £8.44 per dwelling to be used to address the demand from the development towards youth services through increased centre based youth services local to the application site; and

A contribution of £122.01 per dwelling to be used to address the demand from the development towards additional book stock and services at libraries local to Harrietsham; and

A contribution of £15.95 per dwelling to address the demand from the development for adult social services to be used 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; and

A contribution of £23,587 (£360 per predicted occupier based on size of market dwellings) to be prioritised firstly towards healthcare facilities at The Glebe Medical Centre, Harrietsham and then The Len Valley Medical Centre, Lenham; and

A contribution towards highway improvements to the A20 in Harrietsham (final amount to be confirmed);

The Head of Planning and Development be given DELEGATED POWERS TO GRANT outline permission subject to the conditions and informatives set out in the report:

CONDITIONS to include:

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 one year 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, and in order to encourage the commencement of development and boost the provision of new market and affordable housing supply in accordance with paragraph 47 of the National Planning Policy Framework 2012 and paragraph 027 of the National Planning Policy Guidance 2014.

2. The details of reserved matters of layout and appearance submitted pursuant to condition 1 above shall include inter-alia;

(i) A landscape and topography led layout with a softer more informal dispersed pattern of development that applies a 'looser' pattern of built form and less hard surfacing than shown on the indicative layout which creates an active frontage onto the A20;

(ii) The provision of on site reptile receptor site with suitable levels of connectivity with the surrounding reptile habitat and habitat for the Cinnabar Moth (through the provision of Ragwort planting);

(iii) A full landscape and visual impact appraisal of the development including views from public rights of way in the North Downs Area of Outstanding Natural Beauty;

(iv) Full details of rooflines and roofscapes, streetscenes within the site and to the site frontage with the A20, and north-south sections across the site; and

(v) The incorporation of decentralised and renewable or low-carbon sources of energy.

Reason: No such details have been submitted, to ensure a high quality design for the development and to safeguard biodiversity assets.

3. The details of landscaping submitted pursuant to condition 1 shall provide for the retention and repair of existing trees and mature hedging to north, south and east site boundaries, and hedgerows and tree lines within the site;

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



4. The development shall not commence until details of all fencing, walling and other boundary treatments have been submitted to the Local Planning Authority and approved in writing. The boundary treatments shall not include closeboarded fencing of a height greater than 1.8m, or closeboarded fencing or solid walling of a height of greater than 1m to the boundary of any public space, and shall include the retention and where necessary reinforcement of boundary hedges to the site using appropriate native species as set out in Maidstone Landscape Character Assessment 2012 and Maidstone Landscape Local Character Assessment Supplement 2012, and access through or under site and plot boundaries for small mammals including badgers and hedgehogs shall be provided for by way of the inclusion of post and rail fencing and/or fencing raised a minimum of 20cm above ground level.

The development shall be carried out in accordance with the approved details before the first occupation of the development and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development, secure the amenity of future occupiers,, and safeguard biodiversity assets.

5. The development shall not commence until written details and samples of the materials to be used in the construction of the external surfaces, including hard surfaces, of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The materials shall include, inter alia, swift and bat bricks. The development shall thereafter be constructed using the approved materials unless otherwise agreed in writing by the Local Planning Authority;

Reason: To ensure a satisfactory appearance to the development and a high quality of design.

6. The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species 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 landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and Maidstone Landscape Character Assessment Supplement 2012 (Harrietsham to Lenham Vale landscape type), and shall include, inter alia, the retention of all trees and hedges identified as such in the Sylvan Arb Arboricultural Report (Tree Survey and Tree Constraints Plan) ref SA/771/13 received 24th October 2013; the retention and repair of hedgerows and tree lines within the site; the provision of wild flower meadow areas; and provision of on site reptile receptor site with suitable levels of connectivity with the surrounding reptile habitat and habitat for the Cinnabar Moth (through the provision of Ragwort planting).

The implementation and long term management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details over the period specified;

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

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 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 external appearance to the development.

8. The development shall not commence until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) including details of any tree works that would be necessary to implement the proposal, which shall include details of all trees to be retained and the proposed measures of protection, undertaken in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction - Recommendations" has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include full details of areas of hard surfacing within the root protection areas of retained trees which should be of permeable, no-dig construction and full details of foundation design for all buildings within root protection zones, where the AMS identifies that specialist foundations are required. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The 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, ensure a satisfactory setting and external appearance to the development.

9. The development shall not commence until details of any external 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 be carried out in accordance with the approved details and maintained thereafter;

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

10. 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 or above has been achieved;

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

11. The development shall be undertaken in strict accordance with the recommendations of the JFA Landscape and Ecology Ecological Assessment ref KEN 1836 received 24th October 2013 and JFA Landscape and Ecology Ecological Survey Report Bats and Reptiles ref KEN 1836 received 22nd April 2014, subject to the additional information and mitigation required by condition 12 below, and maintained thereafter;

Reason: To secure appropriate management and enhancement within the site in the interests of ecology and biodiversity.

12. Notwithstanding the details and recommendations set out in JFA Landscape and Ecology Ecological Assessment ref KEN 1836 received 24th October 2013 and JFA Landscape and Ecology Ecological Survey Report Bats and Reptiles ref KEN 1836 received 22nd April 2014, the development shall not commence until a long term management plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall incorporate 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.
- i) Specific details and locations of the biodiversity enhancement measures outlined JFA Landscape and Ecology Ecological Assessment ref KEN 1836 received 24th October 2013 and JFA Landscape and Ecology Ecological Survey Report Bats and Reptiles ref KEN 1836 received 22nd April 2014 and the inclusion of enhancement measures to be incorporated into the fabric of buildings.
- j) Details of the management of open space areas to provide biodiversity enhancement.

