

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 17 November 2016
Time: 6.30 pm
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Boughton, Clark, Cox, English,
Harwood, Hastie, Hemsley, Munford,
Perry (Chairman), Powell,
Prendergast, Round and Mrs Stockell

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 Items withdrawn from the Agenda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 - 24 November 2016

Continued Over/:

Issued on Wednesday 9 November 2016

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

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

6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
7. Disclosures by Members and Officers
8. Disclosures of lobbying
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
10. Minutes of the meeting held on 27 October adjourned to 3 November 2016 - to follow
11. Presentation of Petitions (if any)
12. 12/0768 - Twyford Boat Yard, Hampstead Lane, Yalding, Maidstone, Kent, ME18 6HG 1 - 10
13. 16/503665 - 85 Murrain Drive, Downswood, Kent, ME15 8XN 11 - 15
14. 16/503863 - Plot 9, Eclipse Park, Sittingbourne Road, North Maidstone, Kent 16 - 48
15. 16/505311 - 47 Freeman Way, Maidstone, Kent, ME15 8AR 49 - 54
16. 16/506224 - 80A London Road, Maidstone, Kent, ME16 0DR 55 - 68
17. 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.

For full details of all papers relevant to the applications on the agenda, please refer to the public access pages on the Maidstone Borough Council website. Background documents are available for inspection by appointment during normal office hours at the Maidstone Borough Council Reception, The Mall, Maidstone, Kent.



12/0768 Twyford Boat Yard

Scale: 1:1250

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REPORT SUMMARY

REFERENCE NO - 12/0768		
APPLICATION PROPOSAL Erection of a platform and change of use of land for the siting of a residential mobile home for boat yard manager's accommodation.		
ADDRESS Twyford Boat Yard, Hampstead Lane, Yalding, Maidstone, Kent, ME18 6HG		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION It is considered that a full time residential presence of the mobile home is justified on health and safety grounds and that there are no objections on flooding grounds.		
REASON FOR REFERRAL TO COMMITTEE Recommendation contrary to the views of Yalding Parish Council		
WARD Marden And Yalding	PARISH/TOWN COUNCIL Yalding	APPLICANT Mr John Putnam AGENT Peter Waller Planning Ltd
DECISION DUE DATE 13/09/12	PUBLICITY EXPIRY DATE 11/10/16	OFFICER SITE VISIT DATE 14/07/16

MAIN REPORT

1.0 SITE DESCRIPTION

- 1.01 Twyford Boatyard is located on the south side of the River Medway due west of where the River Tiese meets the River Medway at Twyford Bridge. The mobile home, the subject of this application, is raised above ground level by a supporting framework with a raised balcony providing access running along the entire south west face of the mobile home. The mobile home is located close to the north-west boundary of the boatyard on an area of raised ground. The mobile home structure was granted a lawful development certificate for its retention under application MA/07/0103.
- 1.02 Site access is via a footbridge from Hampstead Lane with a locked barrier in place to prevent unauthorised vehicular access. To the north of the site is the Teapot Island Café with the River Teise acting as a barrier to open land to the east. There is also open land to the south while the west site boundary is defined River Medway onto which the boatyard has direct access.
- 1.03 In a wider context, the adopted local plan identifies the site as falling within open countryside forming part of Area of Local Landscape Importance (ALLI).

2.0 RELEVANT PLANNING HISTORY

- 2.01 MA/07/0103: An application for a certificate of lawfulness for an existing development being the use of the land for the stationing of a caravan –APPROVED
- 2.02. MA/07/1435: Change of use of land to the stationing of one caravan for residential use – REFUSED – 26th August 2007 on the grounds that it represented unsustainable residential development in a rural area and was unacceptable on flood risk grounds.
- 2.03 Both the above applications relate the mobile home which is the subject of the current application.

3.0 PROPOSAL

- 3.01 Retrospective planning permission is sought to retain the mobile home for residential, use by the site manager and supporting platform.
- 3.02 The following has been submitted in support of the proposal:
- The boatyard operates on a 24/7 basis throughout the year providing berths for 78 vessels with each berth in close proximity to one another.
 - The age range of boat owners is extremely wide (between 20 and 80 years of age).
 - Access to the yard by boat owners can be gained at any time with activity taking place throughout the day with owners sometimes staying overnight.
 - Accidents and incidents take place within the yard sometimes late at night requiring the emergency services to be called with boat owners falling ill or boats catching fire requiring immediate on site action to save other boats and the yard from damage.
 - The applicants are the sole key holders for emergency vehicles to the site acting in a health and safety capacity for the yard and its occupants.
 - Also provides a security presence stopping thefts and burglaries from boats with supporting statements from residents to this effect.
 - Consider a full time health and safety and security presence is required to secure the efficient and safe management of the yard which is key to the yards ongoing success and which would put its continued existence in jeopardy should it be required to cease.
- 3.03 In support of the health and safety case a health, safety and security report was submitted as part of the application and which is summarised below:
- Legislation requires boat yard operators to ensure their facilities are safe both for operatives and boat owners.
 - Site contains highly flammable substances being fuel oil along with propane, butane and acetylene with a number of potential ignition sources such as electric sockets, motors being started along with welders and grinding equipment for boat repairs.
 - The environment of a boatyard is inherently risky with the possibility of fire and explosions, falling into water and drowning along with slips, trips, falls and crush injuries.
 - The risks associated with the above are currently generally managed in an appropriate fashion with proper storage of flammable materials, lighting for access and various alarm systems.
 - Though individual boat owners are partly responsible for their own health and safety they do not have an overview and knowledge of the site in the same way as a full time management presence which could alert, provide access for and direct emergency services in the case of an incident.

- Though the site is currently reasonably secure there is uncontrolled river access and there is still potential for unauthorised access.
- Boat yards are an inherently risky environments and consider there is a clear case for a permanent manager/residential presence or security guards to deal with incidents taking place outside normal working hours

3.04 As the site lies within a flood zone the application is accompanied by an FRA which is summarised below:

- 100 year flood level plus climate change will result in a flood level of 12.72 AOD.
- Existing ground level is 11.46 AOD and current threshold level of the mobile home is 12.25 AOD.
- FRA recommends this be increased to 13.32 AOD by of a platform while the mobile home will be secured to the supporting structure.
- Applicants already sign up to the EA warning floodline along with a boat to provide access to a safe point should any occupants not respond to warnings and fail to evacuate in good time.

3.05 The applicants have also provided further information on how their flood warning and mitigation measures responded to actual events in the 2013 floods:

- Given knowledge of the river and noticing rising levels instructed boat owners not to leave the marina.
- In constant contact with EA who were monitoring the situation who advised there was no imminent problem.
- On 24th December at around 0600 hrs received flood evacuation instruction from the EA.
- Inspection of the marina revealed 4 boats with occupants inside asleep who were advised to immediately leave the site.
- After leaving site about 2 hrs later received a call from a neighbour that the area was under water.
- After 4 days returned to the site which revealed some damage to boats and outbuildings, The elevated position of the mobile home allowed floodwater to flow underneath it but it was otherwise completely untouched.
- Consider the EA warning system worked well and if applicant had not been on site the 4 persons still asleep on their boat could have been at risk as they would not have been otherwise aware of the flooding situation.
- Have since bought 3 inflatable boats to ensure speedy evacuation of the site in the event of a flash flood though such an event has never happened.
- Consider the above incident underlines the case for 24 hr management of the site which secured the safety of all persons affected by this extreme flooding event.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Adopted Local Plan: ENV28, ENV35, T19
Submission version of the Draft Local Plan: SP17, DM30

5.0 LOCAL REPRESENTATIONS

5.01 13 neighbouring properties notified – 7 representations received supporting the proposal on the following grounds:

- Though there has always been a caravan on site it was not lived in.

- This lack of security meant that boats laid up over the winter months had outboard motors and fuel stolen.
- In the flood event of 2000 the mobile home was the only structure not affected.
- In January 2007 a suspected arson attack destroyed two boats with severe damage to a third boat with both the police and fire service raising concern that the site was not managed on a 24/7 basis.
- The current situation provides greater security and should 24/7 management not be permitted anticipate a return to the former situation.
- In the evening of the 2nd March 2012 boat owner on his own was injured. Without the presence of the applicants who contacted emergency services the situation may have gone unattended making a clear case for 24/7 management of the site.
- Other marinas in the locality have suffered vandalism and theft which is not the case with Twyford Marina.
- People sleep on and occupy their boats throughout the year and having a 24/7 management presence is a key health and safety consideration.
- The site is kept in good condition and extremely well managed and anti social behaviour by boat owners or the public is regulated and controlled to the benefit of the wider community.

6.0 CONSULTATIONS

- 6.01 **Yalding Parish Council:** Have checked with the other marina in Yalding and it does not have 24 hour security. See no reason for this boat yard to have 24 security. Feel it would be completely irresponsible to allow occupation of this site which is so badly effected by flooding. Concerned this life threatening situation has been allowed to continue for so long.
- 6.02 **EA:** Have no objection to the development at this location. However as the site is situated within flood zone 3a, an area associated with a high probability of flooding a condition requiring the finished floor level of the mobile home should be a minimum of 13.32mODN should be imposed.
- 6.03 **Crime prevention and architectural liaison officer:** In view of an incident where a number of boats were destroyed by fire support 24/7 occupation of the site which would benefit boat owners and the local community. Such occupation would result in swift detection and containment were a similar situation to arise being a good crime and self-policing measure.
- 6.04 Following the health and safety report submitted by the applicants this was the subject of independent review. The key points of this assessment are summarised below:
- Under the Health and Safety Act the owners of commercial premises are required to protect the health, safety and welfare of all persons.
 - Does not question the applicants' justification for 24/7 occupation of the site which is down to them but having reviewed the information in his professional role would not require a person to be on site all times.

7.0 BACKGROUND PAPERS AND PLANS:

- 7.01 This development relates to the details shown on drawing nos. 2, 3, 4, 5, 6, 7 and 8 received on 26th April 2012, no. 1 received on 3rd May 2012 'Health, Safety and Security Report' dated the 27th June 2012, Flood Risk Assessment dated the 16th April 2012 and planning statement received the 26th April 2012 and letters dated the 1st May 2012 and 25th July 2016.

8.0 APPRAISAL

8.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires 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 policies contained with the submission version of the draft local plan. The site lies within open countryside outside and is there subject to policy ENV28 of the adopted local plan.

8.02 Policy states ENV 28 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.”*

8.03 Policy SP17 of the submission version of the draft local plan is more detailed than policy ENV28 but essentially replicates the key development restraints provisions of policy ENV28.

8.04 None of the exceptions against the general policy of development restraint in rural areas set out in policy ENV28 of the adopted local plan and policy SP17 apply to this application which therefore represents a departure from the Development Plan. In such circumstances, it falls to consider whether there are any overriding material considerations justifying a decision not in accordance with the Development Plan and whether granting planning permission would result in unacceptable demonstrable harm incapable of being acceptably mitigated.

8.05 The application is also subject to policy ENV35 of the adopted local plan relating to ALLI's which requires that landscape protection be given significant weight in determining applications.

8.06 The key issues in relation to this application are therefore principle, impact on the rural character and landscape quality of the locality and flood risk.

Principle:

8.07 It is acknowledged that planning permission has already been refused under ref: 07/1435 for the change of land to the stationing of one caravan for residential use on the grounds it represented unsustainable residential development in a rural area and was unacceptable on flood risk grounds. A key consideration therefore has to be whether there has been any material changes in circumstances justifying a different decision now.

8.09 Information in connection with application ref:07/1435 mainly referred to site security and the view taken this was insufficient to justify what amounted to a new dwelling. The applicants have since submitted further information relating not only security but health

and safety considerations as well. No flood risk assessment (FRA) was submitted either and an FRA has also been submitted as part of this application.

- 8.10 It must be stressed at the outset that planning permission is not being sought for the stationing of the mobile home which is lawful by virtue of the lawful use certificate granted under ref: MA/07/0103. Furthermore the mobile home can be used for purposes ancillary to the use of the boatyard without consent. It is only its use as a permanent dwelling for the site manager which is primarily the subject of this application. As a further comment, the use has elements of live work use. The NPPF gives support for sustainable development which minimises traffic generation and encourage elements of flexible working as is the case here.
- 8.11 As such given the stationing of the mobile home is lawful, its impact on the character of the countryside and landscape quality of the ALLI are not matters up for consideration as part of this application. Nevertheless, Members are advised that the mobile home is tucked away in a well screened location and its visual impact is almost wholly contained within the application site.
- 8.09 As such planning permission is being sought to continue use of the mobile home as dwelling in the countryside occupying an unsustainable rural location.
- 8.10 Paragraph 55 of the NPP states that:
- To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:
- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
 - where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
 - where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
 - the exceptional quality or innovative nature of the design of the dwelling.
- 8.12 The development clearly does not fall within any of the above categories. The sole justifications are therefore (a) in order to meet health and safety requirements and (b) as a proportionate response to security issues identified.
- 8.13 It is undoubtedly the case that an operational boatyard and marina, where the servicing and repair of boats is undertaken involving the use of flammable substances and heavy equipment brings its own risks. In addition, the very nature of this marina environment poses additional risks to boat owners with many opportunities for trips and falls both within cramped environment of the boats themselves and when entering and leaving the boats. Furthermore it would appear that boat owners carry out their own maintenance while some choosing to be on boats for long periods, including overnight stays bringing its own risks. Such temporary occupation (as opposed to a permanent residential moorings) is not subject to planning control.
- 8.14 Third party evidence and that submitted by the applicant supports the view that from a health and safety perspective there have been occasions where a full-time management presence on site has been of assistance to people in need whether

through injury or providing warnings of imminent flooding. Given the nature of the events that took place it is considered likely that timely assistance could only have been provided by the applicant's presence.

- 8.15 It is acknowledged the Council sought its own advice from a health and safety consultant who questioned the need for somebody to be on site all the time. Nevertheless, it is evident from the submitted evidence there have been occasions where if out of hours assistance had not been present severe harm to individuals could have occurred. This includes an event where the on-site assistance facilities ensured the safe evacuation of the site in a major flood event and persons on board boats within the arena.
- 8.16 In relation to security issues the police see a permanent residential presence as a crime deterrent. The site perimeter is reasonably secure with few access points while the site is relatively remote and well screened. As such it considered there is less of an argument based on security considerations.
- 8.17 In conclusion unless there are overruling objections to the use continuing remaining on flooding risk grounds (which will be assessed later in this report) given the inherently risky nature of the marina's operations, that human safety is a material planning consideration and evidence showing how an out of hours presence has already assisted people in need, it is considered this provides a very strong case for allowing the continuing full time occupation of the mobile home by a site manager all the while the marina remains.

Flooding:

- 8.18 The EA raises no objection to the development though it does raise several points. Firstly, it draws attention to the NPPF technical guidance which classifies the site as water compatible development referring to "essential ancillary sleeping or residential accommodation for staff required by uses in this category, subject to a specific warning and evacuation plan".
- 8.19 It also states that though the development is appropriate it should still be subject to the Sequential Test. In response to this, for the health and safety reasons and its strict association with the marina as set out above it is considered an on-site presence is justified and applying the sequential test is not appropriate to this application. Furthermore, given the nature of the site and its topography, it is considered the siting of the mobile home represents the optimum location in flood risk terms and is flood resilient subject to the appropriate measures.
- 8.20 Reference is also made to the platform to raise the development 600mm above the predicted 1% Annual Exceedance Probability (AEP) climate change flood level. The EA considers this will mitigate the risk of internal flooding and provide an area of safe refuge if prior evacuation has not been possible. It also notes the mobile home is tethered to prevent it from being washed away during a flood. It therefore considers flood risk has been mitigated as far as possible.
- 8.21 The EA also sets out concerns regarding the ability to access and egress the site during a flood event. Ground levels around the site are approximately 11.46metres above Ordnance Datum Newlyn (maODN). Under a 1% Annual Exceedance Probability (AEP) climate change flood event the immediate area could experience flooding of approximately 1.3m in depth. However, as set out in the FRA the floor level of the mobile home will be a minimum of 13.32 ODN which is achieved by a supporting

platform in line with the EA recommendations. Also the EA acknowledge the applicants already subscribe to its Floodline Warning Direct service while a boat will be available to provide a means of escape from the site which represents an appropriate evacuation plan.

- 8.22 The EA also advises that a Local Authority should formally consider emergency planning and rescue implications of new development in making their decisions. Clearly development which places the emergency services at undue risk should be avoided. However, the early warning and evacuation measures in place should ensure that no occupants remain on site requiring evacuation.
- 8.23 As such while the Parish Councils objections to the development on flooding grounds are noted, given the nature of the development in support of a water compatible use along with the flood mitigation, early warning and emergency evacuation measures set out, it is considered there is no flooding objection to residential occupation of the mobile home continuing subject to its occupation only being in connection with the marina use of the site.

Other matters

- 8.24 Reference has been made to the development being a departure from the development plan which would normally require press and site notices to be posted to this effect. However given the limited scale and impact of the proposal it is not considered to represent a material departure from the development plan requiring such measures to be put in place.