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

Reason: To secure appropriate management and enhancement within the site in the interests of ecology and biodiversity.

13. The development hereby permitted shall be carried out in strict accordance with the recommendations of the Peter Moore Acoustics Acoustic Assessment ref 130701/1 received 24th October 2013;

Reason: in the interests of residential amenity.

14. The development hereby permitted shall be carried out in strict accordance with the recommendations of the Lustre Consulting Air Quality Assessment ref 1218/AK/10-13/169 received 24th October 2013;

Reason: in the interests of residential amenity.

15. The development permitted by this planning permission shall not commence until a detailed surface water drainage scheme for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to, and approved by, the Local Planning Authority. The drainage strategy should demonstrate that the surface water run-off generated up to and including the 1 in 100 year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and so not increase the risk of flooding both on- or off- site.

The drainage details submitted to the Local Planning Authority shall:

Specify the responsibilities of each party for the implementation of the SUDS scheme;

Specify a timetable for implementation; and

Provide a management and maintenance plan for the lifetime of the development. This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall be implemented in accordance with the approved details prior to first occupation of the development, and maintained thereafter unless with the agreement in writing of the Local Planning Authority;

Reason: To reduce the impact of flooding on the proposed development and prevent any impact from the development on surface water storage and flood, and future occupiers.

16. No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be 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; and

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) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented in full as approved.

Reason: to prevent pollution to the environment.

17. No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved unless with the written agreement of the Local Planning Authority;

Reason: to prevent pollution of the environment.

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

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

Reason: to prevent pollution of the environment.

19. No infiltration of surface water drainage into the ground, other than that allowed under the sustainable surface water drainage scheme approved under condition 15 above, is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters;

Reason: To prevent pollution of the environment and protect controlled waters.

20. No development shall take place until full details in the form of drawings to an appropriate scale of all piling and any other foundation designs using penetrative methods which do not result in unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details unless agreed in writing with the Local Planning Authority;

Reason: to prevent pollution to the environment.

21. No development shall take place until details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels;

Reason: In order to secure a satisfactory form of development.

22. The approved details of the access, as shown in Appendix E of the Gateway TSP Transport Assessment ref LF/13-0601 received 24th October 2013 shall be completed before the commencement of the use of the land and maintained thereafter;

Reason: in the interests of road safety.

## INFORMATIVES

(1) The lighting scheme provided in accordance with condition 9 should adhere to the following advice from the Bat Conservation Trust and Institution of Lighting Engineers.

### Bats and Lighting in the UK

#### Summary of requirements

The two most important features of street and security lighting with respect to bats are:

1. The UV component. Low or zero UV installations are preferred to reduce attraction of insects to lighting and therefore to reduce the attraction of foraging bats to these areas.
2. Restriction of the area illuminated. Lighting must be shielded to maintain dark areas, particularly above lighting installations, and in many cases, land adjacent to the areas illuminated. The aim is to maintain dark commuting corridors for foraging and commuting

bats. Bats avoid well lit areas, and these create barriers for flying bats between roosting and feeding areas.

UV characteristics:

Low

Low pressure Sodium Lamps (SOX) emit a minimal UV component.

High pressure Sodium Lamps (SON) emit a small UV component.

White SON, though low in UV, emit more than regular SON.

High

Metal Halide lamps emit more UV than SON lamps, but less than Mercury lamps

Mercury lamps (MBF) emit a high UV component.

Tungsten Halogen, if unfiltered, emit a high UV component

Compact Fluorescent (CFL), if unfiltered, emit a high UV component.

Variable

Light Emitting Diodes (LEDs) have a range of UV outputs. Variants are available with low or minimal UV output. Glass glazing and UV filtering lenses are recommended to reduce UV output.

Street lighting

Low-pressure sodium or high-pressure sodium must be used instead of mercury or metal halide lamps. LEDs must be specified as low UV. Tungsten halogen and CFL sources must have appropriate UV filtering to reduce UV to low levels.

Lighting must be directed to where it is needed and light spillage avoided. Hoods must be used on each lamp to direct light and contain spillage. Light leakage into hedgerows and trees must be avoided.

If possible, the times during which the lighting is on overnight must be limited to provide some dark periods. If the light is fitted with a timer this must be adjusted to reduce the amount of 'lit time' and provide dark periods.

Security and domestic external lighting

The above recommendations concerning UV output and direction apply. In addition:

Lighting should illuminate only ground floor areas -light should not leak upwards to illuminate first floor and higher levels;

Lamps of greater than 2000 lumens (150 W) must not be used;

Movement or similar sensors must be used -they must be carefully installed and aimed, to reduce the amount of time a light is on each night;

Light must illuminate only the immediate area required, by using as sharp a downward angle as possible;

Light must not be directed at or close to bat roost access points or flight paths from the roost -a shield or hood can be used to control or restrict the area to be lit;

Wide angle illumination must be avoided as this will be more disturbing to foraging and commuting bats as well as people and other wildlife;

Lighting must not illuminate any bat bricks and boxes placed on buildings, trees or other nearby locations.

(2) A formal application for connection to the public sewerage system is required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (0330 303 0119 or [www.southernwater.co.uk](http://www.southernwater.co.uk)).

The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (0330 303 0119 or [www.southernwater.co.uk](http://www.southernwater.co.uk)).

(3) Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

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

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 Environmental Health Manager.

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.

If the existing premises, including outbuildings, are found to contain asbestos based material the following informative must also be complied with:

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.

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

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

All precautions must be taken to avoid discharges and spills to the ground both during and after construction. For advice on pollution prevention, the applicant should refer to Environment Agency guidance PPG1 General guide to prevention of pollution, which is available on online at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk).

Please note that the CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste.

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

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

Case Officer: Catherine Slade

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.



31

16. 7. 2013





32

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35

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40

36

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# THE MAIDSTONE BOROUGH COUNCIL

4 Three Tees  
White Horse Lane  
Otham, Kent  
ME15 8RG

MBC Ref: 14/500420



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**Rob Jarman**  
Head of Planning

## REPORT SUMMARY

<b>REFERENCE NO - 14/500420/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use of land from open space to garden land as shown on site location plan received 5/8/14; and elevation drawings received 17/9/14.		
<b>ADDRESS</b> 4 Three Tees White Horse Lane Otham Kent ME15 8RG		
<b>RECOMMENDATION</b> Permit		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The change of use of the land would have no adverse impact on amenity and is considered acceptable.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The land is owned by this Council.		
<b>WARD</b> Otham	<b>PARISH/TOWN COUNCIL</b> Otham	<b>APPLICANT</b> Mrs Julie Tidy
<b>DECISION DUE DATE</b> 12/11/14	<b>PUBLICITY EXPIRY DATE</b> 12/11/14	<b>OFFICER SITE VISIT DATE</b> 14/10/14
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b> None directly relevant		

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The application site is located in a rural location off the north side of White Horse Lane, Otham. This is a small square of amenity land, owned by the Council, located between a communal car park (to the east) and the side garden of the applicant's dwelling, 4 Three Tees.
- 1.02 The site currently contains low bushes and an ash tree and serves as a small landscaped amenity area to the side of the car park.

### 2.0 PROPOSAL

- 2.01 The application proposes a change of use to allow the land to be used as domestic garden by No. 4. The land would be bounded by a new low wooden panel fence. A letter submitted with the application indicates that the MBC Property Officer considers the site surplus to Council requirements.

### 3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Development Plan: ENV6, ENV28

### 4.0 LOCAL REPRESENTATIONS



4.01 Otham Parish Council has no objection.

## **5.0 CONSULTATIONS**

5.01 The KCC Archaeological Officer has no comment.

5.02 The MBC Landscape Officer has no objection.

## **6.0 APPRAISAL**

6.01 The only significant issue with this application is whether the change of use from communal amenity land to incorporation within a private garden would cause any significant harm to the character of the countryside. This is not 'open countryside'; rather the site is part of the patch of mainly housing development at Three Tees, with significant lines of housing on either side of the site. This small landscaped area plays a minor role in the 'greening' of the built frontage but I do not consider its 'loss' to garden land would be significant and there is no reason to suppose that its future as green open space would not continue to a large degree. Low wooden fencing is appropriate for this location.

6.02 I do not consider there to be significant ecology issues here given that this is a small, managed area. There would be no negative impact on the amenities of neighbours (I note that no objections have been received) and there are no highways issues in an application of this type.

## **7.0 CONCLUSION**

7.01 I do not regard the change applied for represents any significant threat to the character of the area and I recommend that permission be granted. I recommend that a condition be imposed to ensure that development involving sheds, hardstandings, etc. would be within the control of the Council and could not be carried out under 'permitted development rights'.

## **8.0 RECOMMENDATION – GRANT subject to the following conditions:**

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans:  
site location plan received 5/8/14; and elevation drawings received 17/9/14;

Reason: To ensure the quality of the development is maintained.

3. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 1995 (as amended), no further development shall take place on the site without the prior written consent of the Local Planning Authority;

Reason: To ensure the appearance and the character of the site is maintained.

## Planning Committee Report

Case Officer: Geoff Brown

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.