9.0 CONCLUSIONS

- 9.01 It is acknowledged that planning permission has already been refused for the development now being sought. However given the additional information that has been submitted it is considered a full time residential presence of the mobile home is now justified on health and safety grounds and while in the absence of objection on flooding grounds it is recommended planning permission be granted for a residential use in strict association with the marina. The mobile home is already approved under the 2007 use and thus the landscape or other impacts of the mobile home are not relevant matters here though it should be stressed that the visual impact of this small scale development is largely contained within the application site.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

1. The finished floor level of the mobile home shall be a minimum of 13.32mODN.

Reason: To minimise the risk of flooding.

2. The mobile home hereby permitted shall only be used as managers accommodation in connection with Twyford Bridge Marina and for no other purpose.

Reason: To reflect the special circumstances of the development.

3. The flood warning and evacuation measures set out in the flood risk assessment dated 16th April 2012 and letter dated the 25th July 2016 shall be maintained at all times in accordance with the submitted details.

Reason: In the interests of public safety.

4. The development hereby approved shall remain as shown on drawing nos: 2, 3, 4, 5, 6, 7 and 8 received on 26th April 2012 and no. 1 received on 3rd May 2012.

Reason: In the interests of amenity.

INFORMATIVES

General

The River Medway is a designated 'main river' and under the jurisdiction of the Environment Agency for the purposes of its land drainage functions. Written consent is required under the Water Resources Act 1991 and associated Byelaws prior to the carrying out of any works in, over, or under the channel of the watercourse or on the banks within eight metres of the top of the bank, or within eight metres of the landward toe of any flood defence, where one exists. For maintenance reasons, we will not normally consent works which obstruct the eight metre Byelaw Margin.

Pollution prevention

All precautions must be taken to avoid discharges and spills to the ground. For advice on pollution prevention, the applicant should refer to our guidance "PPG1 – General guide to prevention of pollution", which is available on the Environment Agency website.

Note to Applicant

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

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

Following clarification and amendment of the submitted details the application was acceptable

Case Officer: Graham Parkinson

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.



16/503665 85 Murrain Drive

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REPORT SUMMARY

REFERENCE NO - 16/503665/FULL		
APPLICATION PROPOSAL Two-storey side and rear extension		
ADDRESS 85 Murrain Drive, Downswood, ME15 8XN		
RECOMMENDATION - GRANT SUBJECT TO CONDITIONS		
SUMMARY OF REASONS FOR RECOMMENDATION <p>The proposal is considered to preserve the character and appearance of the Street scene and residential amenity and to comply with the Development Plan. There are no overriding material considerations to indicate a refusal.</p>		
REASON FOR REFERRAL TO COMMITTEE <p>The recommendation is contrary to the views of Downswood Parish Council, who have requested Committee consideration.</p>		
WARD Downswood & Otham	PARISH/TOWN COUNCIL Downswood	APPLICANT Mrs H Soupe AGENT Coteq Ltd
DECISION DUE DATE 05/07/16	PUBLICITY EXPIRY DATE 07/06/16	OFFICER SITE VISIT DATE 13/10/16
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): None specific.		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 This application relates to a semi-detached dwelling, which is located at the end of Murrain Drive, a cul-de-sac, within the defined urban area in the local plan. The dwelling is set well back from the turning head at the end of the road.
- 1.02 The Street scene is characterised by semi-detached two storey dwellings, with staggered building lines and generally small plots.

2.0 PROPOSAL

- 2.01 Planning Permission is sought for the erection of a two-storey side and rear extension. The extension would create an enlarged kitchen, WC and store upon the ground floor and to the first floor, an existing bedroom and bathroom would be enlarged and an additional bedroom created, to give a total of 4 bedrooms.

- 2.02 The existing small front lawn would be block paved to accommodate a second parking space.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Wide Local Plan 2000: H18
Submission Version of the Maidstone Borough Wide Local Plan (2016): DM1, DM8, DM27
Supplementary Planning Guidance 'Residential Extensions'

4.0 LOCAL REPRESENTATIONS

None received to date.

5.0 CONSULTATIONS

- 5.01 Downswood Parish Council: objects to the application on the grounds of size. "In particular, the rear extension is too large for the plot and virtually eradicates all of the garden". The parish council request that the application be called to Planning Committee if the officer recommendation is for approval.
- 5.02 The Parish Council were advised of the officer recommendation for approval and the reasons for this recommendation, however they still wished to maintain their objection.

6.0 APPRAISAL

Visual Impact

- 6.01 Policy H18 of the local plan requires that house extensions be of a subordinate scale to, and do not harm the character of, the original property and that they preserve the character and appearance of street scenes.
- 6.02 In this case, the proposal is considered clearly subordinate to the existing dwelling. It would be set down from the main ridge by approximately 0.8 m and set back from the front facade by around 3 m, which would ensure that it is wholly subservient to the existing house.
- 6.03 The design of the first floor would be sympathetic to the existing house. It would maintain a gabled roof design with the same pitch as the main roof to the side extension and windows would be in keeping with the existing property. The area of flat roofing to the ground floor would be of a small scale and not prominently located in the Street scene.
- 6.04 The Parish Council have objected upon the grounds of size, focusing on the impact upon the garden. However, as they were advised, there is no minimum garden size policy, therefore, there is no grounds for refusal on this basis. Moreover, the block plan shows that a usable garden area of around 8 to 10 m would remain, which is considered to retain a satisfactory living environment. In my view, the extension

would be of a scale which is not at all unreasonable in a built-up area such as this and it would have a satisfactory visual appearance.

- 6.05 The SPD “Residential Extensions” requires a gap of 3 m to be retained between neighbouring buildings at first-floor level and the proposal would accord with this requirement, as a gap of around 3 m would be retained. Also, because of the staggered layout of the street, existing gaps do not in any case make a strong contribution to the character of the Street scene, because they are generally only visible in short range views.
- 6.06 The loss of the front garden area to parking would be in a location which, again, due to the position of the plot, has very limited visibility in the Street scene and it is not considered of a scale to result in significant visual harm.
- 6.07 It is concluded that the visual impact of the development would comply with policy H18 of the local plan and the aims of the SPD “Residential Extensions”.

Residential Amenity

- 6.07 The proposal is not considered to cause significant harm to any of the surrounding properties in terms of residential amenity.
- 6.08 In terms of light and outlook, there would be no significant harm to any neighbouring property it is considered. Number 83 is set back from number 85 and the proposed extension would only marginally project beyond the rear of number 83, plus number 83 is also situated upon higher land. The development passes a BRE loss of light test, as referred to in the residential extensions guidelines for number 83 and would not result in significant harm to light or outlook for that property.
- 6.09 Turning to number 87, the development would only extend by approximately 2 m to the rear of the existing house on site at first-floor level and it would be set in by approximately 2.5 m from the boundary with number 87. It is noted that number 87 also has a single storey rear extension alongside the boundary with the site. The extension passes a BRE loss of light test for number 87 as well and is not considered to result in significant harm in terms of light or outlook to this property either. The properties to the rear are located a reasonable distance away. Therefore, due to the scale of the extension, its siting, its separation from surrounding properties and the orientation and land levels in respect of number 83, they are not considered to be any significant light or outlook issues for any neighbouring property.
- 6.10 New fenestration at ground floor level would not be in a position to create significantly new views over neighbouring properties. The first-floor flank bathroom window can be conditioned to be obscure glazed and the rear window would be sufficiently separated from properties behind to prevent significant overlooking, plus views from the proposed rear bedroom would be similar to views from the existing rear bedrooms.
- 6.11 It is noted that no objections have been received from any of the neighbouring properties. It is concluded that the development would comply with policy H18 of the local plan and the aims of the SPD “Residential Extensions” in terms of its impact upon residential amenity.

Parking

- 6.12 Two spaces would be retained, which is considered sufficient for a 4 bedroom dwelling in this urban location, which is close to public transport links. This also accords with the emerging parking standards in the emerging local plan.

7.0 CONCLUSION

- 7.01 The proposal is considered to preserve the character and appearance of the Street scene and residential amenity and to comply with the Development Plan, and the aims of the Supplementary Planning Document "Residential Extensions". There are no overriding material considerations to indicate a refusal. Approval is therefore recommended.

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:

Drawing numbers 00001 Rev A received on 10/05/16 and 00002 Rev A-WIP received on 27/04/16;

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

- (3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building;

Reason: To ensure a satisfactory appearance to the development.

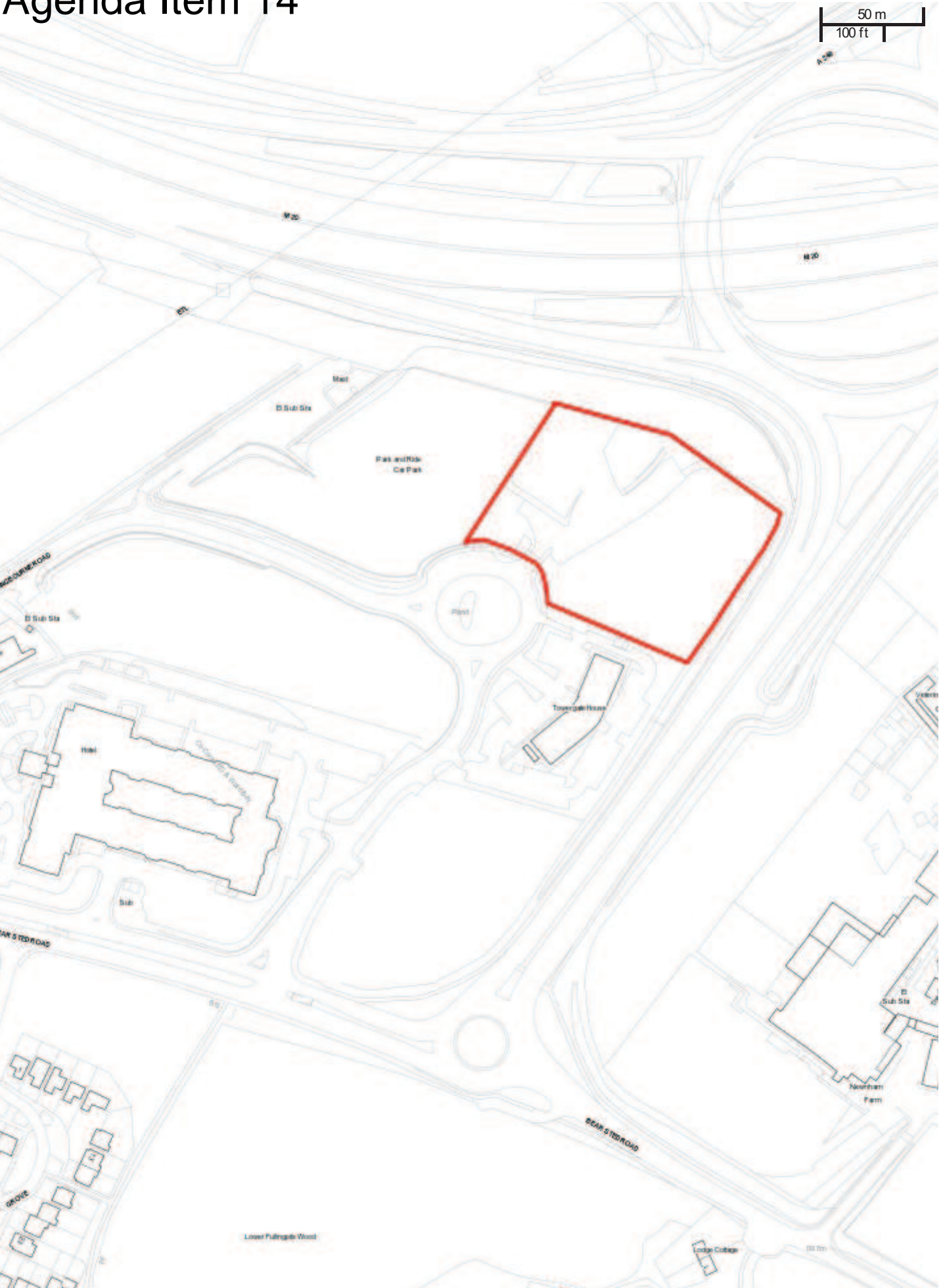
- (4) Before the development hereby permitted is first occupied, the proposed bathroom window to the side elevation shall be obscure glazed and shall be incapable of being opened, unless the part which opens is at least 1.7m above the finished floor level of the room in which it is installed and it shall subsequently be maintained as such;

Reason: In order to provide a satisfactory living environment.

Case Officer: Louise Welsford

- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

Agenda Item 14



REPORT SUMMARY

REFERENCE NO - 16/503863/FULL		
APPLICATION PROPOSAL Construction of a Class A1 Retail Foodstore and associated servicing, parking, landscaping and access arrangements		
ADDRESS Plot 9 Eclipse Park, Sittingbourne Road, Maidstone, Kent		
RECOMMENDATION Grant planning permission subject to a suitable legal agreement.		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development is considered to conflict with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and Maidstone Borough Council (Submission Version) Draft Local Plan but there are overriding material planning considerations justifying a grant of planning permission, subject to the imposition of recommended conditions and a legal agreement.		
REASON FOR REFERRAL TO COMMITTEE <ul style="list-style-type: none"> • Major application contrary to the development plan • Councillor Harwood has requested that the application is referred to Committee. 		
WARD Boxley	PARISH/TOWN COUNCIL Boxley	APPLICANT Waitrose Ltd and Gallagher Properties Ltd AGENT MDA
DECISION DUE DATE 3 rd August 2016	PUBLICITY EXPIRY DATE 21th October 2016	OFFICER SITE VISIT DATE Various
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		

A Park and Ride car park was granted planning permission on the site in 1998. A 3 year temporary extension to the Park and Ride car park was approved in February 2009. This permission approved an increased total parking provision at the site for 589 car parking spaces. The permission has now expired and the Park and Ride facility closed.

The entire Eclipse Park site was granted outline planning permission for B1 (office and light industry) and B2 (general industrial) uses in 2002, which limited the amount of B1(a) Office accommodation to 40%.

In 2011 the above restriction was removed allowing unrestricted B1 and B2 of Eclipse Park in accordance with the outline planning permission.

Reserved matters were approved for plots 6, 7 and 8 in June 2008 for B1 office. In addition, a new one-way 'in' access road from Bearsted Road was granted full planning permission

Outline planning application for a B1a office building (for Towergate) was granted planning permission in January 2009. Access was considered in full detail which approved a new two-way access into Eclipse Park off Bearsted Road. More recently a further application was approved in April 2011 to renew the 2009 outline permission for B1(a) offices. This permission extended the period for which reserved matters can be submitted up to 5 April 2014. This renewed permission included a revised condition 5 which related to a schedule of proposed transport improvement works. This variation amended these works to match those contained within an outline planning permission under reference MA/09/1784 for the proposed hotel. The varied condition also allowed these works to be implemented ahead of the submission of outstanding reserved matters. The works to create the signalised junction onto Bearsted Road were completed in 2013.

In 2011 Outline Planning Permission approved for a 150 bed hotel on the site immediately adjacent to the application site. The last Reserved Matters relating to Wildlife Ponds (Condition 1) and Materials (Condition 5) was approved by the Council on 07 April 2016. The consent is currently extant.

Planning Permission was granted in October 2013 for the creation of a stand-alone A1 retail unit to be occupied by Next Home. The permission was subsequently implemented, and the store opened for trading in late 2014.

Finally, Planning permission was granted in September 2014 for the formation of six parking bays and the installation of six supercharged electric vehicle charging points for Tesla

MAIN REPORT

1.0 SITE DESCRIPTION

Wider Eclipse Park area

- 1.1 The application site comprises 1.489 hectare site to the north eastern corner of Eclipse Park in Maidstone, Kent, and forms part of the wider Eclipse Park masterplan area. The eastern part of the site is currently vacant, while the western part previously accommodated the Sittingbourne Road Park and Ride facility.
- 1.2 The site forms part of the wider Eclipse Park which is located to the north of Maidstone Town Centre and south west of Junction 7 of the M20 Motorway. The site is accessed via the Chiltern Hundreds roundabout off Sittingbourne Road to the west, with a second entrance located off Bearsted Road to the south.
- 1.3 Eclipse Park currently comprises four office buildings occupied by DHA Planning, ASB Law, Towergate Insurance and DSH Accountants. These buildings are mainly four storeys in height and are individual in their design, utilising a range of modern materials. The site also accommodates a stand-alone retail unit which is occupied by Next Home. The unit, which was granted permission in 2013 opened at Eclipse Park in late 2014.
- 1.4 The five-storey Towergate Office block lies immediately to the south of the application site, beyond which lies the three storey Next retail unit. The site immediately to the west of the site, also forming part of the previous Park and Ride site, has planning permission for a 150 bed hotel and will extend to six storeys in height. The site also accommodates 6 charging points, which are located on the western side of the site.