41

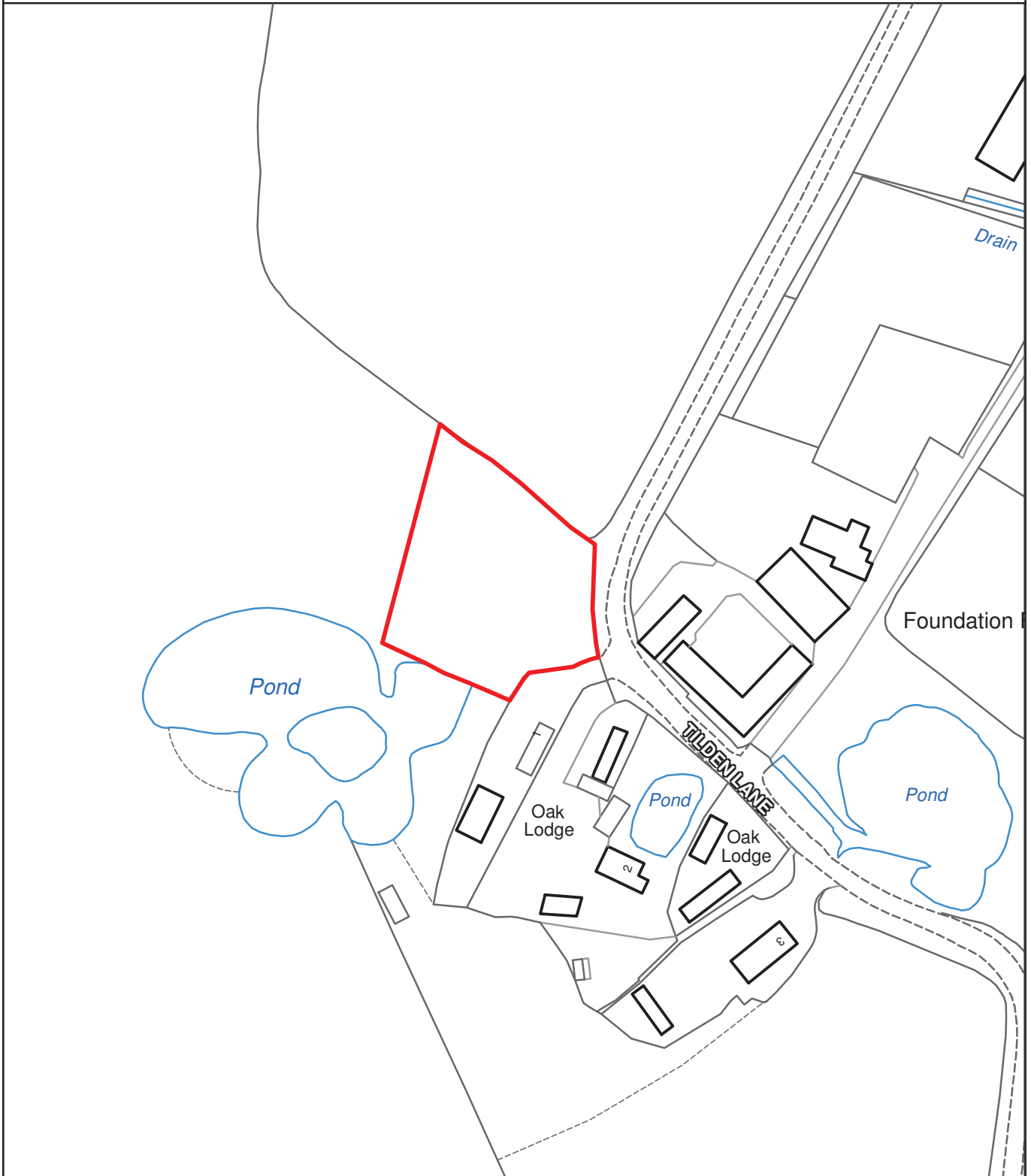
42



# THE MAIDSTONE BOROUGH COUNCIL

Oak Lodge  
Tilden Lane  
Marden, Kent  
TN12 9AX

MBC Ref: 14/501193



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**Rob Jarman**  
Head of Planning

## REPORT SUMMARY

<b>REFERENCE NO - 14/501193/FULL</b>		
<b>APPLICATION PROPOSAL</b> Retrospective application to vary condition 1 to MA/12/1123 to allow an additional mobile home to be stationed on the site (a maximum of 3 caravans to be situated on the land at any one time)		
<b>ADDRESS</b> Oak Lodge Tilden Lane Marden Kent TN12 9AX		
<b>RECOMMENDATION APPROVE SUBJECT TO CONDITIONS</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The site has previously been assessed and found to be well screened and acceptable for the stationing of caravans for residential use by persons of Gypsy status in terms of its impact on the character of the rural area. There are already a number of longstanding plots in this location and a total of two mobile homes on the application site - an additional mobile on the site does not cause any significant harm in respect of visual impact, or any other material planning consideration.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The recommendation is contrary to the views of Marden Parish Council, who have requested that the application be recommended to Planning Committee.		
<b>WARD</b> Marden	<b>PARISH/TOWN</b> Marden	<b>COUNCIL</b>
		<b>APPLICANT</b> Mr Michael Burke <b>AGENT</b>
<b>DECISION DUE DATE</b> 12/09/14	<b>PUBLICITY EXPIRY DATE</b> 12/09/14	<b>OFFICER SITE VISIT DATE</b> Various
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>		

- MA/12/1123 Change of use of land to residential use for the stationing of 2no. mobile homes for occupation by gypsies (resubmission of MA/11/0182) – APPROVED SUBJECT TO CONDITIONS
- MA/11/0182 Change of use of land to residential use for the stationing of 2no. mobile homes for occupation by Gypsies – WITHDRAWN

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE AND PROPOSAL

1.01 The proposal site is located to the north west of the junction between Tilden Lane and Underlyn Lane in open countryside with no specific environmental designations in the parish of Marden. The site is located adjacent to the north west boundary of 1 Oak Lodge, a long established Gypsy site allocated in the emerging Local Plan for use by persons of Gypsy status for residential purposes comprising two plots (effectively regularisation of the existing situation) under the scope of policy GT1 (1). To the south of 1 Oak Lodge further Gypsy pitches are located which again, have been in place for a period of decades. To the east of the site on the opposite side of Tilden Lane is Foundation Farm, a livery and stud.

Agricultural land is located to the north and west of the site, and there are a number of ponds known to provide habitat for Great Crested Newts to the south of the site. The site has an existing vehicular access on the outside of a 90 degree bend to Tilden Lane, an unclassified public highway.

1.02 The site is approximately level, and mainly laid to lawn or hard surfacing as shown on the plan attached as Appendix A.

1.03 Planning permission for the change of use of the site for residential occupation by persons of Gypsy status, including the stationing of two caravans and the laying out of hard surfacing, has previously been granted under the scope of MA/12/1123.

1.04 The current application is retrospective, and seeks consent for the stationing of an additional mobile home in the north west of the site and associated hard surfacing and fencing to facilitate the use as shown on the plan attached as Appendix A. The external and internal boundaries of the site are mainly demarcated by close boarded fences, including the north west boundary of the site, however a robust native hedge to the north east boundary has been retained. The access and boundaries of the site remain unchanged. The application has been submitted in response to an enforcement investigation into the stationing of three caravans on the land, exceeding the scope of the previous consent on the land.

## **2.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework 2012 (NPPF)  
Planning Policy for Gypsy Sites 2012 (PPGS)  
National Planning Practice Guidance 2014 (NPPG)  
Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV49  
Emerging Local Plan: SP5, DM6, DM10, DM26, DM30

## **3.0 LOCAL REPRESENTATIONS**

3.01 A site notice was displayed at the site on 28<sup>th</sup> August 2014.

3.02 Four representations were received, all of which raised objection to the proposal. The following concerns were raised:

- Concern that further additional caravans can be secured by way of subsequent planning permissions, and level of Gypsy development along Tilden and Stilebridge Lanes.
- Highway matters including additional traffic, speed of vehicles on the highway, and conflict between cars and horses/pedestrians on Tilden Lane.
- Harm to residential amenity by way of disturbance from the use of the site.
- Impact on the commercial activities of Foundation Farm (by way of conflict between cars and horses/pedestrians on Tilden Lane).
- Blight and impact on property values.

## **4.0 CONSULTATIONS**

4.01 **Marden Parish Council** raise objection to the application on the grounds of insufficient evidence of the Gypsy status of the applicants and requested that the application be reported to Planning Committee in the event of a recommendation for approval.

4.02 **Environment Agency** raise no objection to the application subject to informatives, making the following detailed comments:

*"We advise that the site is classified as a Flood Zone 2 which is associated with a medium probability of flooding and that the applicant should be aware that although the site is situated some distance from the River Lesser Teise, which is the main source of flooding in the area, there are also some drainage ditches close by which may cause flooding during an extreme event."*

4.03 **Kent County Council Biodiversity Officer** raises concern that the application is retrospective, but raises no objection to the proposal subject to the imposition of conditions requiring biodiversity enhancements to the site, making the following detailed comments:

*"The GCN survey submitted as part of planning application MA/11/0182 confirms that GCN were present within the pond adjacent to the site as such it is very disappointing that the works were carried out without seeking advice from an ecologist."*

*The submitted site plan indicates that a small area of overgrown vegetation needed to be removed to enable the third mobile home to be located on the site. GCN are found within terrestrial habitat for the majority of the year and as such it is possible that GCN were present within the overgrown vegetation and the clearance may have result in individuals being killed or injured.*

*If we had commented on the condition variation before the work had been carried out we would have requested additional information to be provided by the applicant's ecologist detailing how the vegetation will be cleared to ensure that the works will not result in GCN being killed or injured.*

*We recommend that to compensate for the loss of potential GCN habitat the site is enhanced for GCN. Suggestions to enhance the site for GCN include:*

- *Creating an area of rough grassland within the site*
- *Enhancing existing rough grassland/areas of vegetation by creating log/rubble piles*
- *Increasing the number of hedges within the site"*

## **5.0 APPRAISAL**

### **Principle of Development**

5.01 In terms of policy, there are no saved Local Plan policies relating to this specific form of development, however policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 relates to development in the countryside in general, 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".*

5.02 The policy outlines the types of development which are acceptable in the open countryside, this does not include Gypsy development; this was formerly dealt with under the scope of housing policy H36, however this is not a saved policy in the Maidstone Borough-Wide Local Plan 2000.

5.03 A key consideration in the determination of this application is central Government guidance contained with 'Planning Policy for Traveller Sites' (PPTS) published in March



2012. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas. This policy guidance effectively supersedes the policy of restraint set out in policy ENV28 in respect of Gypsy accommodation. Although work on the emerging Local Plan is progressing; however there are, as yet, no adopted Local Plan policies relating to the provision of Gypsy and Traveller sites.

5.04 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 Core Strategy period:-

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

5.05 These figures were agreed by Cabinet on the 13<sup>th</sup> March 2013 as the pitch target included in the consultation version of the emerging Local Plan, which states that Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTTSA) revealed the need for 187 permanent Gypsy and Traveller pitches to be provided in the Borough during the period October 2011 and March 2031, as set out above.

5.06 Accommodation for Gypsies and Travellers is a specific type of housing that Council's have a duty to provide for under the Housing Act (2004). Draft Policy DM26 of the Regulation 18 version of the Draft Local Plan accepts that this type of accommodation can be provided in the countryside provided that certain criteria are met, as set out in the policy wording. This is in accord with central government planning policy as set out in the PGTS. The emerging Local Plan also confirms that the Borough's need for gypsy and traveller pitches will be addressed through the granting of permanent planning permissions and through the allocation of sites. The timetable for adoption is currently for the latter half of 2016.