- 1.5 There is a small group of trees located towards the north of the site which are protected by a Tree Preservation Order (TPO). These trees are proposed to be removed.
- 1.6 Within the wider area, Newnham Court Shopping Village, which includes a range of shops, cafes and restaurants, lies on the opposite side of the A249 Sittingbourne Road to the east. The residential areas of Grove Green, Vinters Park and Penenden Heath lie beyond to the east, south and west respectively.
- 1.7 To the West of the site lays another undeveloped area which has the benefit of planning permission for a new 6 storey, 150 bed hotel. (Planning reference MA/14/0440). North of the existing Hilton Hotel is a site with outline planning permission for 3 office buildings. In the South-East corner of Eclipse Park is the recent development for a new Next Home store.
- 1.8 The application site rises from its South-West corner, where the new access is proposed off the estate road roundabout. To the North is the motorway embankment which rises before sloping down to the London bound slip road.

2.0 PROPOSAL

Supermarket

- 2.1 The application seeks permission for a single stand-alone retail unit, which will be occupied by Waitrose. The application also includes the provision of 284 car parking spaces and associated landscaping as well as access and servicing arrangements.
- 2.2 The proposed new Waitrose is to be located in the north-east corner of Eclipse Park business park, with the M20 situated to the north and Junction 7 to the north east. To the west of the site is open land which forms park of Eclipse Park, with planning permission for a hotel. To the south of the site is the Townergate office block, with undeveloped land with planning permission for offices to the south west. The A249 is immediately to the east of the site, running north to south. The building is situated on the east side of the site, with the access road from the south west and a surface car park taking up the remainder of the site.
- 2.3 Within the site the store is to be situated on the eastern side of the site, adjoining the A249 and Junction 7 of the M20. The car park is to the west of the store with vehicle and pedestrian accesses provided from the south. The entrance door to the store itself is on the north western corner, with a covered walkway providing an attractive elevation to the carpark and access for pedestrians. This principal elevation is glazed to allow views into the store from the car park and vice versa.
- 2.4 The proposal is designed with the tip of the building elevations being clearly visible from both the A249 and M20 slip road/roundabout with a prow feature that stands proud of the general elevation. This visible feature is designed to announce the Waitrose store, creates a location reference for all road users and an identity to junction 7 of the M20.
- 2.5 Following a pre-application process the following issues are addressed in the proposed design:

- *Location of access into the site and separation of service vehicle and customer car movements* – the proposed access points are separated and the service road does not form part of the customer entrance.
- *Use of locally sourced rag stone within the principal elevations* – Kentish Ragstone has been designed into the elevations and used as a protective plinth below the shopfront windows.
- *Increased prominence of the store at the North-East corner to create a landmark/recognisable feature at the M20 Junction 7 roundabout* – the design for this important public focus of the building has been addressed creating a ‘prow’ feature that sits proud of the building. This feature gently slopes down in parallel to the A249 and slip road. Parapet cladding to each side then slopes back down to the general frontage level. The slope of the general wall line is then mirrored in the angle of the main front canopy design. This raised feature section will provide a strong building identity and a visual reference from both the M20 approach and A249 together with simple and strong signage (see Figures 3 and 4).
- *Consider potential views across the roof scape from the A249* – the raised parapet wall and lifted feature prow shield views of the roof and plant. Planting along the highway boundary will be retained and reinforced providing further screening of the service area.
- *Ensure that the southern elevation is attractive to customers* - this elevation is visible to customers arriving at the site on foot and by car (see Figure 5) therefore it should be animated. The shopfront glazing and Kentish Ragstone plinth rounds the corner of the store onto this elevation and allows views into the store. A full height Ragstone panel creates an end to the South West feature corner leaving the remainder of the elevation less articulated and therefore less customer focused.
- *Consider views from AONB* – the view of the site from Detling Hill is not discernible.

Local Highway Network

- 2.6 Eclipse Park has good transport links, namely the M20 Junction 7 to the north and good access to the local distributor network, particularly the A249.
- 2.7 Eclipse Park is served by two junctions with Bearsted Road; the western most being Sittingbourne Road formed by a left-in-left-out arrangement to the east of the Chiltern Hundreds public house, and to the east a traffic signalised all movements junction installed in 2012/13.
- 2.8 Bearsted Road runs in an approximate north-west / south east direction, linking the settlements of Bearsted and Weaving. To the east of the site it links with the A249 at the Bearsted Road roundabout, the A249 then heading north eastwards to M20 Junction 7. The route runs through the heart of Maidstone town centre, and links with M20 Junction 7 and M2 Junction 5.
- 2.9 The link between the Bearsted Road / M20 link roundabout and New Cut is single carriageway with a footway on the north side wholly along this link length, the southern footway only existing between the Crematorium westwards to the Bearsted Road roundabout. A signalised Pelican type crossing is installed to the west of the Crematorium access. The access to Newnham Court is formed off this link via a left-in-left-out junction, as is the access serving the crematorium to the south.
- 2.10 The link with the M20 is via a dual carriageway road. Junction 7 is formed of four main arms; both coast and London bound slips to the M20 and the A249 north and south arms. ‘Free flow left’ slips are provided to the London bound on slip and coast bound off slip. Three lanes are provided to the east side of the circulatory gyratory,

with two lanes on the west. The approach from the A249 on the north side of the junction is three lanes wide at the give way. The Eclipse, and KIMS development proposals recently assisted in providing mitigation at this junction, taking the form of a 'tiger tail' scheme on the M20 coast bound off slip.

- 2.11 The link between the Bearsted Road roundabout westwards to the Chiltern Hundreds Roundabout is dual carriageway. The Chiltern Hundreds roundabout junction is a three arm arrangement, with a signal 'sheep pen' pedestrian crossing on the southern arm which flares to two lanes in both directions. The Eclipse Park arm of the junction is offset as a left-in-left-out arm to the east of the roundabout, with a bus only exit onto the roundabout formerly used by the Park and Ride service. The Eclipse Park Plot 4 scheme changes to this junction undertaken in 2012 included widening of the east-bound Bearsted Road exit.

Bus Services

- 2.12 Bus services do not currently route through Eclipse Park and the nearest bus stops are over 400m from the site on Hampton Road. In order to achieve more convenient access, the applicant has proposed to provide a new pair of bus stops on Bearsted Road to the east of the Hilton Hotel access. The new stops will reduce the walking distance to around 300m and will therefore improve accessibility to public transport. It is proposed that these bus stops provide shelters and real time information systems to make bus travel as convenient and practical as possible. It is understood that the applicant has the agreement of the operator, Arriva, that the bus stops will be used by the no. 333/334 services. These services run between Maidstone town centre and the towns of Sittingbourne, Faversham and Sheerness and collectively provide a typical 30 minute daytime frequency Monday to Saturday. It should be noted that the current timetabling of these services is much more limited in off-peak evening and Sunday periods, when some staff/customers would seek to travel to/from the food store. A further bus stop is proposed on the roundabout directly adjoining the site.
- 2.13 A sheltered bus stop is provided to the south on Bearsted Road where the number 88 can be accessed providing services to Grove Green, Penenden Heath, Maidstone and Kings Hill.

Rail Services

- 2.14 The site is within 2 kilometres of Maidstone East Station and Maidstone Barracks Station.

Pedestrians

- 2.15 The existing local walking network offers access to the site on foot. The site lies within walking distance of the nearby local residential areas at Vinters Park, Grove Green, Bearsted and Penenden Heath. Footways from the site to these areas are provided on all routes including Bearsted Road, New Cut Road, Hampton Road, Sittingbourne Road and Penenden Heath Road. On each of these routes, the provisions of footways are to a reasonable standard, with crossing facilities and street lighting provided.

Cyclists

- 2.16 The site has cycle direct links into Maidstone via Hampton Road and to the north via the A249. Maidstone town centre lies approximately 2.5km from the site and is well within an easy cycle distance. In addition, the majority of the urban area of Maidstone is within a 5 kilometre distance which provides a comfortable cycling distance to the site. Locally the site has a network of implemented or committed cycleways, which adjoin the existing facilities.

- 2.17 It is the applicant's position that the proposal's impact on the local highways network is not significant for the following reasons:
- It should be compared with the previous park and ride use of the site;
 - The majority of trips to the store would be made outside peak hours or would be journeys already being made;
 - Revision in highways models reduce the amount of traffic previously anticipated.

3.0 POLICY AND OTHER CONSIDERATIONS

- 3.1 The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough-Wide Local Plan 2000: ENV6, ENV8, ENV49, ED1, T1, T2, T3, T13, T17, T21, T23, R1, R2, R3, R10, ED1
Maidstone Borough Council (Submission Version) Draft Local Plan: SS1, SP1, SP4, DM1, DM2, DM3, DM4, DM5, DM7, DM17, DM18, DM20, DM21, DM24, DM25, DM27, DM28, ID1.
- 3.2 The Council has recently finished its Regulation 19 consultation on the submission version of the draft Local Plan and representations from that consultation are currently being assessed at the Examination in Public (EiP). The emerging plan is a material consideration and carries significant weight.

4.0 LOCAL REPRESENTATIONS

- 4.01 A site notice was displayed at the site on 20th May 2016 and expired on 10th June 2016. The proposal was advertised as a proposal contrary to the development plan on 30th September 2016 and expires on 21st October 2016.
- 4.02 Three objections from local residents have been received which are summarised below:
- Will harm road safety, inadequate bus frequency, inadequate local pavements, inadequate car parking availability causing pressure on existing nearby residential properties, increase in traffic congestion, and cumulative impact of construction traffic with nearby approved development.
 - Will harm Maidstone town centre's retail function; inadequate assessment of sequential impact upon existing retail, conflicts with submitted local plan B1 office designation, negative impact upon road capacity, unsustainable location.
- 4.03 A local bus company have objected on the basis that the proposal does not provide adequate bus access to the site.
- 4.04 One local resident has written in support of the application on the following grounds:
- The current store is inconvenient for a lot of Maidstone residents.
 - Waitrose stores are good for the local economy and community. It is proposed in an area to cause little or no disruption, and at the same time create much needed good quality jobs.
- 4.05 Cllr Harwood has made a number of comments concerning: sustainable transport, sustainable design and construction, landscape and use of native species, SUDs, protected wildlife, traffic generation and impact on the town centre.

4.06 Planning Consultants Martin Robeson has objected to the proposal on behalf of Tesco Stores Ltd, on the following grounds:

- The proposal fails to meet the retail sequential and impact tests of the NPPF;
- The proposal conflicts with employment policy of the adopted Local Plan and Submission Local Plan

5.0 CONSULTATIONS

5.01 **Boxley Parish Council:** Do not wish to object but have the following concerns;

- The proposed landscaping should include indigenous trees and planting and designed to be wildlife friendly.
- The size and nature of the roof makes it visible from the AONB and so a green roof should be used.
- Buses should actually enter the site to serve the store and surrounding buildings rather than have a bus stop on Bearsted Road.

5.02 **KCC Highway Services :** Initially objected on the basis of the impact of the proposal on local roads is likely to increase congestion which would not be mitigated, specifically:

- to evening peak hour traffic capacities at the Chiltern Hundreds roundabout, the Eclipse Park signal junction on Bearsted Road, the Bearsted Road (Next) roundabout and the New Cut roundabout.
- Allied to this are queries around the base data used to underpin the study, including traffic growth, food-store trip rates and Park and Ride offset. A further query on powered two-wheeler parking is raised.

This objection was withdrawn on 4th October 2016 following further dialogue, and KCC Highways are now content with the proposal as a whole, with the following provisos:

- It is noted that the westbound bus stop is proposed to include passenger waiting facilities and a half width layby to assist movement towards the town centre. Clarification is required on whether passenger waiting facilities can also be provided at the eastbound stop given that some passengers may wish to travel in this direction on departure.
- The applicant has also proposed to provide a lay-by within Eclipse Park in the vicinity of the store. This is welcomed, as it retains the future potential for bus services to serve the store more directly. Although not shown on the Site Layout Plan, it will be important for the bus stop to have a direct footway connection to the store.
- There should be a greater provision of parking on site for powered two wheelers (PTW), from 6 to 12 spaces.

It is proposed that these remaining issues are address via condition.

5.03 **MBC Economic Development** have written in support of the proposal and made the following points:

- The proposed site for the Waitrose is largely located on the former Park and Ride site. Once completed, the development will provide up to 200 new jobs, with approximately 70 full-time equivalents. When a composite multiplier is applied to the anticipated job creation for the store, this employment figure rises to 242. The construction and fit out period will generate a further 200 employment opportunities, whilst the retention of the Waitrose store at Allington will safeguard existing jobs. Data published by the Office for National Statistics indicates that in

August 2016 there were 1,240 residents of working age in unemployment, of which 285 were aged 18-24. This is the fourth highest unemployment rate in Kent in this age category. Waitrose has showed an initial commitment to establish links with Jobcentre Plus to give employment opportunities to local residents, with a focus on the long term unemployed, as well as a corporate business model that supports apprenticeships and management training programmes. The employment opportunities enabled by this development support the realisation of the economic forecast on which the Local Plan is based, of 14,400 new jobs in the borough by 2031.

- Other benefits of the development should also be considered. Using local supermarkets of similar size and composition as a basis for comparison, the siting of the Waitrose development is likely to generate in the region of £620,000 business rates. Maidstone Borough Council is a member of the Kent Business Rates Pool, allowing the retention of a share of any uplift in business rates to support economic development initiatives within the borough.
- Granting of this application would provide Maidstone with significant investment on a key employment site that has to date failed to generate the level of interest anticipated.
- Maidstone Borough Council, in partnership with Kent County Council has recently purchased the Former Royal Mail Sorting Office site, Maidstone, adjacent the Maidstone East Commuter car park. The Councils are working together with South Eastern Railway and Network Rail to achieve the comprehensive mixed use development of the two sites in line with the Local Plan submission draft Policy RMX1 (2) including retail, residential, offices and other town centre uses. The Councils are in the early stages of master planning to determine a viable mix of uses, massing and density etc... and associated highway implications. Importantly whilst Network Rail supports the Councils approach, the necessary approvals and consents have yet to be obtained. In the short term a temporary planning application has been submitted on 14th October 2016 on Former Royal Mail site for its use as a car park with charitable lettings in the buildings.
- A Waitrose could provide the anchor for the site as part of a mixed use comprehensive design, subject to viability, but the site is in two different ownerships (Network Rail and MBC/KCC) and as yet there is no agreement with Network Rail to be able to offer the market a single site or designs to show what uses would sit around it. As a consequence the site is not available for equivalent retail development at this point in time.
- The application is supported by Economic Development service.

5.04 Natural England:

Have no comment to make advising it is for the Local Planning Authority to determine whether the application is consistent with national and local policies on the Natural Environment.

5.05 MBC Landscape:

Had the following comments:

- A group of trees on this site are protected by Tree Preservation Order (TPO) No. 32 of 2008. Group G1 comprises eight hybrid Black Poplar trees, one Field Maple, one Oak, one Sweet Chestnut and one Sycamore. These trees are proposed to be removed. I have already considered the report on trees produced by Simon Jones Associates dated March 2015 in the context of pre application advice dated 27 April 2015.

- Following this advice, the applicant's Landscape Architect sought further advice on a proposed tree replanting scheme to mitigate the loss of the protected trees. The proposal was to provide informal car park tree planting through the provision of a triangular wedge of trees comprising an informal mix of large and small sized species with spacing varying between 7.5m and 12.5 metres, planted in 3 tree planting trenches underneath the permeable paved parking bays, which the trees would share. The problems encountered in the Next scheme were considered and it was proposed that cast iron gratings should be avoided in favour of resin bound paving and fewer concrete foundations (a number of the concrete kerbs and their associated haunchings have moved and failed in the Next car park). It was also considered that as retaining structures were likely to be required around the site they should be 'softened' with trailing/climbing plants. The general intentions of these proposals appear to have been incorporated into the landscape scheme. Please note though that, whilst a variety of different tree species were considered in outline in relation to mitigation, the detailed landscape proposals with shrub planting were not discussed at that stage.
- In terms of the consultation response provided by Cllr Harwood, I have previously advised the Landscape Architect that the tree species needed further consideration and had already made a number of suggestions including the removal of *Tilia x euchlora* (because of its narcotic effect on bees) and the inclusion of *Carpinus betulus*. Having now seen the landscape proposals in their entirety, I would agree with the principles of Cllr Harwood's comments on tree and shrub planting. The only thing I would disagree with is the inclusion of *Populus tremula* in the tree planting scheme.

5.06 **KCC Drainage:** No objection subject to standard condition.

5.07 **Maidstone Borough Council Environmental Health Manager:** No objections. Suggested conditions on hours of construction.

5.08 **Southern Water:** No objection. Standard conditions suggested.

5.09 **KCC Drainage:** No objection. Standard conditions suggested.

5.10 **Highways England:** No objection.

5.11 **UK Power Networks:** No objection.