5.07 Issues of need are dealt with below but, in terms of broad principles, emerging development plan policy and central government guidance clearly allow for gypsy sites to be located in the countryside as an exception to the general theme of restraint set out in policy ENV28. In the case of this specific site, the principle has already been established as a permanent non-personal use for persons of Gypsy status by way of the previous consent, and therefore the principle of the development, subject to assessment of all other material considerations, is acceptable in the current national and local policy context.

#### **Need**

5.08 As outlined above, the accommodation need was agreed by Cabinet on 13<sup>th</sup> March 2013 to be 187 pitches for the emerging Local Plan period to 2031.

5.09 The current figures for pitches granted (net) since October 2011 is now as follows:

59 Permanent non-personal permissions
15 Permanent personal permissions
0 Temporary non-personal permissions
33 Temporary personal permissions

5.10 Therefore a net total of 74 permanent pitches have been granted since 1<sup>st</sup> October 2011. It must be noted that the requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. Therefore although the pitch target is high for the first five years, the immediate need is not, in my view, overriding. However, the latest GTAA clearly reveals an ongoing need for pitches.

### **Gypsy status**

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

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

5.12 The application seeks an unrestricted use of the land for persons of Gypsy status, that is to say, not restricted to one named party or the other specifically. Given the matter of the existing permission on the land and that the principle of the use of the land for residential stationing of caravans for occupation by persons of Gypsy or traveller status has previously been fully considered and found to be acceptable in this location, I do not consider there justification to restrict the occupation of the site further than to persons of Gypsy status. In light of this, and the lack of reliance upon personal circumstances to support an approval for a use which would otherwise be unacceptable on environmental or other grounds, it would be unreasonable to impose a personal or temporary consent in the circumstances of this case.

5.13 Notwithstanding this, the applicants are known to be of Gypsy status and are related to other Gypsy families in the local area. As such, I am satisfied that the consent is sought in respect of genuine additional Gypsies or travellers, and that an appropriately worded condition is adequate to safeguard the occupation of the site in order to secure the provision of the residential use towards the recognised need for accommodation for Gypsies and travellers, in line with national and emerging planning policy.

### **Visual Impact, Landscaping and Biodiversity**

5.14 The latest guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in open countryside (paragraph 23) but goes on to state that where sites are in rural areas, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact is outlined in the document, however, this is addressed in the National Planning Policy Framework and clearly under Maidstone Borough-Wide Local Plan policy ENV28.

5.15 In this case, the proposal is for the intensification of an existing use; the site was, prior to the development for which planning permission is now sought, in use for the stationing of caravans for residential occupation by persons of Gypsy status. The intensification for which consent is sought amounts to the introduction of an additional caravan, taking the number of units on the land from two to three, and associated hard surfacing and fencing, entirely within the existing site boundaries. As such, the visual impact of the development is limited in the context of the existing development on the site.

5.16 As a permanent permission is sought for the use, it is reasonable to impose a condition requiring the submission of landscaping and the implementation of the approved details, and, given the failure to comply with the relevant conditions relating to the previous

consent, necessary. The landscaping should be required to include the retention and reinforcement of existing native hedging to the north and east site boundaries, and additional planting to the south, north and west site boundaries and along fence lines within the site.

5.17 As set out in the comments of the Kent County Council Biodiversity Officer, it is regrettable that the works took place without prior assessment of the ecological impact, particularly as this could potentially have resulted in harm to members of protected species. However, a Great Crested Newt survey had been undertaken in relation to the previous consent, and its recommendations have been implemented. Given that the area on which the hard surfacing and caravan are now located was formerly well maintained lawn ancillary to the original two caravans, it is likely that the site would have limited biodiversity value. Notwithstanding this, the comments of the Biodiversity Officer are noted, and the suggested biodiversity enhancements are considered to be reasonable and appropriate in the circumstances of this case. A condition requiring adherence with the recommendations of the Ecology Phase I Survey and Flag Ecology Great Crested Newt Survey submitted and endorsed under the scope of MA/12/1123 is also considered appropriate in this case to carry forward the approved recommendations for mitigation of long term impact upon biodiversity.

5.18 Subject to the landscape, landscape implementation and biodiversity conditions set out above, it is considered that the visual impact of the development and that on landscape and ecology are acceptable.

#### **Residential Amenity**

5.19 Concerns have been raised in regard to the potential for detriment to the residential amenity of the occupiers of neighbouring properties. The application seeks planning permission for a residential use comprising the stationing of a single additional mobile home on the land. It is not considered that the intensification of the existing residential use of the site would give rise to conditions likely to cause conflict with neighbouring residential uses, and it would not be reasonable to refuse to grant planning permission on this basis. I am aware that concerns have been expressed that unauthorised commercial uses may subsequently be established on the land. Planning permission would be required for any material change of use from a residential use to a mixed use, however for the avoidance of doubt I propose a condition explicitly precluding any commercial activity (including storage and livery) from taking place on the site.

#### **Highways**

5.20 The development utilises an existing access which is considered to be of adequate safety in terms of visibility splays and width, and adequate on site parking is provided for the scale of the intensification of the use. It is not considered that the intensification of the existing residential use by a single caravan would be likely to give rise to significant additional vehicle movements in the context of the pitches already using the site access and that of the adjacent property, Oak Lodge.

5.21 Objections have been received which raise concern over the speed at which vehicles enter and exit the site, and conflict at times between vehicle drivers and horse riders and pedestrians, this is not a function of the number of vehicles on the site, or the safety of the access per se; any concerns in this regard, and that more generally of the speed limit on Tilden Lane in general which is national speed limit, should be addressed to the appropriate authority (Kent Police and Kent County Council).

5.22 For these reasons it is not considered that there is any objection to the proposal on highway grounds.

## Other Matters

5.23 The site is located in an area recorded by the Environment Agency as being in a Zone 2 area in terms of flood risk, however they have raised no objection to the proposal, and as such there is no objection to the proposal on the grounds of flood risk.

5.24 I note that concerns have been raised over the number of Gypsy developments in the close vicinity of the site; although there are other Gypsy pitches in the immediate vicinity of the site (on the sites known collectively as "Oak Lodge"), it is considered that the scale of the proposed increase is such that it would not "tip the balance" in terms of dominating the settled community in this locality or pressure on infrastructure, and the limited visual impact of the intensification of the use of the site (as set out above) are such that the cumulative impact of the development is acceptable. Other sites referred to in representations (such as the public Stilebridge Lane site and unauthorised Eight acres site on Tilden Lane) are located at a distance from the application site such that they are not considered to contribute in any meaningful way to a cumulative impact on the immediate locality of the site.

5.25 Members will be aware that impact on property values is not a planning consideration, and furthermore that restrictions cannot be placed upon parties making repeat applications on land in order to change the character of its use or the extent of built development on land. Whilst it is regrettable that the application is retrospective, this represents a legitimate mechanism by which to regularise the current breach of planning control on the land.

## 10.0 CONCLUSION

10.01 The application site is located within the open countryside, however central government planning policy and emerging Local Plan policy allow that Gypsy sites can be acceptable in such locations. The site has previously been considered to be acceptable for such use under the assessment of MA/12/1123.

10.02 The intensification of the existing use is considered to be acceptable in terms of visual impact and overall impact on the character and appearance of the open countryside, as well as in regard to matters such as biodiversity, residential amenity, highway safety, flood risk and cumulative impact.

10.03 There are no other planning considerations which warrant refusal of the application, and for the reasons set out above, I therefore recommend a permanent non-personal permission for the stationing of three caravans for purposes of residential occupation by persons of Gypsy status subject to the following conditions.

**11.0 RECOMMENDATION** – GRANT Subject to the following conditions/REFUSE for the following reasons:

CONDITIONS to include

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

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

(2) This permission does not authorise the use of the land as a caravan site by any other persons other than Gypsies, as defined in Annex 1 of the Planning Policy for Traveller Sites 2012;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted.

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

Reason: To safeguard the character and appearance of the area and to prevent light pollution.

(4) The development hereby permitted shall be maintained in strict accordance with the drawing attached to this decision in respect of the location and extent of operational development (fences and hard surfacing);

Reason: To ensure a satisfactory appearance to the development and in the interests of the visual amenity.

(5) Within 2 months of the date of this decision a scheme of landscaping, using indigenous species which shall include indications of all existing trees, hedgerows and boundary planted areas on the land, and details of any to be retained, and a programme for the approved scheme's implementation to include the planting of the boundary landscaping in the first planting season following commencement of the development and the scheme's long term management, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and Landscape Character Assessment Supplement 2012.

The scheme shall include, inter alia, the retention and reinforcement of the existing hedgerow to the north and east site boundaries, additional hedging along the exterior of the south and west site boundaries and in the interior of the site along existing fence lines, an additional area of rough grassland within the site, and log/rubble piles on existing and proposed areas of rough grassland.

Reason: To ensure a satisfactory setting and external appearance to the development, secure the character and appearance of the open countryside, and safeguard biodiversity assets.

(6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the approval of the landscaping scheme required by condition 5, 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, secure the character and appearance of the open countryside, and safeguard biodiversity assets.

(7) The recommendations of the Swift Ecology Phase I Survey dated 3rd June 2011 and Flag Ecology Great Crested Newt Survey dated 3rd June 2012 shall be strictly adhered to;

Reason: To safeguard biodiversity assets.

(8) Within 2 months of the date of this decision full details of the means of foul drainage treatment and waste disposal shall be submitted to the Local Planning Authority for

assessment. The submitted details should include the size of individual cess pits and/or septic tanks and/or other treatment systems, the precise location of plant on the site plus any other relevant information such as where each system will discharge to. The approved details will be implemented in full within 2 months of the approval of the details, and shall be maintained thereafter;

Reason: to prevent pollution of the environment.

(9) No commercial or business activities shall take place on the land, including the storage of vehicles or materials and livery use, without the prior agreement of the Local Planning Authority;