5.12 **Medway Council** have objected to the proposal on the following grounds:

- The proposal is not consistent with the Local Plan Policy to direct retail growth to the town centre;
- The proposal has the potential to have an adverse impact upon Medway's identified retail hierarchy namely Chatham City centre, Gillingham and Hempstead Valley;
- The proposal is not sustainable;
- The detailed supporting evidence on the retail impacts is out of date and do not cover the relevant geographic areas.

6.0 BACKGROUND PAPERS AND PLANS

6.01 The development proposals are shown on drawing numbers

- 3552/P01
- 3552/P002

- 3552/P003
- 3552/P101
- 3552/P201
- 3552/P301
- 15-55-PL-201 Rev A
- 15-55-PL-202 Rev A
- 15-55-PL-203
- 15-55-PL-204

6.02 The application is supported by the following documents:

1. Planning and retail Statement
2. Design and Access Statement
3. Transport Assessment and Travel Plan
4. Sustainability and Energy Statement
5. Ecological Site Assessment
6. Landscaping Assessment
7. Aboricultural Survey
8. Flood Risk Assessment and Drainage Strategy
9. Phase 2 Site Investigation Report

7.0 APPRAISAL

Weighting of considerations and 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.

7.02 Paragraph 216 of the NPPF states that,

"From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."*

As a matter of judgment in relation to these criteria, including the advanced stage of the Submitted Local Plan, currently at Examination in Public, I consider that it has significant weight.

7.03 In terms of other material considerations, the National Planning Policy Framework (NPPF) is a key consideration, in particular 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, given that Policy ED1 is considered to be out of date as it seeks to limit the site to B2 uses, a position which is not consistent by the evidence provided for the submitted local plan. The NPPF also underlines the Government's commitment to securing economic growth, and to ensuring that the planning system supports sustainable economic growth. It provides that significant weight should be placed on the need to support economic growth through the planning system (NPPF paragraphs 18-19). Clearly the NPPF does though need to be read as a whole.

Employment

- 7.04 Policy ED1 of the MBWLP 2000 allocates the site for employment purposes (B2), but does not seek to retain the site for B2 class uses. Policy ED4 (which is not saved policy) sought to promote the site for B1 and B2 uses, thus, at the time allowed a greater range of employment uses than ED1, which supported the subsequent B1 permissions on the site. The current retail proposal is not considered to be a B class employment proposal and, as a consequence, this application represents a departure from the Development Plan. Notwithstanding this, in such circumstances it falls to be considered whether there are any overriding material considerations justifying a decision not in accordance with the Development Plan.
- 7.05 The new Local Plan has advanced and was submitted to the Secretary of State for examination on the 20 May 2016. Under policy DM21 the emerging plan designates Eclipse Park as an Economic Development Area for use class B1. However, this proposal is not for a use class B1 use.
- 7.06 The 2000 MBWLP B2 employment allocation has not been sustained in the granting of planning permissions for subsequent uses on the Eclipse Park site including B1 offices, Next retail, a park and ride facility and a hotel. Policy ED4 did allow B1 and B2 uses, but is no longer applicable. Given such circumstances reduced weight should be given to adopted policy on the basis that this has not been consistently upheld by past decisions.
- 7.07 The applicant has submitted extensive material showing the interest of the market in Eclipse Park over recent years. Notwithstanding the Council's evidence regarding B1 uses on the site provided in support of the submission draft local plan, the applicant's evidence shows limited demand for B1 offices and other employment uses. Combined with the lack of up-take of the three permitted office buildings in the centre of Eclipse Park, and the absence of a reasonable prospect of the site being taken up for or used for B1 (or B2) use in the medium term, I consider that the current application falls within the exception of Clause 3 of Policy DM21, which states:
"Within designated Economic Development Areas, change of use or redevelopment of a site or premises to non B class uses will not be permitted unless it can be demonstrated that there is no reasonable prospect of their take up or continued use for the designated uses in the medium term".
It is also relevant that the application proposes up to 200 jobs providing employment, and maintaining the overall employment capacity of the site. It is considered that the wider benefits of the scheme outweigh the loss of designated employment land.

Retail Impacts

- 7.08 The likely impact of the proposal on existing and potential retail sites is a major consideration.
The site is considered to be out of centre for the purposes of retail assessment. Maidstone Boroughwide Local Plan polices R3 (Maidstone Town Centre), R10

(protection of district and local centres), R15 (restriction on further large supermarkets) apply.

- 7.09 *NPPF 24. Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.*
- 7.10 NPPF paragraph 26 states *When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:*
- *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
 - *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.*
- 27. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.*
- 7.11 Retail policy: DM 17 of the submitted local plan seeks to protect the town centre's retail function and encourage main town centre uses in an existing centre unless:
- 1 i) there is no suitable site within the town centre or the edge of the town centre and the proposal is located on an accessible out of centre site, and
 - ii) it would not have a significantly adverse impact on the vitality and viability of the existing centre or undermine the delivery of an allocated site for such a use and
2. The non-town centre proposal should improve sustainable transport routes to the centre.
- Policy DM18 seeks to maintain and enhance existing retail function and associated community uses of defined district centres. The district centres most likely to be affected by the proposal are the Mid Kent Centre, Castle Road, Allington and Grovewood Drive, Grove Green.
- 7.12 The planning application has been accompanied by a retail impact assessment which covers the following aspects:
- Retail sequential test (the assessment of the suitability of alternative sites);
 - Retail Impact (the assessment of the likely impact of the proposal on relevant existing retail concerns)
 - Design Year (the year at which measurement of the impact of the proposal should begin);
 - Population forecasts (to assess likely demand)

- Household interviews (to assess likely demand)
Retail forecasts Trade diversions (to estimate the amount of trade from existing concerns that the proposal may affect).
- 7.13 The Council has employed retail consultants, Cushman and Wakefield, to advise it. There has been considerable dialogue between the council's consultants and the applicant's agent, to seek a common understanding of the likely effects on the proposal upon the above issues. A substantial amount of progress has been made but considerable differences of opinion remain.
- 7.14 The applicant's consultants' concluding view is provided as Appendix 1.I have summarised the position on the relevant retail issues as follows:
- 7.15 **Household Survey Reliability** - While there remains some difference of opinion in terms of methodology, it is the trading performance of the assessed stores which is of most significance. In that respect there is little difference in the assessment of the performance of the relevant stores by the respective consultants.
- 7.16 **Retail Commitments/sequential test**
Under NPPF paragraph 24, for town centre uses that are not in an existing centre and are not in accordance with an up-to-date development plan, alternative sites should be assessed. Only if suitable sites are not available should out of centre sites be considered.
Both consultants have agreed that the following alternative sites should be considered:
- Baltic Wharf – listed former factory, out of town centre for retail purposes, granted convenience retail planning permission on appeal in 2014;
 - Former Sorting Office, Maidstone East – edge of town centre, allocated for mixed uses including retail in Submitted Local Plan.
- 7.17 I consider that other assessed sites are not suitable, including Len House; Former TJ Hughes, The Mall; Former Summerfield and Multi-storey Car Park, King Street. The applicant's consultants consider that there are no suitable alternative sites and that the proposal conforms to the sequential test.
- 7.18 I agree that Baltic Wharf is unlikely to come forward in its current consented form given the lack of implementation of the existing retail consent and site constraints. These were put forward by the Council's consultants at the Baltic Wharf appeal:
"We maintain (as per the evidence of Jonathan Baldock for and on behalf of MBC at the Powerhub Appeal) that the Powerhub site is very unlikely to attract a food/non-food superstore operator given its very secondary location in commercial retailing terms. The site is much too compromised, as follows...
- *The store would be at second floor level;*
 - *It would have multi-storey car parking underneath;*
 - *The river is between the store and the main roads from which it can be seen;*
 - *Car access from any main road is indirect;*
 - *The site is not on any bus routes and there are no bus stops nearby;*
 - *The pedestrian routes to the town centre shopping and services are long, indirect and unattractive; and*
 - *The store would be in a listed building."*

As a consequence I consider that the site is not suitable for substantial retail use.

- 7.19 In terms of Maidstone East, there has been some progress and the site has been recently purchased by MBC and KCC. However, the stalling of a 2014 application on the site which includes a large food store and the current lack of a comprehensive proposal suggests the site is unlikely to come forward in the near future for significant retail development. A planning application has recently been received for temporary car parking, office and retail uses for not less than the next five years. The Council's consultant considers that Maidstone East is available, suitable and viable to accommodate the Waitrose store and considers the Waitrose proposals to fail the sequential test.
- 7.20 I accept that this site could be suitable for an equivalent retail proposal. This site is the Council's priority site for retail in the town centre, signalled by its positive allocation in the emerging Local Plan. Waitrose could form an appropriate component of development on this site. Waitrose's reasons for not pursuing the Maidstone East option are outlined in Appendix 1. Granting consent for Waitrose at Eclipse could have some adverse effect on the prospects of a retail led scheme coming forward on Maidstone East and the Royal Mail Sorting Office site as it would be likely to mean there would be one less operator to be interested in the site plus some trade will be diverted from the Town Centre. While this site is considered to be suitable, and every prospect that it would come forward in the future particularly as the Council has a stake in its delivery, at the point of determining this application is it not demonstrably available whilst the new site owners confirm arrangements between themselves. The points made by MBC Economic Development refer. Given this and recent developments, such as the application for five years of temporary uses, I judge that the site is not currently available for the type of retail use for which permission is sought. As a consequence I conclude that the proposal does not contravene the sequential test.

Retail impact assessment

- 7.21 The assessment of the likely impact of the proposal upon town and district centre retail interests has been carried out and the applicant's consultant's view is included as Appendix 1. The applicant's consultant considers that the impact of the proposal upon existing retail interests (listed below) does not contravene the relevant tests.

Retail Impact Assessment	Proposed Diversion (£m)	Impact (%)
Store		
Sainsbury's Maidstone Town Centre	£1.97	6.27%
Marks and Spencer	£0.11	3.59%
Tesco Grove Green	£3.05	7.76%
Waitrose Allington	£1.62	9.85%

(Source MDA Addendum Retail Report July 2016)

The Council's consultant considers that the retail impacts analysis still has a number of significant flaws and weaknesses.

7.22 I have summarised the likely impacts as follows:

- The impact on the town centre (Sainsbury, M and S), is not considered to be significant. This is accepted by both consultants.
- The impact upon Grove Green (Tesco) is not considered to be significant on the basis that the store has been assessed to have been overtrading. The Council's consultant considers that the existing Tesco at Weaving [Grove Green] District Centre would be likely to suffer less than the existing Waitrose at Allington and would probably not have a significant adverse impact.

7.23 The impact upon the Mid Kent Shopping Centre Allington (Waitrose) is more contentious. The Council's consultants Cushmans have assessed the retail material produced by MDA and state the following: "Waitrose would be likely to keep the Allington Park Store but it would be likely to suffer a significant adverse impact" on the vitality and viability of the shopping centre, which would contravene policy of the submitted local plan and relevant paragraph of the NPPG. They assess that the Allington Park Store would suffer (by 2020) an impact of 10.95% as a result of Waitrose Eclipse Park. In response Waitrose has submitted that "Waitrose remain committed to their store at Allington Park and have a lease on the store until 2033, (17 years remaining). The proposed foodstore at Eclipse Park serves a different catchment to the Waitrose store at Allington Park and the analysis which has been undertaken suggests that there would be limited overlap of trade between the two locations, thereby not causing harm to the viability of Allington." In order to assuage our concerns the applicants are proposing to offer £100,000 to mitigate any adverse impact upon the Mid Kent shopping centre should the existing Waitrose store close within a 6 year period of the new Waitrose opening. It is proposed that in the event of such closure then the Council would be able to use the monies to improve the Mid Kent Shopping Centre. Whilst I have given consideration to this, it is my view that whilst the principal is acceptable to mitigate the potential harm proposed, I am concerned that the £100,000 and/or 6 year period may be arbitrary and insignificant. Nonetheless, discussions are ongoing and the principal of a legal mechanism to mitigate any adverse impact such closure may have on the shopping centre is acceptable. I would accordingly request that delegated authority is provided for this issue to be resolved with a view to securing the appropriate legal mechanism (whether that be by way of a bond or some other mechanism). I have carried out an assessment of the likely mitigation such an arrangement could provide and consider it would meet the CIL tests.

7.24 I conclude that the proposed development could potentially have a significant impact on the vitality and viability of the Mid Kent shopping centre, subject to any mitigation, but note the agreement between the Council's consultants and the applicant's consultants that the Allington Waitrose is unlikely to close. I also note the economic benefits of the proposed scheme in providing additional convenience retail capacity in a relatively sustainable location.

Inflow from Outside Catchment Area

7.25 In terms of the Medway Council objection, I consider that no evidence has been provided to show that there would be a significant impact on adjoining retail centres other than the ones referred to above.

Sustainability

7.26 In discussions with MBC, Waitrose's sustainability advisors has explained why

Waitrose are considerably ahead of any other food store operator in ensuring they are "lean on energy ". They are constantly monitoring the energy utilisation in every store and introducing, the latest and most efficient methods available. For instance, the lighting in their stores uses the best LED systems.

- 7.27 Refrigeration is the biggest energy use in a store. Waitrose use a water cooling system which is run on "friendly gases ". The cold air generated from the chillers is then used in other parts of the store such as the communications room and the checkout line. The company consider they generate more savings through utilising such measures as described above. As a result they can show that they are 35% more efficient on part L building regulations. In addition Waitrose are prepared to install PV panels on the roof of the store, in a location to be agreed.
- 7.28 Considering the energy efficient processes outline above, I do not feel that a 'green' roof is required from a sustainability perspective, or in terms of visual impact.
- 7.29 As a consequence of the above I consider that the proposal meets the Council's policy on sustainability and that the specific requirement that at least 10% of the energy demands of new development are met from renewable sources is not needed to secure a more sustainable form of development in accordance with the provisions of the NPPF. It is appropriate to address the provision of solar PV panels by condition.

Landscape and biodiversity

- 7.30 The proposal has been subject of discussions involving MBC Members and officers. The following issues have been agreed:

Site Context & Landscape Approach:

- The desire is to reinforce the Eclipse Park's campus character and to that end the landscape treatment should look to 'glue' the different developments together. Tree planting and wildflower/grassland margins along the approach roads are preferred.

Layout/Principal Landscape Changes:

- The Approach Road tree planting is continued within the foodstore development
- The ornamental planting proposed in the drawings submitted to date should be changed in favour of native tree and shrub planting
- The Waitrose application should also provide the boundary planting shown/envisioned for the proposed hotel scheme to the west of the Waitrose site. This boundary planting should be changed from ornamental planting to an indigenous hedgerow mix with herbaceous understorey
- A pond is to be introduced into the south western corner of the site (the south eastern corner of the hotel site)
- The revised planting is to be shown on revised detail planting plans. The tree trench detail would be the subject of a Landscape Condition so that there is the opportunity to liaise with the project drainage engineers to ensure the SUDS and tree planting are considered together.

Tree Planting Revisions:

- The Silver Limes within the car park are to be replaced with Small Leaved Lime (*Tilia cordata*)
- The London Planes within the car park are to be replaced with Hornbeam (*Carpinus betulus*)

- Sessile Oaks (*Quercus petraea*) will be planted/used where we have conventional topsoil planting areas
- The car park 'Smaller Species' will now be made up of Cut Leaved Alder (*Alnus glutinosa* 'Lacineata') and Wild Cherry (*Prunus avium* species selection)
- Along the hotel/approach road the species will consist of lime, hornbeam and a specimen sweet chestnut. In the interests of establishment it was agreed these trees would be smaller Heavy Standards (12-14cm girth), whilst larger 20-25cm girth trees would be used within the car park. These trees will need to be protected with strimming guards. Given this area will be the subject of a future application and construction works, it was agreed that these trees would be planted in the site's native/existing soils and the long term shrub planting would be the subject of agreement when the hotel application comes forward. The application drawing should include management notes regarding the wildflowers/grass in the roadside margin to ensure the growth does not become too unsightly. The roadside trees would be protected with two lines of simple and robust wooden post and single rail fencing. This would be covered by a suitable landscape condition in order to resolve the existing and proposed services along the road edge.

Shrub/Groundcover & Hedge Planting:

- The species list will be revised and follow the more native/indigenous focused list provided on the submitted plant photo sheet examples include *Cytisus prostratus*, *Adiantum repens* and *Rhamnus procumbens*.
- A trailing mix will be added for planting along the tops of the retaining walls around the car park, store and service yard.
- It was agreed that in the interests of bees and nectar, best nectar producing species would be used,

Visual Impact

- 7.31 The Eclipse Park site lies within landscape character area 14.1, Weaving Fringes, as defined within the Maidstone Borough Council Landscape Character Assessment 2012. Within the description for this character zone, it is noted that **"To the west, little landscape remains around recent built development and the Park and Ride"**, and later that **"Views to the west are dominated by the large hotel along Bearsted Road, busy roads and the Park and Ride"**, and **"other sections of major infrastructure, the park and ride and built development are strong urban edge influences which are encroaching on the landscape"**. The condition assessment of the area is designated **"moderate"** and its sensitivity as **"low"**. The site will not be generally visible from Detling Hill and the AONB to the north of the M20.
- 7.32 The proposal includes a 'Prow' feature designed to be prominent and visible from a distance, providing a landmark to identify the location of the store at Junction 7 of the M20 and as a gateway to Maidstone. Given the context I consider this feature to be appropriate to such a location and, along with the rest of the store, associated car parking and landscaping, would not damage Maidstone's historic and natural environment, under Submitted local plan policy DM3.