To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

#### INFORMATIVES

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

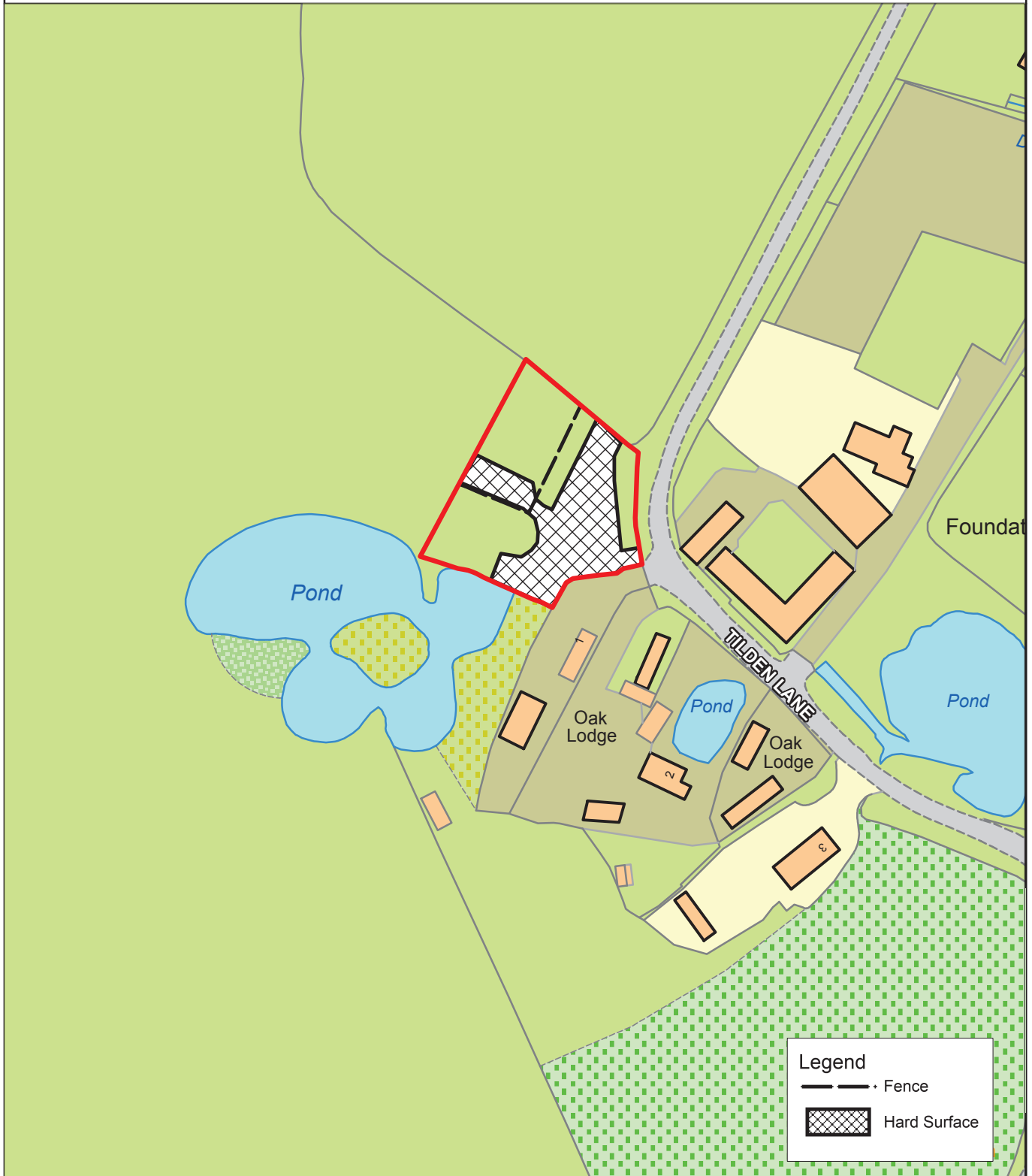
Case Officer: Catherine Slade

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

# THE MAIDSTONE BOROUGH COUNCIL

No.1 Oak Lodge, Tilden Lane, Marden, TN12 9AX

MBC Ref: 14/501193



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**Rob Jarman**  
Head of Planning



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28. 8. 2014





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4. 10. 2012



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28. 8. 2014

## **THE MAIDSTONE BOROUGH COUNCIL** **PLANNING COMMITTEE – 15<sup>th</sup> January 2015**

### **APPEAL DECISIONS:**

- 1. 14/0349** Single storey dwelling in garden
- APPEAL:** Dismissed
- 7, Cavendish Way, Bearsted, Maidstone, Kent,  
ME15 8PW
- (Delegated Decision)
- 
- 2. 14/0085** Change of use of land for mixed use of gypsy accommodation and the keeping of horses, together with stables/utility blocks. Amended (reduced) application to that previously submitted under reference MA/12/0791
- APPEAL:** Allowed with Conditions
- Willow Gardens, Lindfield Farm, Willow Lane,  
Paddock Wood, Tonbridge, Kent, TN12 6PE
- (Delegated Decision)
- 
- 3. 13/2022** A planning application for the erection of a dwelling as shown on the site location plan and drawing numbers CT 100, CT200 and P11 all received 25th November 2013, and a design and access statement received 20th January 2014
- APPEAL:** Dismissed
- Cherry Trees, The Street, Stockbury,  
Sittingbourne, Kent, ME9 7UD
- (Delegated Decision)
- 
- 4. 14/0700** Outline application for the erection of self build three bed dwelling with all matters (access, scale, appearance, layout and landscaping ) reserved for future consideration.
- APPEAL:** Dismissed
- Bramleys, Marden Road, Staplehurst, Tonbridge,  
Kent, TN12 0PE
- (Committee Decision)

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**5. 14/500725**

To build a new 1.5 storey detached house on land to the rear of 39 ringwood road as shown on site location plan, proposed block plan, proposed elevations and floor plans received 28/05/14.

**APPEAL:** Dismissed

39 Ringwood Road, Maidstone, Kent, ME15 7EG

(Delegated Decision)

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