Design and layout considerations:

- 7.33 The design and layout of the store and site has been the subject of considerable pre-application discussion and the result is considered to be acceptable in terms of access, business requirements (such as deliveries) and overall context. It includes extensive use of Kentish ragstone and other high quality materials along with a

striking contemporary design including a 'prow' on the north east corner. The result is considered to be an attractive and high quality development.

Highways and transport:

- 7.34 Following the previous holding objection from KCC Highways, the applicant has provided further information to clarify the likely impact. KCC Highways have responded as follows:
- *"the latest version of national traffic growth projections TEMPRO (v.7.0) which takes account of a more up to date Objectively Assessed Housing Need for Maidstone and the latest National Trip Model statistics for traffic growth,*
 - *a discounting of the full traffic generation from the previous use of the site as a Park & Ride which is in accordance with the National Planning Policy Framework rather than taking surveyed usage rates and*
 - *Using recently collected trip data from a Waitrose store in Ashford located in a similar 'edge of town' area proximate to M20 Junction 9 rather than generic rates from a standard TRICS assessment.*
These have projected a significantly reduced residual impact for the proposed store at Eclipse Park and therefore a minimal impact at the Bearsted Road/ New Cut, Chiltern Hundreds and Bearsted Road/ Eclipse Park junctions which were previously highlighted as key concerns. These new inputs are accepted and therefore it is agreed that the proposed store cannot be considered to have a severe impact in the context of the NPPF."
 - KCC query the number of space provided for motorcycles (powered two wheelers).
 - KCC accept that the provision of a bus service into Eclipse Park from the Chiltern Hundreds roundabout is not practical.
- 7.35 In terms of M20 and adjoining Junction 7, Highways England has clearly indicated that the proposal has no significant impact.
- 7.36 Resident concerns over transport impact have been assessed and the applicants have provided a detailed response which explains that there are no significant negative impacts.

Sustainable transport:

- 7.37 The proposal puts forward improvements to bus stops and facilities on Bearsted Road, including a commitment to providing real time information at these two stops, as well as a further stop adjoining the roundabout at the entrance to the store itself. These improvements would be secured by planning condition. These measures are directly attributable to the development proposals and thus meet the relevant tests set out in the NPPG. Together with proposed funding (£60,000) to assess the opportunities for improving town centre public transport links to the site in line with Submitted Local Plan Policy DM17 (2).
The opportunity for buses to access Eclipse Park has been explored, via the existing bus land from the Chiltern Hundreds roundabout and has been technically assessed as impractical, unless the pub were demolished.
Existing walking and cycling routes are considered to provide sustainable connections to the town centre and adjoining uses and housing. A draft travel plan has been provided with the application and would be the subject of a planning condition and would require a monitoring fee as part of the Section 106 agreement

Infrastructure

- 7.38 The proposal puts forward bus stop improvements as highlighted in 7.37 above. It is proposed that a further £60,000 is provided to assess the opportunities for improving town centre public transport links to the site. These improvements would meet the

CIL paragraph 122 and 123 tests. It is suggested that the detailed wording of the Section 106 agreement is delegated to the Head of Planning and Development.

8.0 CONCLUSIONS

- 8.1. I have considered the proposal, which is finely balanced in terms of employment and retail issues, in relation to Section 38(6) of the 2004 Act. The starting point is the development plan. The proposal is not in accordance with the development plan, especially given the conflict with Policy ED1. However, the conflict with Policy ED1 attracts only limited weight given that the B2 use class employment development envisaged for the site has not been sustained or upheld by recent decisions on the site. I have considered whether material considerations indicate that planning permission ought to be granted despite the position regarding the development plan.
- 8.2 The emerging submitted Local Plan is a material consideration attracting significant weight. I consider that the exception in clause 3 of emerging Policy DM21 applies.
- 8.3 The NPPF is another material consideration attracting significant weight. As stated above, significant weight should be placed on the need to support economic growth through the planning system. I consider that the development would provide economic benefits including an investment of around £14 million within Maidstone, and will provide Maidstone with a modern, larger Waitrose to complement its existing offering, thereby helping to retain spending within the town and create new employment opportunities as well as 200 construction jobs, and the likelihood of local expenditure (economic benefits commonly recognised by Inspectors at appeal). The Waitrose development is likely to generate in the region of £620,000 business rates. The impact upon the Mid Kent Shopping Centre Allington (Waitrose) has been considered and whilst contentious I believe the impact of the development may (to a greater or lesser degree) be mitigated through an appropriate mechanism whereby monies will be paid to the Council by the developer in order to mitigate the perceived impact should this impact be realised and mitigation be deemed necessary. For the reasons discussed, I consider that the proposal would accord with policy and guidance on ensuring the vitality of town centres (including NPPF paragraphs 23-27). I draw attention in particular to the analysis regarding suitability and availability of alternatives and to the possible implications for the Allington Waitrose and the Mid Kent shopping centre. My overall judgment is that the proposed development would not contravene policy and guidance in terms of retail impact assessment, but that, even if it does, there are countervailing considerations especially in terms of economic benefits as discussed in this report
- 8.4 Some public transport infrastructure is proposed to be provided to meet the needs created by the proposal. The proposal represents the development of brown field land in line with Submitted local plan policy DM4. There are no objections from the Environment Agency in terms of flooding. There are no significant ecology objections or any other matters that result in a sustained objection to the development.
- 8.5 In accordance with policy guidance in the NPPF, there are three dimensions to sustainable development giving rise to the need for the planning system to perform environmental, economic and social roles. There would be minor impact upon the landscape but this would be limited and localised, and otherwise there would be no significant harm to the environment. Economic and social roles have also been considered, as have locational issues. As such, I consider the development would perform acceptably in terms of economic, social and environmental roles required under the NPPF and that judged in the round it would constitute sustainable development. Any adverse impacts would not significantly and demonstrably

outweigh the benefits. My overall judgment is that the proposed development would not contravene policy and guidance in terms of retail impact assessment, but that, even if it does, there are countervailing considerations especially in terms of economic benefits as discussed in this report

- 8.6 The development would be acceptable in terms of its impact on the landscape, drainage, biodiversity and highways subject to appropriate planning conditions and obligations. The proposal represents a high quality scheme.
- 8.7 For all of these reasons, and despite the position regarding the development plan, I consider that material considerations indicate that planning permission should be granted.

9. **RECOMMENDATION**

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

- a financial contribution of £60,000 to assess the opportunities for improving town centre public transport links to the site
- the provision of a Travel Plan, to include costs associated with the monitoring thereof
- securing the mitigation of any adverse impact that may occur on the Mid Kent Shopping Centre in Allington should the existing Waitrose store at the Mid Kent Shopping Centre close

DELEGATED POWERS be given to the Head of Planning and Development TO GRANT PERMISSION subject to the imposition of the conditions as set out below:

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. Prior to construction of the external surfaces of the building hereby permitted, details and samples shall be submitted to and approved in writing by the Local Planning Authority. These works shall be carried out in accordance with the approved details before the first occupation of the building.

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

3. No external lighting shall be installed until a detailed scheme of lighting has been submitted to, and approved in writing by the Local Planning Authority prior to the commencement of the development. This scheme shall take note of and refer to the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005 (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme of lighting shall be installed, maintained and operated in accordance with the approved scheme unless the Local Planning Authority gives its prior written consent to any proposed variation.

Reason: To minimise the impact of light pollution in the interests of the character and amenity of the surrounding area.

4. Construction of the development shall not commence until details of foul and surface water sewage disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.

A. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the proposals within the Flood Risk Assessment by PCS Consulting Engineers dated 4th May 2016 and demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of without increase to flood risk.

B. The building hereby permitted shall not be occupied until details of the implementation, maintenance and management of the sustainable surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter maintained and managed in accordance with the approved details. Those details shall include:

i) a timetable for its implementation, and

ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

C. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority (in consultation with the Environment Agency); this may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. Any infiltration shall be carried out in accordance with the consented details.

Reasons: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure on-going efficacy of the drainage provisions, to protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

5. The development shall not be constructed above damp proof course level until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using 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 long term management of the landscaping]. The development shall be carried out in accordance with the approved landscaping scheme unless the Local Planning Authority gives its prior written consent to any proposed variation.

The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and provide for the following:

- a) High quality detailed and structural landscaping
- b) Retention and enhancement of boundary vegetation unless otherwise specified (excluding the openings required for access points).

- c) Means of enclosure including the positions, design, materials and type of boundary treatment to be erected;
- d) Proposed finished levels and contours
- e) Car parking layouts;
- f) Other vehicle and pedestrian access and circulation areas;
- g) Hard surfacing materials;
- h) Written planting specifications;
- i) Schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate);
- j) Minor artefacts and structures - including street furniture, refuse or other storage units, signs, lighting etc [including their long term management and maintenance]
- k) Implementation programme setting out timing for completion of the various parts of the hard and soft landscaping works.

The works shall be carried out strictly in accordance with the approved details prior to first occupation of the building.

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

6. Prior to commencement of development (including ground works, demolition and site clearance) a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

The approved Statement shall be adhered to throughout the construction period and shall provide for:

- a) working hours on site;
 - b) the parking of vehicles of site operatives and visitors;
 - c) the loading and unloading of plant and materials;
 - d) traffic management, including delivery times, lorry routing, traffic control and construction access, as necessary;
 - e) the storage of plant and materials used in constructing the development;
 - f) the erection and maintenance of hoarding or fencing necessary for public safety, amenity and site security;
 - g) wheel washing facilities;
 - h) measures to control the emission of dust and dirt during construction;
 - i) measures to control noise and vibration during construction;
 - j) a scheme for the recycling or disposal of waste resulting from construction works.
 - k) Code of Construction Practice (see Informatives)
7. Prior to commencement of development (including ground works, demolition and site clearance) a Construction Environmental Management Plan (CEMP:Biodiversity) which shall be informed by the ecological design strategy (EDS) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
- a) Risk assessment of potentially damaging construction activities;
 - b) Identification of “biodiversity protection zones” clearly depicted on a map
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements)

- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works if required;
- f) Responsible persons and lines of communication;
- g) The roles and responsibilities on site of an ecological clerk of works (EcoW) or similarly competent person if required;
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Detailed protective species mitigation strategies if required.

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of ecological preservation.

8. Details of cycle storage and powered two wheeler facilities shall be submitted to the Local Planning Authority. These facilities shall be approved in writing by the Local Planning Authority prior to installation. These works shall be carried out in accordance with the approved details before the first occupation of the building.

Reason: In the interests of sustainability and to provide an alternative means of transport to the private car.

9. Prior to the erection of any fencing, walling and other boundary treatments, details shall be submitted to and approved in writing by the Local Planning Authority. These works shall be carried out in accordance with the approved details before the first occupation of the building.

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

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

Reason To ensure a satisfactory external appearance to the development taking into account the topography of the site.

11. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use.

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

12. The retail unit shall achieve a Very Good BREEAM Retail 2014 rating. A final certificate shall be issued to the Local Planning Authority for written approval to certify that a Very Good BREEAM Retail 2014 rating has been achieved within 6 months of the first occupation of the development.

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

13. Details relating to on-site renewable energy generation shall be submitted and approved

by the Local Planning Authority, prior to first occupation. The approved details shall be implemented prior to first occupation and maintained thereafter.

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

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

Reason: To protect the amenities of future occupiers of the building and to ensure any contamination is appropriately remediated.

15. The development shall not exceed:

- (a) 4,105 square metres gross external area and 3,901 square metres gross internal area;
- (b) 2,694 square metres net retail area, of which:
 - (i) 134 square metres net shall comprise the café, the use of which shall be ancillary to the retail sale use within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987, as amended;
 - (ii) 248 square metres net shall comprise the checkouts area and 170 square metres net shall comprise the service counters area;
 - (iii) no more than 1,738 square metres net shall be used for the sale of convenience goods; and
 - (iv) no more than 404 square metres net shall be used for the sale of comparison goods.

Reason: To accord with the terms of the application and to safeguard the primary function of Maidstone Town Centre in its comparison retail function.

16. Deliveries shall only take place or be accepted at the store within the following times:

07:00 to 22:00 Monday to Saturday or between 09:00 and 18:00 on Sundays/Bank/Public Holidays.

Reason: To safeguard the amenity of nearby occupiers or residents.

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

Reason: To ensure a satisfactory external appearance for the development.

18. The development shall be carried out in accordance with: Plans numbered:

- 3552/P01
- 3552/P002
- 3552/P003

- 3552/P101
- 3552/P201
- 3552/P301
- 15-55-PL-201 Rev A
- 15-55-PL-202 Rev A
- 15-55-PL-203 Rev A
- 15-55-PL-204

Reason: To ensure the quality of the development is maintained and to prevent harm to the character of the area.

19. Prior to the first occupation of the premises, details of any external plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in pursuance of this permission shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The scheme shall ensure that the noise generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR35 (*in areas of low background sound levels a target of NR30 shall be achieved*) as defined by BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide 2006. The equipment shall be maintained in a condition so that it does not exceed NR35 as described above, whenever it is operating. After installation of the approved external plant, no new plant or ducting system shall be used without the prior written consent of the Local Planning Authority
20. 1 EV “rapid charge” point per 1000m² of commercial floor space shall be provided, prior to first occupation.
21. Any facilities used for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The bund capacity shall give 110% of the total volume of the tanks.

Reason for conditions 19-21: to ensure the development does not harm the environment.

22. Details of bus stop provision and associated public transport improvements shall be submitted to and approved in writing by the Local Planning Authority. The resulting approved bus stop provision shall be implemented in accordance with those approved details prior to first occupation of the building.

Reason: In the interest of sustainable transport.

INFORMATIVES:

CODE OF CONSTRUCTION PRACTICE (MAJOR SITES)

Prior to the commencement of the development a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003). unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- a) An indicative programme for carrying out the works
- b) Measures to minimise the production of dust on the site(s)

- c) Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- d) Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- e) Design and provision of site hoardings
- f) Management of traffic visiting the site(s) including temporary parking or holding areas
- g) Provision of off road parking for all site operatives
- h) Measures to prevent the transfer of mud and extraneous material onto the public highway
- i) Measures to manage the production of waste and to maximise the re-use of materials
- j) Measures to minimise the potential for pollution of groundwater and surface water
- k) *The location and design of site office(s) and storage compounds*
- l) *The location of temporary vehicle access points to the site(s) during the construction works*
- m) *The arrangements for public consultation and liaison during the construction works.*

As the development involves demolition and / or construction, I would recommend that the applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected.

Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

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

A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Atkins Ltd. Anglo Street James House, 39A Southgate Street, Winchester, SO23 9EH.

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

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

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

No vehicles in connection with the construction of the development may arrive, depart, be loaded or unloaded within the general site except between the hours of 0730 and 1900 Mondays to Fridays and 0800 and 1300 hours on Saturdays and at no time on Sundays or Bank Holidays

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

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

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

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

There is a low/medium/intermediate pressure gas main near your site. There should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system.

You should, where required confirm the position using hand dug trial holes.

A colour copy of relevant plans and the gas safety advice booklet should be passed to the senior person on site in order to prevent damage to our plant and potential direct or consequential costs to your organisation. Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant. Damage to gas pipes can be extremely dangerous for both your employees and the general public. The cost to repair gas pipelines following direct or consequential damage will be charged to your organisation. Please ensure Scotia Gas Networks are able to gain access to gas pipelines throughout the duration of your operations.

Appendix 1 – Most recent retail response from Mary Davidson Associates, consultants to Waitrose and Gallagher Property 16th September 2016:

1. Design Year

1.1 The application should be going to Planning Committee in October 2016. By the time the Legal Agreements have been finalised and signed, we wouldn't expect a Planning Permission to be issued much before Christmas 2016. We would then need to prepare the information for the pre-commencement conditions, and submit to the Council for approval. As such, start on site is now unlikely to commence until at least spring 2017. A development of this type would have at least a nine-month build, followed by a two month internal fit out. As such, the store is likely to open in spring 2018. In line with Planning Practice Guidance (PPG), impact should be assessed once a mature trading pattern has been established, which is usually meant to mean the second full calendar year of trading, i.e., 2020. The PPG also states that the impact test should focus on the first five years, as this is when most of the impact will occur. As such, we have also provided the impact figures for 2023, which is five years after the opening date.

2. Population Forecasts

2.1 These have now been agreed

3. Household Survey Reliability

3.1 As set out in our letter of 11 August, no two Household Surveys are ever going to produce exactly the same results. The Household survey undertaken for the Council's Retail Study was undertaken in 2012, covered different catchment zones, and asked different questions. As such, it comes as no surprise that the two surveys show different results. Where results are considerably different to the figures from the Retail Study, we have made comments, and suggested why these differences may have occurred. We have also gone back to the company who undertook the household survey to get their expert opinion on the reliability of the information – (see Attachment 1).

3.2 The purpose of the Retail Impact Assessment is to understand the potential impact on existing stores and centres. In the case of this application this would be Maidstone town centre and Allington Park and Grove Green District Centres. As such, it is the turnover of these centres that really matter. The turnover of both the Sainsbury's in Maidstone town centre and Tesco at Grove Green from both surveys are very similar. The MDA survey suggests a slightly higher turnover for both of these stores, but not to a significant extent (and for reasons set out above, we wouldn't expect these to be exactly the same in any event). The MDA estimate for the Waitrose store in Allington is also slightly higher than the figure used in the Council's Retail Study. However, Waitrose have confirmed that this is in line with their turnover estimates for the store, so we have no reason to query this figure. The Household Survey undertaken for the Newnham Court application also had a much higher estimated turnover for the Allington Waitrose store, so it may be that the Council's Retail Study may actually have underestimated its turnover.

4. Retail Commitments

Baltic Wharf

4.1 We remain of the view that the Baltic Wharf development will not come forward for a food store of the scale currently approved. As set out in our previous notes, it may come forward in a smaller / discount format, but not in the format envisaged by the current permission. This was acknowledged by the Council's retail consultant in his Proof of Evidence for the Baltic Wharf Appeal dated May 2016, which stated:

"The appeal site is a commercially unattractive site for a new food superstore and would be very unlikely to attract a retailer to operate it".

4.2 This view is also shared by the Council's consultants in their comments on the current application at Maidstone East. In their letter of 16 December 2014, Chris Watts (then DTZ, which now forms part of Cushman and Wakefield), states the following:

"We maintain (as per the evidence of Jonathan Baldock for and on behalf of MBC at the Powerhub Appeal) that the Powerhub site is very unlikely to attract a food/non-food superstore operator given its very secondary location in commercial retailing terms. The site is much too compromised, as follows..."

- *The store would be at second floor level;*
- *It would have multi-storey car parking underneath;*
- *The river is between the store and the main roads from which it can be seen;*
- *Car access from any main road is indirect;*
- *The site is not on any bus routes and there are no bus stops nearby;*
- *The pedestrian routes to the town centre shopping and services are long, indirect and unattractive; and*
- *The store would be in a listed building.*

Over five months have passed since the Appeal decision and (to our knowledge) there is still no evidence of operator commitment, or indeed interest, in the Powerhub site as a food/non-food superstore. We also understand that the owners of the Powerhub site are actively promoting the wider site for residential development. Without a superstore operator, the committed retail development is not commercially viable and therefore not deliverable; meaning that there would remain forecast capacity for one new food/non-food superstore in Maidstone in the early part of the plan period – as identified in the 2013 Retail Capacity Study – despite the extant planning permission for a new superstore on the Powerhub site".

4.3 The letter continues to confirm that the commitment is "very unlikely" to come forward. Given that even more time has passed (over 18 months), since this letter was issued, it can be assumed that Baltic Wharf site is now even less likely to come forward, than the "very unlikely" chance that it had 18 months ago. Therefore, although it has been included as a commitment, C&W must agree that the chances of it being delivered in its current form, without the need for a further planning application to considerably alter the scheme, would be slim to none.

4.4 The supporting retail assessment for the Powerhub [Baltic Wharf] application assumed that all of the trade to the store would be drawn from the Maidstone area only, meaning that their trade diversion from competing stores focusses on Maidstone stores only, particularly Sainsbury's in the town centre (8%), Tesco at Grove Green District Centre (10.3%), Morrisons at Sutton Road (12.3%), Tesco at Tovil (12.3%) and Waitrose at Allington Park (2.1%). In reality, a store of the scale proposed in this location would also draw trade from the wider area, particularly to the north and the west, including from stores in Aylesford and Kings Hill. By focussing all of the trade diversion on stores in Maidstone, it is likely that the impacts on these stores may have been overestimated by GVA in their supporting Retail Assessment. If it was felt necessary to challenge these figures in light of the level of available expenditure, this would have been addressed at the Inquiry.

4.5 Although he didn't go into detail about trade diversions, the Inspector did consider retail impact at the Inquiry, even though this adverse impact on any of the allocated centres was **not** one of the reasons for refusal of the application. In his Report, the Inspector concluded that

"The proposed foodstore on its own would not have any adverse impact. There was, at the time of the inquiry, no firm proposal for the Maidstone East / Royal Mail site, although the recently submitted application includes a foodstore. Even if there were to be one, as well as

at the appeal site, the cumulative impact associated with these two stores would not be significantly adverse”.

4.6 Given the delays associated with the Maidstone East site, it must be agreed that the position remains unchanged from the time of the Inquiry, when the Inspector concluded that there was sufficient capacity for both sites to come forward. C+W have acknowledged that the chances of the Baltic Wharf site coming forward are unlikely, meaning that they must agree that there is capacity for both a foodstore at Maidstone East and at Eclipse Park. However, in the *highly unlikely* event that the Baltic Wharf site does get developed for a foodstore, Table 10A of the latest MDA Retail Impact Tables demonstrate that the existing stores in Maidstone are overtrading to a level which could support both stores.
Aldi, Sutton Road

4.7 The anticipated turnover of the Aldi store at Sutton Road is based on company average turnover, which is the standard way of estimating the turnover of a new proposal. It would not be standard approach to assume that a new store would trade above benchmark, unless there are clear reasons for taking this approach. Whilst it is acknowledged that existing Aldi store on Well Road is trading at well above Benchmark Turnover, this does not automatically mean that the new store at Sutton Road will do the same.

5. Inflow from Outside Catchment Area

5.1 We have assumed a 5% inflow from outside the Catchment Area to stores within Maidstone town centre. This is a low inflow rate, but is realistic given Maidstone's role as the Country town, and the extent of the Catchment Area. Notwithstanding this, an inflow rate of this level will have little effect on the estimated impact of the proposal on Maidstone town centre.

6. Trade Diversion Figures

6.1 The trade diversion figures were adjusted in the latest set of Retail Impact Tables submitted to the Council on 11 August, to increase the level of diversion from the town centre stores, in line with C+W's comments. We maintain that these figures represent a realistic pattern of diversion from existing stores. The highest level of diversion will fall upon the Tesco store at Grove Green, given its size and proximity to the application site. However, this store is recognised to be significantly overtrading in all the recent retail assessments carried out (see Table 6A MDA RIA), and the level of diversion anticipated is unlikely to have any notable effect of the viability of the centre as a whole. The other trade diversions, including 8.15% from the Waitrose store in Allington and 9.95% from the Sainsbury's store in Maidstone are also considered to be realistic, given their current shopper patterns.

6.2 Waitrose has provided us with information on shopping habits from their store in Allington Park (see Attachment 2 Catchment Plan). This shows that the vast majority of the trade to the store comes from the immediate residential areas. These customers are much less likely to change their shopping habits to go to the Eclipse Park store, as it is considerably further away. As such, although it is inevitable that some trade will be diverted away, generally, it is expected that the vast majority of existing customers at Allington Park will continue to shop there.

6.3 In their conclusions, C+W note that it is the impact on the entire centre which must be considered, not simply the foodstore. The Mid-Kent Shopping Centre at Allington is currently fully occupied, and provides a range of local services, including a pharmacy, dry cleaners, opticians, nail studio, newsagents, a veterinary surgery, café, Chinese restaurant, flooring company, hairdresser, funeral director, mobility equipment and betting shop. These are all local services provided by local traders (with the exception of Waitrose and the pharmacy). The current users of these services are unlikely to change the way they use these services

as a result of the proposed development. The Mid-Kent Shopping Centre also has the benefit of free parking, which further encourages local residents to use the centre.

6.4 C+W confirms that, in their view, the proposal is unlikely to have a significant adverse impact on Maidstone town centre. Given the health and service nature of Allington, and the limited extent of the trade diversion that is expected to occur from the Waitrose store, the impact on Allington must also not be considered to be significant. This is also true to Grove Green, where the Tesco store will still be trading above its company average turnover and the local services at the centre (which includes a pharmacy and a public house) are unlikely to be affected by the proposal. Furthermore, there is also a petrol station at Tesco's, which is well used, as there are very few Petrol Filling Stations in the north part of Maidstone. It will help to attract custom to the store.

6.5 Therefore, in light of this, we must contend that the impact test as set out in the NPPF must be passed.

7. Sequential Test

7.1 This was not addressed in our letter of 11 August, as we felt that this was best discussed at a potential meeting. However, given that C+W have raised this again in their latest letter, we are happy to provide you with some additional commentary.

7.2 We believe that Baltic Wharf should automatically be discounted as a sequential site given's C+W's previous comments on the site as set out above. It is not a town centre site or an edge of town centre site, as defined in NPPF. It is not afforded policy protection and, as set out above, it is not a site that is attractive to the major food retailers.

7.3 The latest leasing plan from the owners of The Mall shows that only 15,000 sq. ft. of the former TJ Hughes unit is currently available to let. Notwithstanding the viability and suitability issues with locating the proposed store within The Mall, the unit is simply too small and unsuitable for the proposal.

7.4 That leaves us with Maidstone East. The current Outline Application for a foodstore at the site has been with the Council since June 2014, and in this time, no foodstore operator has committed itself to the proposal. Waitrose themselves have looked at the site for a potential store, and we can confirm that the site is not suitable for the proposed development for a number of reasons, including the following:

- The site has a complex history and any development would need to be phased. The general uncertainty about the site has affected the timeframe that any retailer can plan for in considering this site as viable for a foodstore.
- There are currently a number of concerns about traffic generation and the level of parking provision that can be provided on site. Both of these have the potential to impact considerably on the viability of a foodstore of the scale proposed, where many shoppers will drive to in order to undertake a large shop.
- The provision of a foodstore of the scale proposed at Maidstone East, just outside of the town centre, has the potential to adversely affect the Sainsbury's store in the town centre. Whereas a store at Eclipse Park would draw a significant amount of its trade from other out-of-centre stores and stores along the M20 corridor, a large foodstore at Maidstone East would compete directly with the town centre Sainsbury's store, leading to a potentially significant adverse effect.
- Locating the development at the Maidstone East site would be contrary to the Draft Local Plan Policy for the site, which allocates the site for both comparison and convenience retailing. The supporting text confirms that the Council would like this site to be developed for another 'anchor' development along the lines of Fremlin Walk, to include large format,

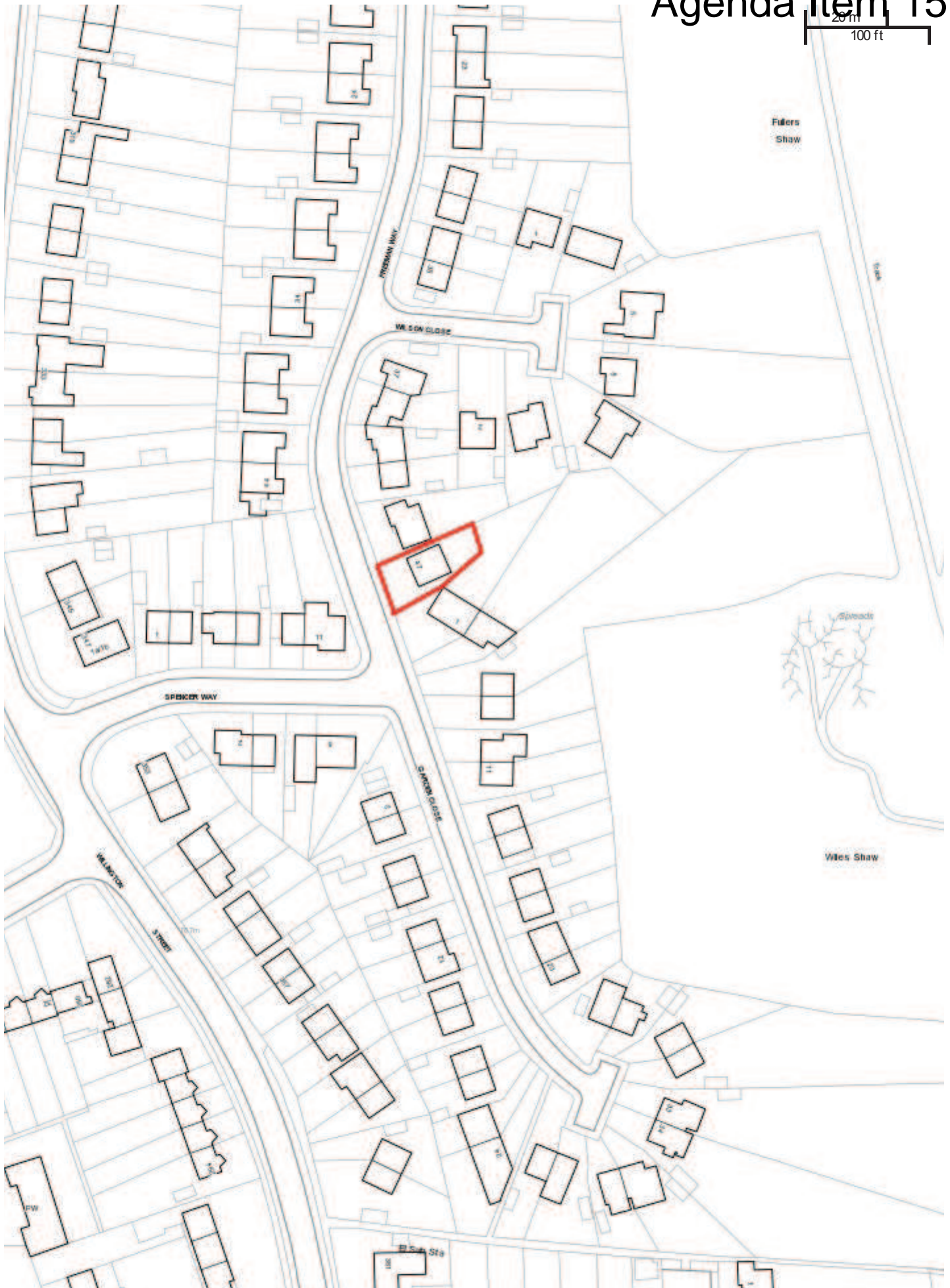
modern retail units which are important in attracting new retailers to the town. As such, developing the site for a single, stand-alone foodstore would not meet the Council's objectives of delivering large format comparison units to entice new retailers into the town.

7.5 The Submission Local Plan allocates the site for up to 10,000 sq. m of comparison and convenience retailing. It is important to note that the policy does not state that the site should be developed for a large format foodstore, as currently proposed in the planning application on the site. The nature of convenience retailing has changed considerably over the past five years or so with a considerable shift away from large format superstores, to smaller convenience stores, discounters and smaller format supermarkets. As such, it is highly unlikely that the site will come forward for a foodstore of the scale proposed by the current application for Maidstone East, although it is possible that a smaller format store may come forward as part of a future application. Given the level of available convenience capacity that has been identified, the proposed store at Eclipse Park will not stop the site from coming forward for a policy compliant development within the Plan Period.

8. Conclusion

8.1 We are therefore satisfied that the differences between us are not significant and certainly do not result in "significant adverse impact" on any centre. Furthermore, we have shown that Waitrose have considered the sites in the town centre under the sequential test, and none are deemed to be appropriate for their requirements.

8.2 We therefore request that the planning application is recommended for approval on the basis that the tests required for retail planning applications are satisfied.



16/505311 47 Freeman Way

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REPORT SUMMARY

REFERENCE NO - 16/505311/FULL		
APPLICATION PROPOSAL Change of Use from a C3 (4 bedroom house) to Sui Generis for multiple occupancy of 8 bedrooms, conversion of loft with the insertion of rooflights and side dormer window, conversion of garage to bedroom with alterations and provision of additional parking.		
ADDRESS 47 Freeman Way Maidstone Kent ME15 8AR		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION Given what can be carried out without the consent of the Council under its planning powers the impact of the development in excess of this is considered marginal.		
REASON FOR REFERRAL TO COMMITTEE Cllr Powell objects to the proposal on parking, footway crossing, drainage grounds and harm to visual amenity and requires the application to be determined by the Planning Committee		
WARD Shepway South	PARISH/TOWN COUNCIL	APPLICANT Mr Daniel Ryan AGENT
DECISION DUE DATE 09/09/16	PUBLICITY EXPIRY DATE 12/08/16	OFFICER SITE VISIT DATE 22/07/16

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is occupied by a detached house located on the eastern side of Freeman Way just north of its junction with Spencer Way. The immediate area comprises a mix of mainly detached and semi detached houses falling within the built up area of Maidstone.

2.0 PROPOSAL

- 2.01 Consent is being sought to change the use of the property into a house in multiple occupation (HMO) with the property being divided up into 8 separate bedroom units. All rooms have ensuite bathroom and toilet facilities apart from bedroom 3 which has access to bathroom and toilet facilities but which are in a separate module just opposite. Communal cooking and a living room areas are to be provided on the ground floor.
- 2.03 Turning to the external changes that have taken place, the applicant advises that installation of the flank dormer and rooflight have been carried out as 'permitted development' i.e. without the need to seek planning permission from the Council. This work is possible as the property remains a dwellinghouse to which permitted development can be lawfully carried out.

2.04 The front garden area will be laid out as parking for 4 cars to compensate for loss of an integral garage which is to be converted into a separate bedroom unit.

2.05 The following has also been submitted in support of the application:

- The applicant is part of a national franchise committed to meeting the housing needs of local professionals key workers.
- A rigorous vetting process will be in place to ensure that tenants meet and maintain high standards.
- A cleaner and gardener will be employed to ensure that the property is maintained both internally and externally in good condition.

2.06 The applicant also notified local residents of the proposal before submitting the application.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan: H22
Submission version of the draft local plan: DM4, DM8

4.0 LOCAL REPRESENTATIONS

4.01 Cllr Powell objects to the proposal on parking, footway crossing, drainage grounds and harm to visual amenity and requires the application to be determined by the Planning Committee

4.02 A petition has been received with just over 50 signatories objecting to the proposal on the following grounds:

- The loft extension will overlook adjacent properties and create a loss of privacy.
- The loft extension is visually out of proportion
- Insufficient parking provision leading to a dangerous situation at the junction of Freeman Way/Garden Close and Spencer Way roads.

4.03 10 neighbouring properties were notified of the application – 6 objections have been received that are summarised as follows:

- Concerned about discrepancies in plans.
- Dormer not in keeping with the character of the area.
- Additional occupants will overload existing sewer while siting the bin area could be a source of smells to adjoining properties.
- As only 4 parking spaces are proposed whereas the property is to be converted into 8 units will result in parking conflict while the additional traffic will result in harm to the free flow of traffic and highway safety in the locality.
- Use as an HMO will appear out of character .
- Development has gone ahead without planning permission first being obtained.

5.0 CONSULTATIONS

- 5.01 **Housing and Health Officer:** The person in control of the above property has applied for a House in Multiple Occupation License under the Housing Act 2004, Part 2.

6.0 BACKGROUND PAPERS AND PLANS

The development proposals are shown on site location plans received on the 8th and 14 July 2016 and drawing nos:FreemanWay-47-02, 03 and 04.

The application is supported by a letter dated the 8th June 2016 and a planning statement.

7.0 APPRAISAL

- 7.01 Members are advised that use of a dwellinghouse as an HMO by not more than 6 residents does not represent a material change of use requiring planning permission as Class L of the GDPO allows the change from a dwellinghouse to a HMO. A HMO can be defined by the relevant government circular as a '**Class C4: Houses in multiple occupation** (3-6 occupants) – in broad terms, the new C4 class covers small shared houses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities. In the circumstances the assessment for this application must turn on whether the impact of two additional residents will have a material harmful impact over that which can be carried out without requiring planning permission from the Council.
- 7.02 In this case it is considered it would be extremely problematic to seek to argue any additional material harm to the character of the area, impact on amenity or erosion to the free flow of traffic or highway safety in the locality when compared with what could be undertaken without planning permission under Class L. A planning condition is proposed to limit the numbers of persons in the property.
- 7.02 In addition though objections have been raised regarding the visual impact of the dormer, this was erected as permitted development without requiring planning permission from the Council as the property was a dwellinghouse at the time of the works. Similarly, the installation of the rooflight and infilling the garage door void and replacing it with brickwork and a window was also be undertaken as permitted development.
- 7.03 The remaining built element i.e. the laying out of the front garden as a parking space only requires planning permission as it appears an impermeable surface is being proposed. However if this was permeable surfacing, again permission would not be required to provide a parking area to the front of the property. In any case its impact on the street scene is considered insignificant and is a common feature seen within many residential areas.

Other matters

- 7.03 Regarding the capacity of the existing sewer to accommodate the development, in the absence of evidence to support this it is not a matter that can be taken into account in determining this application.
- 7.04 The siting of any the bin storage area has not been shown but given the size of the front garden area it is not anticipated this will result in any harm and is a matter that can be dealt with by condition which is proposed at the end of this report.

- 7.05 Concerns relating to the retrospective nature of the application are noted. However as advised above the external works do not require permission while until 7 or more people occupy the premises the consent of the Council is also not required. The applicant advises he is currently only marketing the property on the basis of being able to rent up to 6 rooms. So far five tenants are in occupation and include one who will be shortly working in a local IT firm while another is currently serving in the army and will shortly be employed by Kent Police. The applicant considers this shows consistency with the tenancy policy set out being that the development will provide high quality, affordable shared accommodation to working professional people such as key workers, graduates.
- 7.06 In connection with privacy concerns, windows to the flank dormer are shown to be obscure glazed and fixed shut and this can be conditioned. The windows shown to the front and rear of the dormer are in elevations already having windows at 1st floor level. Given that high level overlooking already exists, additional windows on these elevations will not materially erode existing privacy standards in the locality.

8.0 CONCLUSION

- 8.01 Given what can be carried out without the consent of the Council under its planning powers (namely the use of the property as an HMO by 6 unrelated persons) the impact of two additional persons is considered marginal and not sufficient to justify refusing planning permission. It is therefore considered planning permission should be granted as consequence.

9.0 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 vehicle hardstanding hereby approved shall be surfaced in a water permeable material.

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

3. Details of the size, design and siting of any refuse bin housing shall be submitted for prior approval in writing by the Local Planning Authority and shall be available for use on occupation of the 4th bedroom.

Reason: In the interests of amenity.

4. No more than 8 persons shall be resident at the premises at any one time.

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

5. The windows shown to be obscure glazed and fixed shut on drawing no:FreemanWay-47-04 shall be installed with these measures in place before first occupation of the rooms which they serve and maintained as such at all times thereafter.

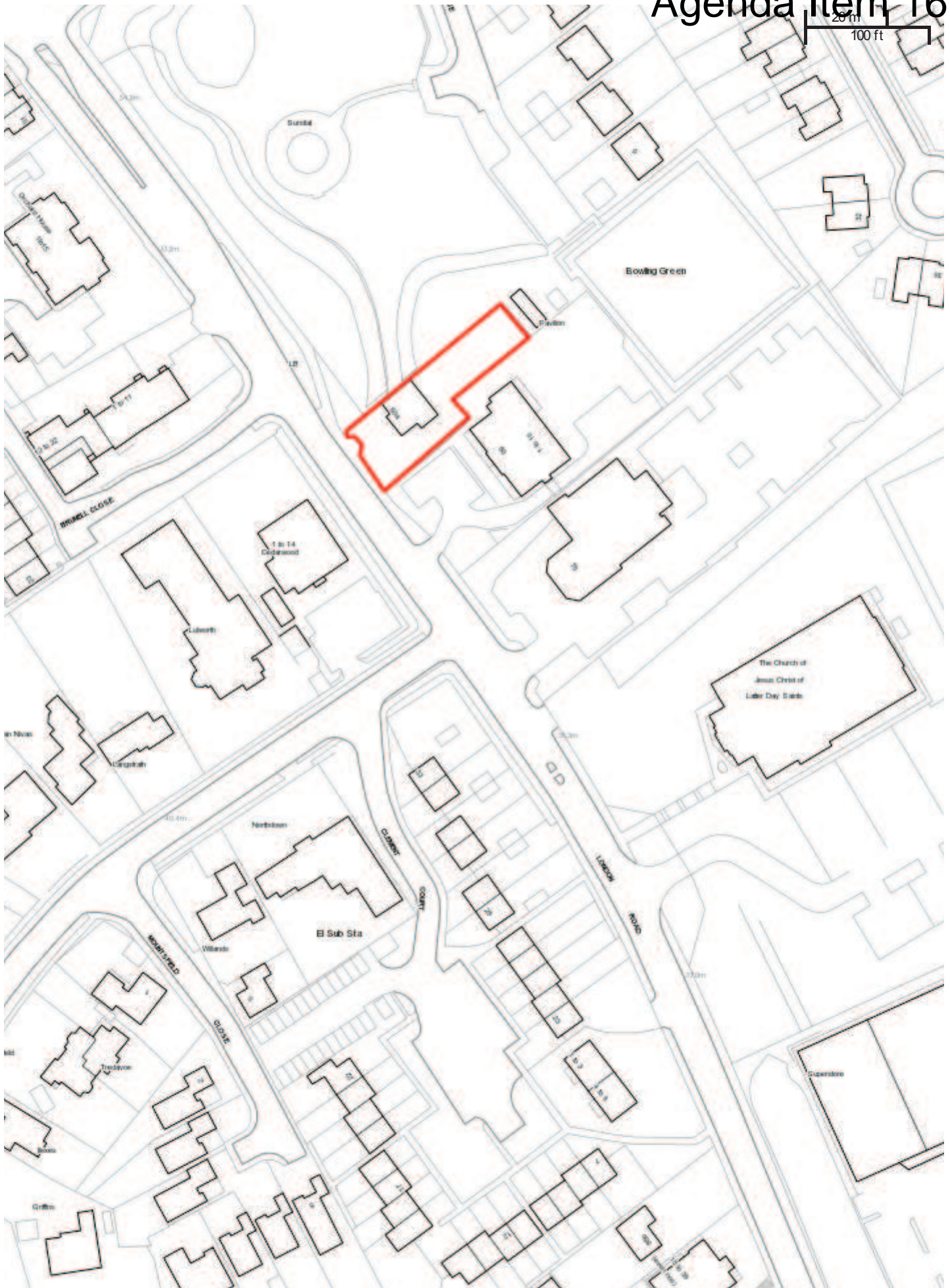
Reason: To maintain privacy in the interests of amenity.

6. The development hereby permitted shall be carried out in accordance with the following approved plans: site location plans received on the 8th and 14 July 2016 and drawing nos:FreemanWay-47-02, 03 and 04.

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

Case Officer: Graham Parkinson

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.



16/506224 80a London Rd

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REPORT SUMMARY

REFERENCE NO - 16/506224/FULL		
APPLICATION PROPOSAL Demolition of existing building with erection of a replacement three storey apartment building containing 8 self contained flats together with associated landscaping and access.		
ADDRESS 80A London Road, Maidstone, Kent, ME16 0DR		
RECOMMENDATION GRANT PERMISSION subject to planning conditions.		
SUMMARY OF REASONS FOR RECOMMENDATION <ul style="list-style-type: none">- The proposal is considered acceptable in design and layout terms by promoting and reinforcing local distinctiveness in accordance with the provisions of the NPPF- The size and layout of the proposed flats will provide an acceptable residential environment.- There remains no objection to loss of Christmas Lodge notwithstanding its status as an NDHA.- There remains no objection to the principle of the use of the site for flats.- The proposal will contribute to the provision of small housing units within the Borough while being sited in a sustainable location close to the Town Centre.- The proposal will not have any adverse impact on the London Road street scene or on the character and layout of the area.- The proposal does not result in any material harm to the outlook and amenity of properties overlooking and abutting the site.- Is acceptable in highway and parking terms.- Is acceptable in wildlife and habitat terms.		
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr Pickett on the grounds that: <ul style="list-style-type: none">- The distance between any new build and Sweet Briar Court is still insufficient.- The proposed block still has too much mass for this location and could be harmful to the street scene.- The roof nearest to Sweet Briar Court is too high and should be lowered.- There is insufficient planting in the vicinity of the Millennium Green Park.- No confirmation that materials from the Christmas Lodge house are to be recycled where possible to maintain the character of the area while respecting the history and character of the old house.		
WARD Bridge Ward	PARISH/TOWN COUNCIL Maidstone urban area	APPLICANT Mrs S Ackerman AGENT DHA Planning
DECISION DUE DATE 11/10/15	PUBLICITY EXPIRY DATE 24/10/15	OFFICER SITE VISIT DATE 28/08/15

MAIN REPORT

1.0 SITE DESCRIPTION

- 1.01 The site is occupied by a two storey detached dwelling set just over 13 metres back from London Road (A20) fronting the site to the south west. The existing dwelling is

designed in an 'arts and crafts' style but has been unsympathetically extended at the rear. The building is not listed, nor is it located within a conservation area but is considered to represent a Non Designated Heritage Asset (NDHA).

- 1.02 Abutting the site to the north west and north east is an area of open space, which includes a bowling green, while to the south east is a block of flats (Sweet Briar Court) set just over 29 metres back from London Road and just behind the rear main wall of the house occupying the application site. On the common boundary there are TPO trees.
- 1.03 On the opposite side of London Road are blocks of flats between 3 and 4 storeys in height. The existing dwelling currently has off street parking for at least 3 cars while there is unrestricted on street parking available on nearby roads. With two storey residential properties also located nearby on London Road there is some variety in the design, scale and appearance of nearby buildings.
- 1.04 There are buildings close to the site at the rear used in connection with the bowls club.

2.0 RELEVANT HISTORY

- 2.01 **15/504311:** Demolition of existing detached dwelling, erection of four storey block of eight 2 bedroom flats with new access and associated car parking. – **REFUSED**- 22nd March 2016 for the following reasons:

"The proposed development by virtue of its design, bulk, massing and poor articulation fails to promote or reinforce local distinctiveness as set out in in Para. 64 of the NPPF and that the site is a high profile location on the approach to Maidstone Town Centre and as a result fails to achieve good design contrary to paragraph 60 of the NPPF"

3.0 PROPOSAL

- 3.01 The proposal seeks to address the objections to the development of this site for flats set out in connection with application ref: 15/504311 above. Though continuing to propose a block of flats with accommodation on 4 floors (comprising 7 no: 2 bedrooms flats and 1 no: 1 bedroom flat) to be sited partly on the footprint of Christmas Lodge, the block has been redesigned to appear more traditional in appearance. This includes the use of pitched and tiled roofs, installation of small dormers at eaves level and in the roof along with the design, spacing and proportions of doors and windows giving the building more vertical emphasis. In response to additional design concerns all dormers are now capped by pitched roof gablets while a gable roof treatment has been replaced with a hip on the wing of the block closest to Briar Court.
- 3.02 The block has also been resited and reduced in size in an attempt its impact to reduce its impact on the outlook and amenity of Briar Court while the main entrance to the block is sited on the north west side of the building abutting the area of open space and on the opposite side of the building to Sweet Briar Court.
- 3.03 Parking and turning for 8 cars including a bin store is shown in front of the block on the London Road frontage with tree planting and perimeter landscaping both for the parking area and block of flats.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough-Wide Local Plan 2000: T13, H21
Maidstone Borough Council (Submission Version) Draft Local Plan: SS1, DM1, DM2, DM3, DM4, DM12,

5.0 LOCAL REPRESENTATIONS

5.01 34 neighbours notified – 5 objections received in connection with the proposal as originally submitted which are summarised as follows:

- Application description incorrect in that it refers to a three storey building where the building is 4 storey.
- Loss of light, outlook and privacy to residents abutting the site in Sweetbriar Court.
- Will result in increased traffic along London Road harmful to the free flow of traffic and highway safety while also adversely affecting the safety of the access to Sweetbriar Court.

5.02 **Sweet Briar Court Residents Association:**

- Proposal does not address the reasons for objection in connection with refused application ref: 15/504311. Proposal still represents substantial overdevelopment of the site out of character with the locality.
- Application description incorrect in that it refers to a three storey building where the building is 4 storey.
- Will cause loss of outlook, overshadowing, loss of daylight and privacy to residents of Sweet Briar Court.
- Proposal will result in loss of sight lines to access serving Sweetbriar Court.

5.03 4 letters of objection received in connection with amended proposal essentially reiterating the concern set out above. In particular raise highway related concerns as to how large vehicles will turn within the site as this is clearly impossible. As such will result in parking on the A20 harmful to the free flow of traffic and highway safety while obscuring sight lines of residents leaving Sweetbriar Court.

6.0 CONSULTATIONS –

6.01 **Kent Highways:** No objection subject to conditions to secure on site parking and turning and measures to mitigate impact of construction activity.

6.02 **MBC Heritage:** Comments made in connection with refused application ref:15/504311 remain relevant to this proposal and are set out below:

- Considers Christmas Lodge unlikely to be listable as it represents a relatively late example of its style while not representing a good design for this type of building. Not sure who architect was but if it was Hubert Bensted he is not an architect of national repute but only of local note (although some of his buildings were illustrated in the contemporary architectural press).
- Based on comparison with old OS maps appears the building has been significantly extended to the rear.
- Building is not unique (there are a few other and earlier examples of similar style, also probably by Bensted in Maidstone).

- Paragraph 135 of the NPPF relating to Non Designated Heritage Assets (NDHA) states that the effect on the significance of an NDHA should be taken into account in determining the application and that a balanced judgement is required having regard to the scale of loss and the significance of the asset.
- Though an appeal dismissed on another Bensted building, (the old St.Luke's School in St. Luke's Road, Maidstone) on the basis of the loss of a NDHA, in this case the building had additional value because of its grouping with the listed St. Luke's Church (the school having been the original mission church).

6.03 **EHO:** No concerns in relation to air quality or site contamination. However the site is adjacent to the heavily trafficked A20 and conditions should be imposed to ensure that acceptable internal noise environment is achieved.

Site lies within the Maidstone Town Air Quality Management Area but does not consider the scale of the development or its siting requires any specific air quality mitigation measures. Suggests construction activities are controlled.

7.0 BACKGROUND PAPERS AND PLANS

The development proposals are shown in the design and access statement planning statement both dated the July 2016 and drawing nos: DHA/11442/01,02, 03 revA, 05 revB and 06 revA.

8.0 APPRAISAL

- 8.01 No objection was identified to the principle of redeveloping this site for flats in connection with refused application ref: 15/504311(Demolition of existing detached dwelling, erection of four storey block of eight 2 bedroom flats with new access and associated car parking) given that flats are immediately opposite and abut the site to the south east while the site benefits from good access to facilities and public transport being on a main bus route into Maidstone and close to Maidstone Barracks Railway Station.
- 8.02 The proposal nevertheless still has to be considered against policy H21 of the adopted local plan. This policy states, amongst other things, that proposals for redevelopment to secure self contained flats will be permitted subject to the intensified use of the site not harming the character, appearance or amenity of the surrounding area, the internal layout of the flats providing acceptable living accommodation, no resulting harm to the amenity of adjoining residents and that sufficient on site parking is provided in a manner that does not harm the setting of the proposal or the street scene.
- 8.03 The status of Christmas Lodge as a Non-Designated Heritage Assets (NDHA) also needs to be assessed.

Heritage Asset:

- 8.04 The proposal still involves the demolition of Christmas Lodge which given its design, age and historic associations qualifies as an NDHA. Paragraph 135 of the NPPF states that the effect of an application on the significance of an NDHA should be taken into account in determining the application. In weighing applications that affect directly or indirectly an NDHA a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 8.05 The Council's heritage advisor previous comments on the status of Christmas Lodge in relation to the previously refused proposal (attached to this report) lead to the conclusion that Christmas Lodge does not possess significant architectural or historic merit and which was accepted in the context of the previously refused proposal. The council's heritage advisor has confirmed his view remains the same for the current application and as such when set against the benefits of developing this site for housing as proposed, the loss of Christmas Lodge again continues not to represent a significant factor weighing against the provision of 8 flats in this sustainable location.

Design siting and layout:

- 8.06 The application site occupies an exposed location on one of the main routes into Maidstone. It is therefore remains important to ensure any proposal makes a positive visual contribution to the locality reflecting the significance of this site in the streetscape.
- 8.07 The NPPF at paragraph 60 states that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness. The previously refused proposal for a square profiled building of contemporary design, though having Design Panel support and a favourable officer recommendation, was considered by Members to fail to sufficiently promote or reinforce local distinctiveness in accordance with the provisions of the NPPF.
- 8.08 The adjoining block of flats abutting the site to the south east known as Briar Court and The Pippin Public House are of traditional appearance with pitched and tiled roofs featuring prominently in their design. These buildings substantially set the context against which any proposal will be viewed. As such, the block has been redesigned to appear more traditional in scale and appearance and more reflective of adjoining development with the use of pitched and tiled roofs, installation of small dormers at eaves level and in the roof, along with the design, spacing and proportions of doors and windows giving the building more vertical emphasis. In addition all dormers are now capped by pitched roof gablets while a gable roof treatment has been replaced with a hip on the wing of the block closest to Sweet Briar Court.
- 8.09 Details submitted on pages 10 and 11 of the Design and Access statement show the relative height and scale of the proposed development in relation to Sweet Briar Court along with a perspective view of the development from London Road again including Sweet Briar Court. It is considered these details show how the scale and design of the proposed development respects the character of the area and how it will complement the adjoining Sweet Briar Court development.
- 8.10 Furthermore given the reduced size and amended siting of the block it is not considered it will result in an overly cramped or overcrowded appearance or appear out of character with development on this side of London Road. Furthermore views will still be available down the side of the proposed block. As such it is considered this proposal can now be seen to promote and reinforce local distinctiveness in a manner that materially resolves the design concerns expressed by Members in connection with the previously refused proposal.

- 8.11 The proposal still shows parking to the front of the block separated from London Road by areas of landscaping. Again this reflects the layout of Sweet Briar Court abutting the site to the south east. The existence of boundary hedges on both site boundaries means this parking area will not result in any material harm to the street scene or character of the area. The proposal continues to show an area of communal private amenity space at the rear of the proposed block. This external space in addition to the balconies serving 6 flats is considered to improve the standard of residential accommodation being provided.
- 8.12 In conclusion it is considered the proposal reaches a sufficiently high standard of design appropriate to this high profile site lying on one of the principal routes into Maidstone thereby complying with the design provisions of the NPPF and policy H21 of the adopted local plan.

Internal layout of the flats:

- 8.13 It is considered the size and layout of rooms provides sufficient space for the normal range of furniture to be installed while enabling reasonable circulation space. As such the layout of the flats is acceptable.

Impact on the outlook and amenity of adjacent properties:

- 8.14 The main consideration here remains the impact on the residents of Sweet Briar Court being the 4 storey block of flats immediately abutting the application site to the south east. This block of flats has flank windows in its north west elevation which will directly overlook the south east elevation of the proposed block of flats. These existing windows provide the sole means of natural light and outlook to kitchens.
- 8.15 Whilst less important than living rooms and bedrooms, kitchens are recognised as rooms whose amenity should be safeguarded where possible. Though outlook from these windows will be materially changed, plans submitted with the previously refused proposal showed a minimum 'flank to flank' block spacing distance of just under 5 metres increasing to just under 11 metres. However it now transpires that Sweet Briar Court was incorrectly plotted at the time. As such though the current building is set further off the application site boundary than that previously refused, the block separation distances when scaled off the submitted plans are just under 5 metres at the closest point at the front of the proposed block increasing to just under 7.5 metres at the rear of the block.
- 8.16 The assessment now is whether this reduced distance has any material bearing on the outlook and amenity of residents in Sweetbriar Court.
- 8.17 It is again reiterated that views from these flank windows are gained over land not in the ownership and control of the occupants of Sweet Briar Court. In planning terms there is no right to a view as such while if maintenance of outlook from these windows is given overriding weight this would compromise any development of the application site. In any case objections to the previously refused application were design based and did not include harm to the outlook and amenity of the occupants of Sweetbriar Court.
- 8.18 Turning to daylight considerations, daylight refers to background light levels available on an overcast day. It is considered the block separation distances will still enable sufficient daylight to the existing kitchens in the neighbouring building.

- 8.19 Acceptable access to daylight and sufficient outlook, facilitated by the separation distances, is still being maintained and as such there is still considered to be no overriding objection to the proposal based on a material loss of outlook or daylight to the north - west facing kitchen windows in Sweet Briar Court.
- 8.20 Regarding the impact on lounge windows at the front of Sweet Briar Court facing towards London Road, the submitted plans show the proposed block of flats projecting just over 6 metres forward of Briar Court with a separation distance of just over 5 metres between the blocks. Comparable distances for the refused scheme are just under 7 metres and just over 4.5 metres respectively.
- 8.21 As with the previously refused scheme where a potential conflict is identified in domestic situations the Council applies a 45 degree test to the nearest affected windows. When this test was applied to the refused proposal it complied with this guideline in relation to these windows. Given the revised proposal projects less further forward and replaces a gable roof with a hipped roof at the part of the block closest to Sweet Briar Court there is still insufficient evidence of material harm to sustain an objection to the proposal on loss of outlook from these windows
- 8.22 It should be reiterated that in determining the impact of the refused proposal on residents in Sweet Briar Court an internal inspection of the outlook from typically affected flats was undertaken to assess the impact on the outlook from both flank and living rooms windows. Though no similar inspection has been undertaken in connection with this proposal, for the reasons set out above, it was not considered necessary to reassess this.
- 8.23 Nevertheless to again ensure that residents of Sweet Briar Court do not experience a material loss of privacy, all windows on the south east elevation of the proposed block of flats should be obscure glazed. The use of obscure glazing will not impact upon the standard of the proposed accommodation as these windows are either to bathrooms or secondary habitable room windows.
- 8.24 Regarding any impact on residents to the east of the site in Cloudberry Close and Little Buckland Avenue the nearest property in Cloudberry Close and Little Buckland Avenue are sited well away from the application site with a bowling green intervening. Given this separation and that these properties already have outlook onto the rear of Sweet Briar Court, it is not considered they will experience a material loss of visual amenity.

Highway considerations:

- 8.25 Access is still to be gained centrally to the site from London Road which has good sight lines in both directions. Parking is being provided at a ratio of one space per unit which is consistent with the Council's expectations for this type of accommodation in a sustainable location being only a short distance from the town centre and well served by public transport.
- 8.26 In the absence of objection to the proposal from Kent Highways no harm is identified to the proposal on parking grounds or that it have any material impact on the free flow of traffic or highway safety along London Road.
- 8.27 The specific comments of residents in Sweet Briar Court on the adverse impact on their highway safety are noted. However in the absence of objection from Kent Highways on these grounds (either in connection with the previously refused scheme

or the current proposal) there is considered to be no support for seeking to now resist the proposal on these grounds.

Wildlife and habitat considerations:

- 8.28 The application site still comprises an occupied building with areas of hardstanding with the remaining area mainly covered by lawn. The NPPF requires development to make provision for wildlife where possible. In order to secure this a condition requiring the provision of bat/swift boxes is considered to remain an appropriate response in the circumstances.

Other Matters:

- 8.29 The Housing Standards Review by the Government resulted in the withdrawal of the Code for Sustainable Homes and introducing a new system of optional Building Regulations on water and access, and a new national space standard ("the new national technical standards"). This system complements the existing set of Building Regulations which are mandatory. This does not preclude renewable or low-carbon sources of energy within new development which is considered intrinsic to high design standards and sustainable development in accordance with the provisions of the NPPF.
- 8.30 Such measures contribute towards achieving the NPPF's key sustainability aim, support the transition to a low carbon future while encouraging the use of renewable sources being one of the core planning principles of the NPPF. A condition should therefore be imposed on how renewable energy will be incorporated into the proposal.
- 8.31 There is also a requirement that surface water drainage be dealt with via a SUDS in order to attenuate water run off on sustainability and flood prevention grounds and is a matter that can also be dealt with by condition.
- 8.32 Concern has been raised that the proposal fails to sufficiently landscape the site with additional planting being sought on the north west boundary abutting the adjoining area of open space and along the common boundary with Sweet Briar Court. This is a matter that can be dealt with by condition.
- 8.33 In connection with the reuse of materials, only the use of reclaimed tiles was considered by the applicant. They advise however that as the roof area of the proposed block of flats is significantly greater than Christmas Lodge their reuse would appear out of keeping. Nevertheless it is intended to re-use them on the cycle/bin store which is considered an appropriate and proportionate response in the circumstances.
- 8.34 Finally concerns that the application description in referring to a three storey building is misleading are noted. The submitted plans show accommodation in the roof area with three storeys beneath this and reflects exactly the applicants own description of the proposal. Guidance makes clear that application descriptions must not be amended without good cause and without first obtaining the agreement of the applicant. In this case reference to the submitted plans and details revealed the precise nature of the application as shown by objections received. In the circumstances it is not considered that objectors have been materially misled or disadvantaged by the description of the development.

9.0 CONCLUSIONS

9.01 These are considered to be as follows:

- The proposal is considered acceptable in design and layout terms by promoting and reinforcing local distinctiveness in accordance with the provisions of the NPPF.
- The size and layout of the proposed flats will provide an acceptable residential environment.
- There remains no objection to loss of Christmas Lodge notwithstanding its status as an NDHA.
- There remains no objection to the principle of the use of the site for flats.
- The proposal will contribute to the provision of small housing units within the Borough while being sited in a sustainable location close to the Town Centre.
- The proposal will not have any adverse impact on the London Road street scene or on the character and layout of the area.
- The proposal does not result in any material harm to the outlook and amenity of properties overlooking and abutting the site.
- Is acceptable in highway and parking terms.
- Is acceptable in wildlife and habitat terms.

9.02 In the circumstances it is considered the balance of issues fall in favour of the proposed development and planning permission should therefore be granted.

10.0 RECOMMENDATION - GRANT PERMISSION subject to the following conditions:

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

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

- (2) Prior to commencement of the development hereby approved details of all external materials (including surfacing for the roads, turning and parking areas) and details of new, replacement or retained boundary treatment shall be submitted for prior approval in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details and retained permanently thereafter.

Reason: In the interests of visual amenity.

- (3) The development hereby approved shall not commence until details have been submitted for prior approval in writing by the Local Planning Authority of decentralised and renewable or low-carbon sources of energy and how they will be incorporated into the development. The approved details will be in place before first occupation of the development hereby approved and maintained as such at all times thereafter.

Reason: To secure an energy efficient and sustainable form of development that accords with the provisions of the NPPF.

- (4) Before first occupation of the development hereby approved all windows in the south east elevation of the building hereby approved shall be glazed in obscure

glass and limiters installed to ensure that any opening parts of the windows do not open more than 150mm in any direction. The windows shall be retained as approved permanently thereafter.

Reason: To maintain privacy standards in the interests of amenity.

- (5) Prior to commencement of the development hereby approved on site provision for the parking and turning of all construction and personnel vehicles along with wheel washing facilities shall be provided. These facilities shall be retained throughout the construction phase of the development.

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

- (6) The development hereby approved shall not be occupied until the access onto London Road, car and cycle parking and turning areas all as shown on the approved plan no:DHA/11442/03 revA have first been provided. They shall be retained at all times thereafter in accordance with the approved details with no impediment to their intended use.

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

- (7) Prior to the commencement of the development hereby approved a scheme to demonstrate that the internal noise levels within the residential units will conform to the standard identified by BS 8233 2014 (Sound Insulation and Noise Reduction for Buildings - Code of Practice) shall be submitted to and approved in writing by the Local Planning Authority. The work specified in the approved scheme shall be carried out in accordance with the approved details prior to first occupation of the any of the flats and be retained at all times thereafter.

Reason: In the interests of aural amenity.

- (8) No surface water shall discharge onto the public highway during the course of implementing the development hereby approved or at any time thereafter.

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

- (9) Before first use of the access onto London Road a bound surface shall be provided for the first 5 metres of the access from the edge of the highway and retained as such at all times thereafter.

Reason: To prevent surface material being dragged onto the public highway in the interests of the free flow of traffic and public safety.

- (10) Within 3 months of first occupation of the development hereby approved two swift boxes and two bat boxes shall be in place that are in accordance with details (including size, design and siting) that have previously been submitted to and approved in writing by the Local Planning Authority with the boxes shall be retained in accordance with the approved details at all times thereafter.

Reason: To ensure that adequate provision is made for wildlife in accordance with the provisions of the NPPF.

- (11) Prior to the commencement of development barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction -

Recommendations' shall be in place for all trees to be retained with this protection in accordance with details that have been previously been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a high quality setting and external appearance to the development in accordance with the National Planning Policy Framework (2012).

- (12) Prior to first occupation of any of the dwellings hereby approved details of landscaping (including long term management) shall be provided along the whole length of north west site boundary and that with Sweet Briar Court, for the two landscaped areas abutting the access onto London Road and the areas of proposed ground cover planting. The approved landscaping scheme shall be carried out in the first available planting season following completion of the development. Any part of the approved landscaping scheme becoming dead, dying or diseased within 5 years of planting shall be replaced with a similar species of a size to be agreed in writing beforehand with the Local Planning Authority.

Reason: In the interests of visual amenity.

- (13) The development hereby permitted shall not commence until a scheme for the disposal of surface water (which shall be in the form of a sustainable drainage scheme) has been submitted to and approved by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details and retained permanently thereafter

Reason: To prevent pollution of the water environment and to ensure satisfactory drainage in the interests of flood prevention.

- (14) Demolition/construction activities shall only take place between 0800 -1800 hours (Monday to Friday) and 0800 -1300 hours (Saturdays) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of amenity.

- (15) The development hereby approved shall be carried out at the level shown on the drawing at page 10 of the Design and Access statement dated July 2016.

Reason: In the interests of visual amenity.

- (16) The development hereby permitted shall be carried out in accordance with the following approved plans being drawing nos: DHA/11442/01,02, 03 revA, 05 revB and 06 revA.

Reason: In the interests of amenity.

INFORMATIVES

Construction:

As the development involves demolition and / or construction the development should be carried out in accordance with the Mid Kent Environmental Code of Development Practice.

Highways:

Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: www.kent.gov.uk/roads_and_transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.

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

Noise and Vibration transmission between properties:

Attention is drawn to Approved Document E Building Regulations 2010 "Resistance to the Passage of Sound" - as amended in 2004 and 2010. It is recommended that the applicant adheres to the standards set out in this document in order to reduce the transmission of excessive airborne and impact noise between the separate units in this development and other dwellings.

Asbestos:

Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

Note to Applicant

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

The application, following amendment, was acceptable.

Case Officer: Graham Parkinson

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.